



Commission for
Communications Regulation

Terms and conditions of the universal postal service

Single Piece and Bulk Mail

Response to Consultation 15/37;
Consultation on Draft Decision

Reference: ComReg 15/112

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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Additional Information

Consultation Document 15/37	20 April 2015
ComReg 15/58 (submissions to Consultation 15/37)	22 June 2015

Responses received to Consultation 15/37

Respondent	
1	An Post
2	Barnardos
3	Communications Workers Union (CWU)
4	Consumers' Association of Ireland
5	National Disability Authority

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1 Introduction

- 1 Terms and conditions are fundamental to any agreement between a customer and a service provider. They fulfil the essential role of informing and protecting all parties to a contract. This is particularly important for consumer services where there may be an imbalance in knowledge between the consumer and the service provider. Postal services are one such service.
- 2 ComReg has a statutory objective to promote the interests of postal service users and considers that such users are entitled to clear and unambiguous Terms and Conditions¹. The relevant legislative provisions are sections 22, 23 and 24 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”).
- 3 On 20 May 2015, the Commission for Communications Regulation (“ComReg”) published Consultation Document No. 15/37² (“Consultation 15/37”) concerning the terms and conditions of the universal postal service (the “Terms and Conditions” as proposed by An Post and notified to ComReg in November 2014³). ComReg, through Consultation 15/37, outlined its preliminary views on the Terms and Conditions proposed by An Post, pointing to significant concerns and outlining amendments which it considered necessary before it could approve the proposed Terms and Conditions. ComReg gratefully acknowledges the time and effort of all five respondents in considering Consultation 15/37 and preparing their responses. ComReg has considered all responses in formulating the positions set out in this Response to Consultation and Draft Decision.
- 4 This Response to Consultation sets out ComReg’s positions on the issues examined in Consultation 15/37 and ComReg’s intended next steps. It explains why ComReg is unable at this point in time to approve the version of the Terms and Conditions provided to it by An Post.
- 5 An Post stated in its response to Consultation 15/37 that it will make certain revisions to its last version of Terms and Conditions. However, An Post has not provided ComReg with this revised version of its Terms and Conditions. Therefore, ComReg requests An Post to formally notify ComReg of its revised version of its Terms and Conditions.

¹ Postal service user means any person benefiting from postal service provision as a sender or as an addressee.

² “Consultation: Terms and conditions of the universal postal service Single Piece and Bulk Mail” [ComReg Document No. 15/37](#), dated 20 April 2015

³ “An Post Terms & Conditions for single piece universal services and additional information” [ComReg Document No. 15/37a](#) and “An Post Terms & Conditions for bulk mail universal services and additional information” [ComReg Document No.15/37b](#), dated 20 April 2015

6 ComReg proposes herein that in the event that it is not provided with a final set of Terms and Conditions which have been duly amended in the required manner, such that ComReg can proceed to approve the Terms and Conditions, with or without amendment, then ComReg reserves the right to make a decision. Similarly, if the final set of Terms and Conditions are not fully amended in the required manner, then ComReg reserves the right to make a decision requiring those amendments as applicable. A draft version of such decision is set out in Annex 1. Any final decision which ComReg may make would be revised as necessary to take account of:

6.1 responses to this second round of consultation

6.2 An Post's final set of Terms and Conditions (if provided by An Post) which have been duly amended in the required manner.

7 This Response to Consultation and Consultation on a Draft Decision is structured as follows:

Chapter 1	Introduction
Chapter 2	Background
Chapter 3	ComReg's position regarding the proposed Terms and Conditions
Chapter 4	Conclusion and submitting comments
Annex 1	Draft Decision
Annex 2	Summary Legal Basis

2 Background

2.1 Implementation of the 2011 Act by ComReg regarding Terms and Conditions

- 8 The 2011 Act established a new framework for the regulation by ComReg of postal services in the State, including the universal postal service provided by An Post, the sole designated⁴ universal service provider (“USP”).
- 9 In April 2012, ComReg began a public consultation⁵ which addressed a number of issues relating to future regulation of the Irish postal sector, including:
- The specification of services to be provided by the USP in its provision of the universal postal service; and
 - An Post’s role as the designated USP.
- 10 In July 2012, having considered the responses to the above consultation, ComReg set out its position and made certain decisions⁶. In the same time period, ComReg also made the Communications Regulation (Universal Postal Service) Regulations 2012⁷ (“the Regulations”). The Regulations, required under section 16(9) of the 2011 Act, specify the universal postal services to be provided by the USP. For the most part, they reflect ComReg’s 2005 working definition of the universal postal service⁸.
- 11 This decision (D08/12) noted that ComReg’s approval or otherwise of the content of An Post’s Terms and Conditions would be by separate consultation. D08/12 also included a direction to An Post under section 22(1)(b) of the 2011 Act, to publish the terms and conditions of its universal service provision and the charges made by it in respect of the universal postal services (“the Schedule of Charges”⁹) in the following manner:
- by drafting two sets of terms and conditions for (1) single piece universal services, and (2) bulk mail universal postal services;

⁴ Section 17 of the 2011 Act

⁵ “Postal Regulatory Framework: Implementation of the Communications Regulation (Postal Services) Act 2011”, [ComReg Document No. 12/38](#), dated 30th April 2012

⁶ “Postal Regulatory Framework: Implementation of the Communications Regulation (Postal Services) Act 2011, Response to Consultation, Direction and Regulation”, [ComReg Document No. 12/81](#), D08/12, dated 26 July 2012 (“Doc. 12/81” and the decision instrument referred to as “D08/12”)

⁷ S.I. No. 280 of 2012

⁸ Response to Consultation, The Universal Postal Service, A working definition, [ComReg Document No. 05/85](#), dated 15 November 2005 (“ComReg 05/85”)

⁹ An Post’s current Schedule of Charges is available on [An Post’s website](#)

- by making printed copies of the single piece universal postal services booklet containing the current Terms and Conditions and the Schedule of Charges readily available to postal service users at every post office;
 - by making printed copies of both sets of booklets containing the Terms and Conditions and the Schedule of Charges available to postal service users on request at no charge, as required by section 24(9) of the 2011 Act;
 - by publishing both sets of the Terms and Conditions on the An Post website, as required by section 22(1)(b) of the 2011 Act, in a clear and prominent position with a clear link from the home page (www.anpost.ie); and
 - by publishing both sets of the Terms and Conditions and the Schedule of Charges in Iris Oifigiúil and republishing in Iris Oifigiúil when an amendment to the Terms and Conditions and the Schedule of Charges is made by An Post.
- 12 Shortly following specification of the universal postal service, in July 2012, ComReg engaged with An Post in an effort to assist An Post to draft Terms and Conditions that met the requirements of the 2011 Act. This process included An Post providing ComReg with a number of drafts of the Terms and Conditions, upon which ComReg commented. ComReg hoped that this practical approach would yield a set of fit for purpose Terms and Conditions. However, the various drafts provided by An Post did not, in ComReg's view, meet the requirements of the 2011 Act.
- 13 In March 2014, ComReg published "Recommendations for drafting of terms and conditions of the universal postal service"¹⁰ (the "T&Cs Recommendations"). Its purpose was to provide An Post and interested parties with increased clarity as to what ComReg considers should be contained in the Terms and Conditions. On the day the T&Cs Recommendations were published, ComReg wrote to An Post requesting that it submit its proposed Terms and Conditions by 28 April 2014.
- 14 On foot of publishing its T&Cs Recommendations, ComReg again engaged with An Post in an effort to provide guidance as to Terms and Conditions that would meet the requirements of the 2011 Act. Again, ComReg hoped that this practical approach would result in a set of fit for purpose Terms and Conditions.

¹⁰ Recommendations for drafting of terms and conditions of the universal postal service" [ComReg Document No. 14/24a](#) dated 21 March 2014

- 15 ComReg, in approving any Terms and Conditions under section 22(2) of the 2011 Act, is required by section 24(3) to consider whether those Terms and Conditions are appropriate, having regard to the obligations imposed on the USP under the Communications Regulation Acts 2002 to 2011 Act and the reasonable needs of postal service users.
- 16 In November 2014, An Post provided ComReg with proposed Terms and Conditions for single piece mail (“SP T&Cs”) and proposed Terms and Conditions for bulk mail (“BM T&Cs”).
- 17 There was significant overlap in the text of both draft documents. To avoid duplication, Consultation 15/37 stated that references to the proposed Terms and Conditions meant the proposed SP T&Cs and the proposed BM T&Cs, unless stated otherwise. The same approach is taken in this paper.
- 18 ComReg, through Consultation 15/37, outlined its preliminary views on the Terms and Conditions proposed by An Post, pointing to significant concerns and outlining amendments which it considered necessary before it could approve the proposed Terms and Conditions. In arriving at its preliminary views, ComReg also had regard to the terms and conditions of postal service providers in other jurisdictions and from other industries¹¹.
- 19 Consultation 15/37 asked the following questions:
- Q1. Do you agree / disagree with ComReg's preliminary views? Please explain your response.
- Q2. Are there other amendments to the proposed SP T&Cs or the proposed BM T&Cs you think are required prior to ComReg approving these? Please provide a detailed explanation in your response.

2.2 An Post’s response to Consultation 15/37

- 20 In its response to Consultation 15/37, An Post characterised the Terms and Conditions which it submitted to ComReg in November 2014 as being a “*working document*” and committed to correcting various errors therein which ComReg had identified¹².
- 21 ComReg also notes that An Post, in its response to consultation:

¹¹ Notwithstanding jurisdictional and industry differences

¹² For example commitments to correct typographical errors in its “final version of the agreed Terms and Conditions for USO services” pg. 29 of An Post’s Response to Consultation

- 21.1 acknowledges several issues which ComReg had identified and indicates that it will address same (An Post has provided no new text as yet indicating how these issues will be addressed);
- 21.2 states that it will agree to consider various amendments (ComReg observes that An Post's expressed agreement is somewhat vague as it gives no indication as to precisely what amendments An Post proposes to consider and the nature of those amendments); and
- 21.3 indicates that it agrees with ComReg's preliminary views as set out in Consultation 15/37 but that it proposes to address the issues by including new text which will contain exclusions which have not been previously consulted upon¹³.
- 22 ComReg notes that it is concerned that An Post indicates that it "*agrees to consider*"¹⁴ some of ComReg's preliminary views as set out in Consultation 15/37 while An Post also refers to the "*agreed Terms and Conditions*" and states that some of ComReg's preliminary views "*could be considered for inclusion*"¹⁵. An Post's wording indicates a degree of misunderstanding on its part as to the legislative provisions in effect. An Post's agreement is unnecessary and while An Post is entitled to make submissions in relation to ComReg's preliminary views (which will fully be taken into account by ComReg), the legislative regime does not envisage a required consensus.
- 23 Section 22 of the 2011 Act envisages An Post notifying its proposed Terms and Conditions to ComReg for approval, with or without amendment.
- 24 ComReg has, on various occasions over the last four years and most recently in March 2014, requested An Post to submit the final version of its proposed Terms and Conditions in accordance with its statutory obligation. The key outstanding fact, at this point in time, is that An Post has not yet done so.
- 25 The situation which has pertained to date does not reflect the clear intent of the legislature and is contrary to the interests of postal service users.

¹³ For example pages 23 and 24 of An Post's submission to Consultation 15/37 ([ComReg 15/58](#))

¹⁴ For example pages 29 and 37 of An Post's submission to Consultation 15/37 ([ComReg 15/58](#))

¹⁵ Page 8 of An Post's submission to Consultation 15/37 ([ComReg 15/58](#)).

2.3 Proposed next steps to enable ComReg fulfil its statutory obligation regarding the Terms and Conditions pursuant to the 2011 Act

26 ComReg proposes the next steps:

- 26.1 An Post should prepare its proposed Terms and Conditions in accordance with the commitments which it made in response to Consultation 15/37 and ComReg's positions as set out herein. An Post should then formally notify the final, complete version of this document to ComReg by 19 November 2015 (the closing date for responding to this Response to Consultation) in accordance with section 22(1) of the 2011 Act.
- 26.2 An Post should prepare a clear and comprehensive Schedule of Charges setting out the charge for each universal postal service. An Post should then notify the final, complete version of this document to ComReg by 19 November 2015 (the closing date for responding to this Response to Consultation) in accordance with section 22(1) of the 2011 Act.
- 26.3 Upon being notified of the final versions of both the proposed Terms and Conditions and the Schedule of Charges, ComReg would review same pursuant to section 22(2) of the 2011 Act with a view to approving them, with or without amendment.
- 26.4 If ComReg's stated positions and concerns as set out herein are not captured in the final, notified versions of the proposed Terms and Conditions and the Schedule of Charges, ComReg reserves the right to make a decision along the lines of that set out in draft form in Annex 1. Similarly, if An Post does not submit revised Terms and Conditions, then ComReg reserves the right to make a decision as set out in draft form in Annex 1 by reference to the notified Terms and Conditions of November 2014. ComReg would consider the views of respondents to this consultation in making any such decision while also having regard to all other relevant information before it.

3 ComReg's position regarding the proposed Terms and Conditions

3.1 Clarifications of various overarching issues raised

3.1.1 The cost of operating the Universal Postal Service is not an issue in this Consultation

- 27 In its response to consultation 15/37, An Post, in relation to several of ComReg's expressed preliminary views, submits that ComReg's proposed amendments would result in increased costs in providing the universal postal service. An Post did not provide any evidence in supporting of its submission.
- 28 ComReg, in reaching its positions in this Response to Consultation, has had regard to its overall statutory remit which requires it to take justified and proportionate measures in order to ensure the provision of an affordable universal postal service that meets the reasonable needs of all postal service users, throughout the State.
- 29 Section 16(1)(a) of the 2011 Act sets the scope of the universal postal service: on every working day there must be at least one clearance and one delivery to the home or premises of every person in the State, except in such circumstances or geographical conditions as ComReg considers to be exceptional¹⁶.
- 30 An Post, if it wishes, can apply to ComReg seeking to have the scope of the universal postal service reduced (for example, because of the costs of providing the service or postal service users' changing needs or expectations). An such application seeking to alter the scope of the universal service would require a public consultation before any final decision could be made.

¹⁶ Following a public consultation on receipt of an application from An Post, ComReg granted An Post a derogation from the universal postal service for the following working days: a full derogation for Mondays following a public holiday which falls on a Saturday or Sunday, a full derogation for the first working day after 26 December (St. Stephen's Day), a derogation for collections only on 24 December and a part derogation for Good Friday, Decision No. D14/14, [ComReg Document No. 14/135](#), dated 15 December 2014

3.1.2 ComReg does not have preferred or favoured postal administrations

- 31 An Post in its response to Consultation 15/37 refers to terms and conditions in other postal administrations as being “*preferred*” and “*favoured*” by ComReg and, on this basis, An Post claims that ComReg seeks to rely on aspects of legislative provisions in other jurisdictions, in particular New Zealand and the United Kingdom.
- 32 ComReg stated in paragraph 15 of Consultation 15/37: “*In arriving at its preliminary views, ComReg has examined the terms and conditions of service of a number of postal service providers in other jurisdictions and from other industries.*” ComReg also referenced the approach of other postal administrations in relation to formatting; for example, noting that an easily accessible but comprehensive overview of postal services was provided in separate schedules by New Zealand Post.
- 33 ComReg, does not have “*preferred*” or “*favoured*” Terms and Conditions models from other jurisdictions. Laws and regulatory methodologies in other jurisdictions may be observed and considered without being directly relied upon. Only one regime applies the State, albeit one based in EU law, and regulation can only be conducted in the State in accordance with the facts and statutory provisions as pertain to the State.

3.2 General issues

3.2.1 User friendliness

3.2.1.1 ComReg’s preliminary views

- 34 ComReg in section 3.1.1 of Consultation 15/37 set out its concerns in relation to the user-friendliness of the proposed Terms and Conditions. ComReg was of the view that:
- 34.1 postal service users could find the proposed Terms and Conditions difficult to understand as the language used in many areas is not sufficiently clear and intelligible;
 - 34.2 the numbering convention in the proposed Terms and Conditions is complex and inaccurate in places and often not consistent, such that postal service users would find the proposed Terms and Conditions difficult to follow and refer to;
 - 34.3 the proposed Terms and Conditions are difficult to understand as they are not presented in a sufficiently user-friendly format; and

- 34.4 the defined terms, which are material to the Terms and Conditions, are presented in such a way as to not be sufficiently clear for postal service users.
- 35 ComReg out in section 3.1.1 of Consultation 15/37 set out its preliminary views that:
- 35.1 amendments to the proposed Terms and Conditions were required to ensure that the proposed Terms and Conditions are in plain and intelligible language;
 - 35.2 the numbering in the proposed Terms and Conditions should be simplified in order to ensure consistency and also ease of reference for postal service users;
 - 35.3 a graphical presentation of what can be posted, what will be compensated for in case of damage, and what needs to be insured should be included in the Terms and Conditions;
 - 35.4 a graphical representation of the dimensions of postal items (letter/postcard, large envelope, packet and parcel) should be included with the proposed Terms and Conditions which conveys the information as set out in condition B.1 of the proposed Terms and Conditions;
 - 35.5 a graphical representation of the differences between the universal postal services to convey the information as set out in Section E of the proposed Terms and Conditions should be included in the Terms and Conditions; and
 - 35.6 defined terms used in the proposed Terms and Conditions to be consolidated into a single comprehensive listing. When defined terms are used for the first time, they should be highlighted (e.g. shown in bold print) and hyperlinked to the appropriate definition.

3.2.1.2 Views of respondents

- 36 **An Post** states that it agrees with ComReg that the Terms and Conditions should be as clear as possible, easy to use, and easy to find, and that there are additional improvements which An Post can consider in order to produce a user-friendly set of Terms and Conditions. However, An Post qualifies its statements by submitting that the Terms and Conditions is a legal document and it is therefore difficult to avoid all legal terms and phrases which are required to be included therein.

- 37 An Post states that it *“will continue to simplify further the content of the Terms and Conditions while respecting standard legal drafting requirements to ensure that the Terms and Conditions are in plain and intelligible language”* and it also undertakes *“to achieve more user-friendly numbering in its Terms and Conditions”*.
- 38 An Post states that *“a small selected number of graphical representations could be considered for inclusion... strictly subject to the express caveat in the Terms and Conditions that in the event of a dispute over the meaning of (a) the written Terms and Conditions and (b) the graphical representations of summaries of the key features of a USO service in a comparison table, the written Terms and Conditions will always take precedence.”*
- 39 An Post also references current documentation which it provides for postal users which it submits contains *“exactly the type of images, graphical representations and comparative tables that ComReg has required to be included”*. An Post submitted that *“reproducing content that already exists (and is readily available to postal users) including reproducing and restating extracts from legislation already published which is a further requirement of ComReg in the Consultation paper, is not only unnecessary and legally not required, but also serves to turn what should be a simple short statement of the Terms and Conditions into a very large and cumbersome document with both legal and non-legal content”*.
- 40 An Post agrees with ComReg that when defined terms are used for the first time, they should be highlighted (e.g. shown in bold print) and hyperlinked to the appropriate definition.

3.2.1.3 ComReg’s position

- 41 ComReg welcomes An Post’s various commitments, in particular that it will simplify the language and numbering system in the Terms and Conditions prior to notifying same. ComReg also welcomes An Post’s suggestion that when referencing legislation it will provide the specific reference and a hyperlink. However, ComReg refers to its earlier comments (see sections 2.2 and 2.3) that An Post should provide ComReg with what An Post is proposing by way of Terms and Conditions, in order that ComReg may review and, if satisfied, approve same, with or without amendment.
- 42 Following consideration of the submissions received, ComReg’s position (as reflected in sections 6.1.1 to 6.1.6 of the draft decision in Annex: 1) is as follows:
- 42.1 Amendments to the proposed Terms and Conditions are required to ensure that the language used is plain and intelligible;

- 42.2 The numbering in the proposed Terms and Conditions should be simplified to ensure consistency and ease of reference for postal service users;
- 42.3 A graphical representation should be included of what can be posted and what compensation will be paid for loss, theft, damage, or issues relating to quality of service, for postal packets sent using (i) standard and (ii) insured services;
- 42.4 A graphical representation of the dimensions of postal items (letter/postcard, large envelope, packet and parcel) should be included within the proposed Terms and Conditions which conveys the information as set out in [condition B.1 of] the proposed Terms and Conditions;
- 42.5 A graphical representation of the differences between the universal postal services to convey the information as set out in [Section E of] the proposed Terms and Conditions should be included in the Terms and Conditions; and
- 42.6 Defined terms used in the Terms and Conditions to be consolidated into a single comprehensive listing. When defined terms are used for the first time, they should be highlighted (e.g. shown in bold print) and hyperlinked to the appropriate definition.

3.2.2 References to conditions contained in documents external to the proposed Terms and Conditions

3.2.2.1 ComReg's preliminary views

- 43 ComReg set out in section 3.1.2 of Consultation 15/37 its preliminary views regarding references to conditions contained in documents external to the proposed Terms and Conditions. In summary, ComReg considered that:
 - 43.1 reference to terms contained in documents external to the proposed Terms and Conditions is, in general, not appropriate having regard to the reasonable needs of postal service users; and
 - 43.2 all relevant conditions should be contained in the proposed Terms and Conditions, and that references to external documents should be deleted.

3.2.2.2 Views of respondents

- 44 **An Post** submits that it is beneficial to minimise external referencing and that whilst the Terms and Conditions “*should limit the number of references to external documentation*” ... “*some reference to external 'documents' may be required*”.

3.2.2.3 ComReg's position

- 45 ComReg notes that An Post agrees that the number of references to external documents within the Terms and Conditions should be limited. However, ComReg refers to its previous comments (see sections 2.2 and 2.3) in which it noted the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to review and, if satisfied, approve the Terms and Conditions with or without amendment.
- 46 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.7 of the Draft Decision in Annex: 1) is as follows:
- 46.1 An Post should amend the Terms and Conditions to ensure that, in general, they do not reference terms which are contained in documents external to the Terms and Conditions. In limited circumstances where such reference may be necessary, the Terms and Conditions should clearly direct postal service users to where these documents can be found. The Terms and Conditions should not make reference to documents external to the Terms and Conditions that are not easily available to postal service users, such as, for example, the Foreign Parcels (Customs) Warrant, 1885.

3.2.3 Drafting errors

3.2.3.1 ComReg's preliminary views

- 47 ComReg set out in section 3.1.3 of Consultation 15/37 its preliminary view that the Terms and Conditions should not contain drafting errors, including mistaken references, spelling and punctuation errors, and inconsistency in terms used. A non-exhaustive list of drafting errors which required rectification was set out in Annex 2 of Consultation 15/37.

3.2.3.2 Views of respondents

- 48 **An Post** submits that it is not appropriate to deal with typographical errors or formatting issues in a working document through the consultation process. However, An Post stated that it would review and address all such errors.

3.2.3.3 ComReg's position

- 49 ComReg welcomes An Post's commitment to address the drafting errors. However, ComReg references its previous comments (see sections 2.2 and 2.3), noting the necessity for ComReg to be provided with precisely what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.
- 50 Following consideration of the submissions received, ComReg's position (reflected in 6.1.8 of the draft decision in Annex: 1) is as follows:
- 50.1 An Post should amend the Terms and Conditions to ensure any drafting errors¹⁷ including mistaken references, spelling and punctuation errors, and inconsistency in terms used are rectified.

3.2.4 Consistency between proposed SP T&Cs and proposed BM T&Cs

3.2.4.1 ComReg's preliminary views

- 51 ComReg in section 3.1.4 of Consultation 15/37 outlined unwarranted differences¹⁸ in the text of the proposed SP T&Cs and the BM T&Cs. ComReg considered that this could be confusing for postal service users having regard to their reasonable needs, and ComReg's preliminary view was that An Post should review both documents to ensure that the consistency of their respective text, as appropriate.

3.2.4.2 Views of respondents

- 52 An Post states that it agrees with ComReg that consistency between the SP T&Cs and proposed BM T&Cs (as appropriate) is essential, with the exception of one instance identified by ComReg relating to Ceadúnas.

3.2.4.3 ComReg's position

- 53 ComReg welcomes An Post's commitment to ensure consistency between the texts of both documents. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to review and, if satisfied, approve the Terms and Conditions with or without amendment.

¹⁷ A non-exhaustive list of drafting errors ComReg identified in this regard was set out in Annex 2 of Consultation 15/37

¹⁸ A non-exhaustive list of discrepancies ComReg identified in this regard was set out in Annex 3 of Consultation 15/37

54 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.9 of the Draft Decision (Annex: 1)) is:

54.1 An Post should amend the proposed Terms and Conditions to ensure that there is consistency between the proposed SP T&Cs and proposed BM T&Cs (as appropriate).

3.2.5 Consistency with Terms and Conditions published in other An Post material

3.2.5.1 ComReg's preliminary views

55 ComReg expressed the preliminary view that all An Post material should be reviewed to ensure consistency between the approved Terms and Conditions and the Terms and Conditions reproduced in any other An Post materials (e.g. the An Post website or any printed notices, printed guides, etc.).

3.2.5.2 Views of respondents

56 **An Post** agrees that it is in everyone's interest that consistency is achieved to the greatest extent possible in documentation and states that An Post constantly strives to achieve a uniform approach to its communications with the general public.

57 An Post seeks to distinguish between marketing and advertising brochures which do not use "legal language" and "legal documents" such as the Terms and Conditions. An Post states: *"It is not correct for ComReg to state that our marketing and advertising material contains messages that are incorrectly paraphrased on the basis that such materials deliberately do not use the legal language required by legal documents such as terms and conditions."*

3.2.5.3 ComReg's position

58 ComReg welcomes An Post's agreement that consistency in documentation is important.

59 While ComReg agrees that marketing and advertising material do not necessarily need to contain "legal language", consistency is required between such documents and any approved Terms and Conditions. For example, details of the redirection service - as set out in the proposed SP T&Cs - differ from those provided on An Post's website and in its Residential Redirection application form. Further, the terms and conditions on the latter form are written in very formal legal language and are described as *"terms and conditions [which] apply to An Post's Residential Redirection Service ..."* This is confusing for postal service users and not in accordance with their reasonable needs.

- 60 Following consideration of the submissions received, ComReg's position is as follows:
- 60.1 where information in material published by An Post (such as on An Post's website, or in printed notices, or in printed guides) purports to be An Post's terms and conditions, such information should mirror the text of the approved Terms and Conditions.
- 60.2 where information in material published by An Post (such as on An Post's website, or in printed notices, or in printed guides) may use less legalistic terms, if appropriate, the relevant Terms and Conditions should not be incorrectly or inaccurately paraphrased.
- 61 ComReg will continue to monitor material published by An Post to ensure its consistency with the Terms and Conditions. If any inconsistency is found, ComReg may take appropriate action.

3.3 Content of the proposed Terms and Conditions

3.3.1 Introduction; Accessing Postal Services

3.3.1.1 ComReg's preliminary views

- 62 ComReg's preliminary view in Consultation 15/37 was that the section headed "*How to Access An Post's Universal Services*" in the proposed SP T&Cs should be amended to include Delivery Service Units ("DSUs") and rural post persons as access points for postal service users¹⁹.

3.3.1.2 Views of respondents

- 63 **An Post** in its response "*agrees to add DSUs which currently act either as an induction point or have a collection box at the office to the SP T&Cs - published LTOPs (Latest Time of Posting) will apply and DSUs will act as an acceptance point for SP mail but not as an acceptance point for standard meter mail or discount meter mail*".
- 64 An Post states that it "*does not agree to including rural postpersons as access points for postal service users as this is currently not the case and it is not required under the 2011 Act.*"

¹⁹ As per Directions 1(c) and 1(d) of Decision Notice & Response to Consultation "Postal Services - Universal Service Obligation, Tariff Principles and miscellaneous issues Directions to An Post under the European Communities (Postal Services) Regulations 2002, S.I. No. 616 of 2002", Decision No. D11/03, [ComReg Document No. 03/50](#) dated 13 May 2003 ("D11/03")

65 **The CWU** states that it *“is concerned as to the practical implications arising from insisting that post persons be included as ‘access points for postal service users’ in the terms and conditions”*. It submits that a number of issues arising from this, noting that *“[it] was the case in the past that post persons did sell stamps on route but this function ceased due to lack of demand and the introduction of alternative methods for customers to buy stamps”*.

3.3.1.3 ComReg’s position

66 While ComReg welcomes An Post’s commitment to include DSUs as access points for postal service users, ComReg does not agree that standard meter mail should not to be accepted at all access points. Meter mail is a form of single piece priority mail and access conditions for this type of mail must therefore comply with the existing direction²⁰ on access density. If An Post remains of the view that standard meter mail should not be accepted at all access points, then this would require a formal derogation – i.e. a decision by ComReg to reduce the scope of the universal postal service made pursuant to section 16(1) of the 2011 Act. As An Post is aware any such proposed decision requires, in the first instance, an application by An Post, followed by public consultation.

67 In relation to the use of rural postpersons as access points, no derogation was applied for or granted to An Post in relation to its provision of rural postpersons as access points. Notwithstanding this, An Post has advised that it does not provide rural postpersons as access points.

68 ComReg notes the CWU’s position regarding the inclusion of rural postpersons as access points.

69 ComReg has not been made aware of any requests from postal service users for the provision of rural postpersons as access points, and is not aware of any negative reaction to the cessation by An Post of the provision of rural postpersons as access points.

70 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.10 of the Draft Decision (Annex: 1)) is as follows:

70.1 The section *“How to Access An Post’s Universal Services”* in the Introduction to the proposed SP T&Cs should be amended to include Delivery Service Units (“DSUs”) as access points for postal service users for standard postal packets (to include standard meter mail but exclude meter mail that is being sent using a bulk mail service). It is not necessary to amend this section to include rural post persons.

²⁰ Directions 1(b) and 1(c) of Decision No. D11/03

- 71 ComReg also proposes to amend parts 1(c) and 1(d) of D11/03 by deleting the text struck through below:

“(c) Also in addition to the availability of posting points as described at (a) above, additional posting points for single piece mail in standard envelopes shall be provided in rural areas so that no one has to travel more than 3km to post a letter, subject to the same requirements as regards frequency. ~~The existing arrangements requiring postmen on delivery in rural areas to also collect mail from customers on their route must be maintained.~~

(d) There should be a facility to buy postage stamps, appropriate to the rates for mail in standard envelopes, at a retail outlet in the vicinity of every pillar / wall box in town areas. In this context vicinity can be defined as within 100 metres of the nearest retail outlet which need not be a post-office and may be automated. ~~Existing arrangements whereby postmen in rural areas sell stamps should be retained. (Emphasis added)~~”

- 72 The proposed amendment would not affect the remainder of D11/03, which would remain in force. ComReg welcomes views on this proposal:

Q. 1 Do you agree with ComReg’s proposal to amend Directions 1(c) and 1(d) of D11/03 as set out in paragraph 71? Please give a detailed explanation for your answer.

3.3.2 Definitions: Terms not defined

3.3.2.1 ComReg’s preliminary views

- 73 ComReg in section 3.2.2.1 of Consultation 15/37 noted that the reasonable needs of postal service users would not be met due to confusion that may result from:
- 73.1 terms used within the proposed Terms and Conditions which are not defined, but should be; and
 - 73.2 terms that are capitalised (suggesting that they are defined terms) with no definitions for these terms within the Terms and Conditions.
- 74 ComReg set out its preliminary view that:
- 74.1 An Post should amend the proposed Terms and Conditions to ensure that capital letters are only used for defined terms (or where it is grammatically appropriate); and

- 74.2 An Post should amend the proposed Terms and Conditions to ensure that defined terms are used properly and consistently²¹.

3.3.2.2 Views of respondents

- 75 **An Post** states that it *“agrees to amend the Terms and Conditions”* to ensure that capital letters are only used for defined terms (or where it is grammatically appropriate).
- 76 An Post further agrees to review Annex 4 of Consultation 15/37 (the non-exhaustive list of the issues that ComReg identified) and to amend the Terms and Conditions where necessary.
- 77 An Post states that *“where terms are defined by law which is in an 'external document', [it] will apply the standard practice as mentioned earlier of providing the reference to the specific piece of legislation where the term is defined”* and *“provide a hyperlink”*.

3.3.2.3 ComReg's position

- 78 ComReg welcomes the commitments made by An Post with regard to terms that are not defined. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to review and, if satisfied, approve the Terms and Conditions with or without amendment.
- 79 ComReg's position (reflected in 6.1.11 and 6.1.12 of the draft decision in Annex: 1) is as follows:
- 79.1 An Post should amend the proposed Terms and Conditions to ensure that capital letters are only used for defined terms (or where it is grammatically appropriate); and
- 79.2 An Post should amend the proposed Terms and Conditions to ensure that defined terms are used properly and consistently and in particular address the non-exhaustive list of the issues ComReg identified in this regard as set out in in Annex 4 of 15/37²¹.

²¹ A non-exhaustive list of the issues ComReg identified in this regard was set out in Annex 4 of Consultation 15/37

3.3.3 Definitions: Unclear definitions

3.3.3.1 ComReg's preliminary views

80 ComReg in section 3.2.2.2 of Consultation 15/37 set out its concerns regarding the clarity and consistency of the following definitions:

- 80.1 **Postal Packets for the Blind.** ComReg stated that a definition of "*Postal Packets for the Blind*" - referencing or reflecting the universal postal union ("UPU") description of "items for the blind"²² - should be inserted in the definitions section and used consistently throughout the Terms and Conditions;
- 80.2 **Fragile and Exceptionally Fragile.** ComReg stated that as there is exclusion of liability for "*Exceptionally Fragile*" items – and as the determination of whether an item is "*Fragile*" or "*Exceptionally Fragile*" may be very subjective - the definitions of "*Fragile*" and "*Exceptionally Fragile Articles*" require amendment so that postal service users are in no doubt as to the distinction between the two terms; and
- 80.3 **Liquids.** ComReg stated that the definitions of "*Liquid*" and "*Flammable or Corrosive solids or Liquids*" require amendment to ensure that postal service users are clear as to the distinction between the terms and whether it is, in fact, permitted to send any "*Liquids*" in domestic postal packets.

3.3.3.2 Views of respondents

81 **An Post** states that it:

- 81.1 "*agrees to ensure consistency in use of defined terms and terminology and will define by reference to the 2011 Act*";
- 81.2 "*agrees to insert a definition of "Postal Packets for the Blind" in the Terms and Conditions*" but that it "*will not use definitions from an "external document" which is not readily accessible such as the UPU, as recommended by ComReg.*";
- 81.3 "*will consider the definition of "fragile" to determine how best to deal with the issues raised by ComReg and its own operational needs in light of the reasonable needs of the consumers.*";

²² contained at Article 7(3) of the UPU Letter Post Manual

81.4 “agrees to amend the definition for 'exceptionally fragile' based on international best practice. We note that the inclusion of a draft definition of 'exceptionally fragile' was made by An Post in its draft working document at the behest of ComReg for both An Post and ComReg to consider whether such a definition was feasible and workable.”; and

81.5 “agrees to review the wording in the Terms and Conditions to determine what amendments need to be made” with regard to the definition of “Liquids” and it notes “that liquids can be sent in postal packets in the domestic service.... subject to the general proviso in B.2(1)”.

3.3.3.3 ComReg’s position

82 ComReg welcomes An Post’s various commitments to ensure consistent use of defined terms and terminology. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to review and, if satisfied, approve the Terms and Conditions with or without amendment.

83 ComReg’s position (reflected in 6.1.13 to 6.1.15 of the draft decision in Annex: 1) is as follows:

83.1 A definition of “*Postal Packets for the Blind and Partially Sighted*” referencing or reflecting the universal postal union (“UPU”) description of “items for the blind”²² should be inserted in the definitions section and then be used consistently throughout the Terms and Conditions;

83.2 The definitions of “*Fragile*” and “*Exceptionally Fragile Articles*” require amendment so that postal service users are in no doubt as to what the distinction between the terms is; and

83.3 The definitions of “*Liquid*” and “*Flammable or Corrosive solids or Liquids*” require amendment to ensure that postal service users are clear as to what the distinction between the terms is and whether it is, in fact, permitted to send any “*Liquids*” in domestic postal packets.

3.3.4 Proposed conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases

3.3.4.1 ComReg's preliminary views

- 84 ComReg in section 3.2.3 of Consultation 15/37 set out its concerns regarding the reasons which would cause An Post to waive, dispense with, or vary a condition of the Terms and Conditions. ComReg expressed its views that:
- 84.1 conditions in the proposed Terms and Conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases, cause a significant imbalance in the parties' rights and obligations to the detriment of the postal service user and as such do not meet the reasonable needs of postal service users; and that such conditions could have a significantly adverse effect on postal service users;
 - 84.2 conditions in the proposed Terms and Conditions which give An Post the unilateral right to waive, dispense with or vary a condition in the context of the Terms and Conditions are not sufficiently specified within the proposed Terms and Conditions; and
 - 84.3 conditions in the proposed Terms and Conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases could mean that some users of the universal postal service will receive different treatment to others which would not be appropriate having regard to the obligations imposed on the USP under the 2011 Act.
- 85 Condition B.6(3) of the proposed Terms and Conditions provides:
- “Any condition, term, standard or requirement in these Terms and Conditions which affects or relates either to:*
- (a) the eligibility, of a Postal Packet to be included in a service, or*
 - (b) the eligibility or entitlement of a person to use, avail of or benefit from service,*
- may be waived, dispensed with or varied by An Post in any individual case and as regards any person, or generally from time to time, provided that such waiver, dispensation or variation meets the reasonable needs of postal service users or is one which would or is calculated to increase the use of service by any person or group or class of persons”*

86 ComReg expressed the preliminary view that Condition B.6(3) should be amended to specify the circumstances in which An Post could waive, dispense with, or vary a condition of the Terms and Conditions, or alternatively Condition B.6(3) should be deleted.

87 Condition B.6(4)(a) of the proposed Terms and Conditions provides that:

“Subject to these Terms and Conditions An Post may in any case in which it considers it just, reasonable or advantageous to do so, refund to any person a Charge which is paid to it in relation to a service and may attach such conditions to such refund as it deems to be equitable and appropriate.”

88 ComReg expressed its preliminary view that condition B.6(4)(a) should be amended to make it clear when An Post will refund a “charge” and the types of conditions An Post will attach to such refunds, in specific circumstances. ComReg further expressed the view that An Post should indicate that it will, in general, provide full refunds and, if limited refunds are proposed, limits should be outlined that fairly balance the interests of the parties.

89 Section B.6 (5) of the proposed Terms and Conditions states:

“An Post may in case of doubt or dispute arising from the manner in which a Postal Packet is made up or presented, decide under which service it shall be or has been conveyed. Where it is unavoidable a service other than that chosen by the sender may be used to convey the Postal Packet to its destination.”

90 ComReg outlined its preliminary views that condition B.6(5) should be amended to make clear the exact circumstances which would cause doubt or dispute as to the particular service by which a postal packet was to be conveyed.

3.3.4.2 Views of respondents

91 **An Post** submits the following:

91.1 Condition B.6(3) *“already meets ComReg's requirements in the Consultation Paper in that the variation right can only be used by An Post in two specified limited circumstances and even then can only be exercised strictly to meet the reasonable needs of consumers or where the use of the variation is applied to increase the use of a USO service by any person or group of persons. Contrary to ComReg's understanding of Condition B.(6)(3), An Post does not have a general unilateral right to vary Terms and Conditions.”*

- 91.2 An Post “*agrees to review this condition [B.6(4)(a)] and to determine the details of other instances in which a Charge may be refunded*” and proposes limits regarding refunds that An Post states “*will be included in the Terms and Conditions*”;
- 91.3 In relation to condition B.6(5), “[*the*] *purpose of the Terms and Conditions is not to provide an exhaustive operational manual but to set out the Terms and Conditions on which the service is provided and the obligations and rights of each party to the Terms and Conditions - An Post and the postal user. We do not understand how removing operational flexibility from An Post, as ComReg is suggesting, is in the reasonable needs of consumers and/or consumer focused*”.
- 92 **Barnardos** states: “*We have a specific concern that any conditions which give An Post the unilateral right to change the terms of its contract with a postal service user in individual cases could mean that some users of the universal postal service could receive different treatment to others. We support your concern that such conditions could have a significantly adverse effect on postal service users.*”

3.3.4.3 ComReg’s position

- 93 ComReg welcomes An Post’s confirmation that the variation right in condition B.6(3) will only be exercised strictly to meet the reasonable needs of consumers or where the use of “*the variation is applied to increase the use of a USO service*”.
- 94 ComReg welcomes An Post’s commitment to review condition B.6(4)(a) so as to make it clear when An Post will refund a charge and the types of conditions An Post will attach to refunds in such circumstances, including unused stamps, spoiled franks, and customs duty.
- 95 ComReg notes the support expressed by Barnardos for ComReg’s concern that universal postal service users should not receive different treatment to others, as this could have a significantly adverse effect on postal service users.
- 96 ComReg is concerned that condition B.6(5) is vague and lacks transparency as to the exact circumstances which might lead to An Post to decide the service under which a postal packet shall be conveyed. ComReg considers that the degree of “operational flexibility” which An Post is giving itself is unnecessary and not in the interests of postal service users.
- 97 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.16 and 6.1.17 of the draft decision in Annex: 1) is as follows:

- 97.1 ComReg does not propose to require amendment of condition B.6(3) and will monitor the exercise of this variation right to ensure that the reasonable needs of consumers are met by ensuring any variation is applied only after prior agreement with the postal service user, and that such variation does not have a significantly adverse effect on the postal service user.
- 97.2 Condition B.6(4)(a) should be amended to make it clear when An Post will refund a charge and the types of conditions An Post will attach to refunds in specific circumstances. An Post should indicate that it will, in general, provide full refunds and that in the event that limited refunds are proposed, the reason(s) for the limited refund should be outlined.
- 97.3 Condition B.6(5) requires amendment to clarify the circumstances which would cause doubt or dispute in establishing the particular service by which a postal packet is to be conveyed, and to clarify that any variation to the service will not have a significantly adverse effect on the postal service user.

3.3.5 Proposed conditions allowing An Post to refuse to provide certain universal services

3.3.5.1 ComReg's preliminary views

- 98 ComReg in section 3.2.4 of Consultation 15/37 noted its concerns that several of the conditions in the proposed Terms and Conditions would allow An Post to refuse to provide certain universal postal services and that such conditions would not meet the reasonable needs of postal service users as required by the 2011 Act and could have a significantly adverse effect on postal service users.
- 99 ComReg noted that it considers that conditions which gave An Post the right to refuse to provide universal postal services would be inappropriate having regard to its obligations as USP.
- 100 ComReg outlined its preliminary views as follows:
- 100.1 Condition E.9.1(3) which provides that "*An Post reserves the absolute right to refuse any application or discontinue a PO Box/caller's service*" should be amended by deleting it or by inserting text which indicates limits on An Post's right to refuse or discontinue, for example, by limiting this right to circumstances where An Post has serious grounds for termination of the "PO Box Service" and indicating that An Post will provide the postal service user with reasonable notice of the discontinuation.

100.2 Condition E.9.2A(12) - which provides that *“An Post reserves the right to refuse or discontinue the Redirection Service at its absolute discretion, including but not limited to, where the Redirection Service is unworkable. In this event, An Post will refund the Charge paid for the Redirection Service but will have no further liability”* - should be amended by deleting it or by inserting text to indicate limits on An Post’s right to refuse or discontinue, for example indicating that An Post will only discontinue the *“Redirection Service”* if there are serious grounds for this and that reasonable notice of the discontinuation of the *“Redirection Service”* will be given.

3.3.5.2 Views of respondents

- 101 **An Post** *“agrees that it will consider how best to amend the Terms and Conditions to ensure that postal users are informed that a USO service can be terminated by An Post but only where An Post has serious grounds for termination and, where practicable and where not legally prohibited, provide reasonable notice for such termination”*.
- 102 An Post gives reasons why a PO Box service *“may prove to be unworkable and the service withheld or withdrawn”*. An Post also sets out what it describes as the *“the most common reason for refusing a redirection”* and gives examples of where the Royal Mail's terms and conditions allow for ceasing or suspending a redirection.
- 103 **Barnardos** states: *“We share and echo your concern in relation to Condition E.9.2A(12) in relation to Redirection and consider that the right to 'absolute discretion' should be removed and replaced with your suggested approach of 'serious grounds for this and that reasonable notice of the discontinuation of the "Redirection Service" will be given.”*

3.3.5.3 ComReg’s position

- 104 ComReg notes Barnardos’ support of ComReg’s concerns that refusal to provide universal postal services would be inappropriate and that it supports ComReg’s suggestion that, where An Post has serious grounds for termination of a universal services, reasonable notice of the discontinuation should be provided to the postal service user.
- 105 Conditions which give An Post the right to refuse to provide universal postal services are not appropriate having regard to its overarching obligation as designated USP to provide a universal postal service that meets the reasonable needs of postal service users. It is only in limited circumstances that a derogation from that obligation can be considered by ComReg (see paragraph 30).

- 106 ComReg welcomes An Post's agreement to consider amending the Terms and Conditions to ensure that the document will inform postal service users of the limited circumstances in which An Post may terminate provision of a universal postal service. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.
- 107 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.18 and 6.1.19 of the draft decision in Annex: 1)) is as follows:
- 107.1 Condition E.9.1(3) - which provides that *"An Post reserves the absolute right to refuse any application or discontinue a PO Box/caller's service"* - should be amended by deleting it or by inserting text which indicates limits on An Post's right to refuse or discontinue. For example, by limiting this right to circumstances where An Post has serious grounds for termination of the "PO Box Service" and indicating that An Post will provide the postal service user with reasonable notice of the discontinuation which will provide clear justification in written form to support An Post's reasoning for refusing or discontinuing the provision of the PO Box Service.
- 107.2 Condition E.9.2A(12) - which provides that *"An Post reserves the right to refuse or discontinue the Redirection Service at its absolute discretion, including but not limited to, where the Redirection Service is unworkable. In this event, An Post will refund the Charge paid for the Redirection Service but will have no further liability"* - should be amended by deleting it or by inserting text to indicate limits on An Post's right to refuse or discontinue. For example, by indicating that An Post will only discontinue the "Redirection Service" if there are serious grounds for this and that reasonable notice of the discontinuation of the "Redirection Service" will be given which will provide clear justification in written form to support An Post's reasoning for refusing or discontinuing the provision of the Redirection Service.

3.3.6 Prohibitions and restrictions on sending money in the post

3.3.6.1 ComReg's preliminary views

- 108 ComReg, in section 3.2.5 of Consultation 15/37, noted that clear and comprehensive information in the Terms and Conditions, regarding any prohibitions and restrictions with regard to the transmission of postal packets, is important to ensure that the reasonable needs of postal service users are met.

109 ComReg expressed the view that condition B.8(5)(5.2)(j) and condition D3(6)(f) appear to directly contradict condition B.8(5)(5.6)

- Condition B.8(5)(5.2)(j): *“A Postal Packet is prohibited: containing Paper Money or Coins save as otherwise permitted in these Terms and Conditions”*,
- Condition D3(6)(f): *“Exclusion of liability for certain contents; Compensation shall not be paid: for Paper Money or Jewellery transmitted by post unless contained in a Secure Post (Insured) Postal Packet addressed to an address in the State which does not exceed 2 kilograms in weight”*
- Condition B.8(5)(5.6): *“The following items are excluded from compensation although not prohibited as contents if posted in a Postal Packet to all addresses within and outside the State: Cash and Coins; Bank Drafts; Vouchers with monetary face value (other than postage stamps); Passports; Jewellery; and Precious metals such as platinum, gold or silver, whether manufactured or not in the form of a finished article”*.

110 On this basis, ComReg considered that it would be difficult for postal service users to ascertain whether they can or cannot send money by post and, if they can, the circumstances in which this is permitted and, in the event of any subsequent loss, the compensation that may be payable. Accordingly, the reasonable needs of postal service users under the 2011 Act are not being met.

111 ComReg outlined its preliminary view that the proposed Terms and Conditions require amending in order to clarify the restrictions that An Post proposes attaching to the sending of money by post. An Post should clarify, in particular:

111.1 The position in relation to whether *“Paper Money”* can be transmitted by post, or not, should be explicitly set out for all universal postal services.

111.2 If postal service users need to avail of specific service in order to post money (such as the *“Secure Post (Insured)”* service) this should be clearly stated.

111.3 The position in relation to whether compensation is or is not available should be explicitly set out.

111.4 Section E.7 (*“Single Piece - Secure Post (Insured)”*) should be amended to give clarity as to whether it is possible to send *“Paper Money”* using the *“Secure Post (Insured)”* service to addresses outside the State.

3.3.6.2 Views of respondents

- 112 An Post “*agrees to consider how best to revise the text to make it clear that the conveyance of postal packets in the domestic and international service of paper money, is permissible but can only be insured for domestic services.*”
- 113 An Post notes “*that current An Post practice ensures that Post Office counter receipts contain a notice drawing the customer's attention to the exclusion of liability for postal packets containing cash etc. to international destinations*”.

3.3.6.3 ComReg's position

- 114 ComReg welcomes An Post's agreement to consider amending the proposed Terms and Conditions to provide clarity regarding the transmission of paper money in the postal service. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to review and, if satisfied, approve the Terms and Conditions with or without amendment.
- 115 ComReg notes An Post's practice in relation to receipts. While this good practice is to be welcomed, it is no substitute for inclusion of a comprehensive and clear description within the Terms and Conditions.
- 116 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.20 to 6.1.24 of the draft decision in Annex: 1) is as follows:
- 116.1 Amendment of the proposed Terms and Conditions is required in order to make the restrictions An Post is attaching to the sending of money by post, if any, clear.
- 116.2 The position in relation to whether “*Paper Money*” can be transmitted by post, or not, should be explicitly set out for all universal postal services.
- 116.3 If postal service users need to avail of a specific service in order to post money (such as the “*Secure Post (Insured)*” service) this should be clearly stated.
- 116.4 The position in relation to whether compensation is or is not available should be explicitly set out.
- 116.5 Section E.7 (“*Single Piece - Secure Post (Insured)*”) should be amended to give clarity as to whether it is possible to send “*Paper Money*” using the “*Secure Post (Insured)*” service to addresses outside the State.

3.3.7 Packing

3.3.7.1 ComReg's preliminary views

117 Condition B.2(1) of the proposed Terms and Conditions states:

*“Every Postal Packet shall be made up and secured to prevent injury to any other Postal Packet in the course of transmission by post or to any receptacle in which the same is conveyed, or to an officer of An Post or other person who may deal with such Postal Packet or to postal equipment or to third party property. Where An Post has published **special rules** in relation to the packing of any particular Postal Packet or article such rules shall apply.*

118 ComReg, in section 3.2.6 of Consultation 15/37, set out its view that these “special rules” form part of the Terms and Conditions and therefore require approval by ComReg. ComReg considers that it would be more user-friendly and transparent to have these rules set out in the Terms and Conditions. ComReg does not consider it appropriate, having regard to the reasonable needs of postal service users, to refer to additional “*special rules*” contained in documents which are external to the actual Terms and Conditions document.

119 ComReg outlined its preliminary view that condition B.2(1) needs to be amended to provide details of the “*special rules in relation to the packing of any particular Postal Packet or article*”.

3.3.7.2 Views of respondents

120 An Post “*agrees to consider how to amend this condition [B.2(1)] to generally identify categories of postal packets which may have specific packing requirements*”.

3.3.7.3 ComReg's position

121 ComReg welcomes An Post's agreement to consider amending condition B.2(1) to identify categories of postal packets which may have specific packing requirements. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.

122 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.25 of the draft decision in Annex: 1) is as follows:

- 122.1 Condition B.2(1) the proposed Terms and Conditions needs to be amended to provide details of the “*special rules in relation to the packing of any particular Postal Packet or article*”.

3.3.8 Cancellation of stamps and dating of postal packets

3.3.8.1 ComReg’s preliminary views

- 123 Condition B.7(4) of the proposed SP T&Cs relates to “Cancellation of postage stamps” and sets out that:

“Where a Postal Packet which bears postage stamps is presented at a Post Office counter under Sections E.6 and E.7 the postage stamps shall be cancelled by An Post.

Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing. Where this has not occurred the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker.

There is no requirement to cancel Franking Meter Impressions on a Postal Packet.”

- 124 ComReg, in section 3.2.7 of Consultation 15/37, set out its view that the cancellation of stamps, by means of a cancellation stamp, is necessary to inform postal service users, as senders or addressees, that the pre-payment of the postal packet has been accepted and of the date of acceptance of the postal packet for onward transmission by post. This is information that meets the reasonable need of postal users. However, the proposed Terms and Conditions do not specify that the cancellation method will indicate on a postal packet the date of acceptance of that postal packet. ComReg considers that condition B7(4) would appear to be the appropriate place for this indication.

- 125 ComReg set out its preliminary view that, in order to provide clarity to postal service users as to whether pre-payment of the postal packet has been accepted and how to identify the date of acceptance, condition B.7(4) should be amended to state:

“Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing and a cancellation stamp will apply the date of acceptance of the postal packet. Where this has not occurred the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker and the date of acceptance of the postal packet will be applied.”

3.3.8.2 Views of respondents

126 **An Post** proposes the following changes to the wording in B.7(4):

*“Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing **or manual cancellation**. Where ~~this automated cancellation~~ has not occurred **and is noted**, the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker.”* (Proposed changes to original text indicated in bold and strike through)

127 An Post submits that *“it is not practical to cancel postal packets in order to signify the date of actual acceptance into the postal system as proposed by ComReg. There is no legal basis for such a requirement contained in the 2011 Act or elsewhere. Implementation of the proposal from ComReg would add undue costs to the provision of services which may impact An Post's ability to sustain the provision of the Universal Service”*.

3.3.8.3 ComReg's position

128 Section 16(1)(a)(ii) of the 2011 Act requires An Post as USP to provide *“on every working day, except in such circumstances or geographical conditions as the Commission considers exceptional....one delivery to the home or premises of every person in the State or, as the Commission considers appropriate, under such conditions as it may determine from time to time, to appropriate installations.”* Section 43(1) of the 2011 Act requires that postal service users be provided with remedies and redress, including reimbursement or compensation, in the event of failures of quality of service.

129 For An Post to fulfil these obligations, ComReg considers it a vital feature of the universal postal service that the date of acceptance of a postal packet into the postal network, for its onward transmission in the postal network, be indicated on the postal packet.

130 ComReg recognises that there may be a very small number of postal packets which, because of their format/make-up, cannot be cancelled by means of automated processing and instead are cancelled by means of a hand stamp, ink pen or marker. It is accepted that this small category of postal packets may not always have the date of posting and acceptance of the postal packet for onward transmission by post applied.

- 131 ComReg considers that the inclusion of the words *'and is noted'* - in An Post's proposed changes to the wording in B.7(4) - dilutes the commitment to cancel to an extent that renders it meaningless. While ComReg acknowledges that there may be some exceptional instances in which cancellation will not occur, it is not appropriate to provide for such exceptional instances in this term. Lack of cancellation would mean that postal service users will not be made aware that the pre-payment of the postal packet has been accepted. ComReg does not believe that this would meet the reasonable needs of postal users and therefore requires that the text be removed.
- 132 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.26 of the draft decision in Annex: 1) is as follows:

- 132.1 Condition B.7(4) of the proposed SP T&Cs should be amended to state:

"Postage stamps on Postal Packets presented at a Post Office counter or posted at an access point for universal postal services are cancelled by means of automated processing or manual cancellation which will have the date of posting and acceptance of the postal packet for onward transmission by post applied. Where automated cancellation has not occurred, the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker."

3.3.9 Schedules containing overviews of universal postal services

3.3.9.1 ComReg's preliminary views

- 133 ComReg in section 3.2.8.1 of Consultation 15/37 noted that the proposed Terms and Conditions do not provide an easily accessible comprehensive overview of each universal postal service, with all of the conditions that apply to a particular service, located in one place. ComReg considers that the current structure would make it more difficult for postal service users to identify all of the provisions which apply to a particular universal postal service.
- 134 ComReg set out its preliminary view that the proposed Terms and Conditions should be amended to include comprehensive user-friendly schedules for each universal postal service with all applicable provisions related to each service (to include summary of key features, prohibitions and restrictions, reference to the relevant charges, service requirements, and applicable compensation).

3.3.9.2 Views of respondents

- 135 **An Post** *“agrees to consider separately the creation of summary sheets as an addition to our current offering of guides and marketing materials to complement the Terms and Condition document. It is not appropriate to include such brochures in the T&Cs”.*

3.3.9.3 ComReg’s position

- 136 ComReg welcomes An Post’s agreement to consider separately the creation of summary sheets to complement the Terms and Conditions.

- 137 Following consideration of the submissions received, ComReg’s position is:

- 137.1 As An Post will provide summary sheets, containing overviews of universal postal services to complement the Terms and Conditions, ComReg does not at this stage propose to require the inclusion of comprehensive user-friendly schedules for each universal postal service in the Terms and Conditions, however ComReg requires that these summary sheets be referenced within the Terms and Conditions. ComReg proposes to monitor the situation to ensure that the summary sheets are consistent with the Terms and Conditions approved by ComReg. In the event that any inconsistency is found, ComReg will take the appropriate actions to inform postal service users of any inconsistencies.

3.3.10 Single Piece services - transit time objectives

3.3.10.1 ComReg’s preliminary views

- 138 ComReg set out in Consultation 15/37 that it is appropriate having regard to the reasonable needs of postal service users that the proposed SP T&Cs fully and accurately reflect Regulation 3(1)(a)-(d) of the Communications Regulation (Universal Postal Service) Regulations 2012 (“the Regulations”)²³ when describing the transit time objectives of the Single Piece Letters, Single Piece Large Envelopes, Single Piece Packets and Single Piece Parcels services. The required amendments to the relevant conditions were set out at paragraphs 101, 104, 107 and 110 of Consultation 15/37.

²³ S.I. No. 280 of 2012

3.3.10.2 Views of respondents

- 139 An Post agrees to state that the Single Piece Letters, Single Piece Large Envelopes, and Single Piece Packets service “*has a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012, **subject to the following exclusion: the objective should not include postal packets (i) inserted in collection boxes to addresses within the European Union, excluding Northern Ireland, which do not bear security declarations and (ii) those to addresses outside the European Union with incomplete or misleading customs declarations.***” (emphasis added)
- 140 An Post agrees to state that the Single Piece Parcels service “*is a service which has a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012, **subject to the following exclusion: the objective should not include postal parcels to addresses outside the European Union with incomplete or misleading customs declarations.***” (emphasis added)

3.3.10.3 ComReg’s position

- 141 An Post has suggested the inclusion of new text in sections Condition E.2(1)(i) (text emphasised in paragraph 139) and E.3(i) (text emphasised in paragraph 140) which has not been previously consulted upon. ComReg references its previous comments (see sections 2.2 and 2.3) that it is not appropriate to include such amendments at this stage.
- 142 The term “security declaration” is not defined by An Post. As such, ComReg could not approve a term which requires a “security declaration”.
- 143 ComReg notes An Post’s suggestion and has changed its proposed amendments as a result.
- 144 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.27 and 6.1.28 of the draft decision (Annex: 1)) is:
- 144.1 the terms relating to Single Piece Letters, Single Piece Large Envelopes, and Single Piece Packets services should be amended to indicate that these services have “*a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012 subject to the following exclusion: the objective should not include postal packets to addresses outside the European Union with incomplete or misleading customs declarations.*”

- 144.2 the terms relating to Single Piece Parcel services should be amended to indicate that these services have *“a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012, subject to the following exclusion: the objective should not include postal parcels to addresses outside the European Union with incomplete or misleading customs declarations”*.

3.3.11 Secure post (Insured)

3.3.11.1 ComReg’s preliminary views

- 145 ComReg in section 3.2.8.6 of Consultation 15/37 noted its concerns that condition E.7 of the proposed SP T&Cs does not clearly set out the different levels of insurance cover offered and compensatory amounts that would be applicable for each level of insurance.
- 146 ComReg in section 3.2.8.6 of Consultation 15/37 outlined its preliminary view that Condition E.7 of the proposed SP T&Cs should be amended to provide clear information setting out the different levels of insurance cover and compensatory amounts applicable to each service.

3.3.11.2 Views of respondents

- 147 An Post agrees *“that clear information setting out the different levels of insurance cover and compensatory amounts applicable under each service should be set out... ..that certain improvements can be made to produce a more user friendly set of Terms and Conditions”*.

3.3.11.3 ComReg’s position

- 148 ComReg welcomes An Post’s commitment to provide *“clear information setting out the different levels of insurance cover and compensatory amounts applicable under each service”*. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.
- 149 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.29 of the draft decision in Annex: 1) is:
- 149.1 Condition E.7 of the proposed SP T&Cs should be amended to provide clear information setting out the different levels of insurance cover and compensatory amounts applicable to each service.

3.3.12 Caller's service

3.3.12.1 ComReg's preliminary views

150 ComReg in section 3.2.8.7 of Consultation 15/37 set out its preliminary view that references to the "*caller's service*" in condition E9.1 of the proposed SP T&Cs should be deleted.

3.3.12.2 Views of respondents

151 An Post "*agrees to delete the reference to the 'caller's service' as it is not a USO service*".

3.3.12.3 ComReg's position

152 ComReg welcomes An Post's commitment to delete the reference to the 'caller's service', on the basis that it is not a USO service.

153 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.30 of the draft decision in Annex: 1) is:

153.1 references to the "*caller's service*" in condition E9.1 of the proposed SP T&Cs should be deleted.

3.3.13 Charges and Payment: Transmission of Underpaid Mail

3.3.13.1 ComReg's preliminary views

154 "*Part VI Additional Charges*" of the Schedule of Charges provides that there is a handling charge for delivering underpaid postcards, letters, large letters, packets and incoming cross border postal packets.

155 ComReg in section 3.2.9.1 of Consultation 15/37 acknowledged the extra work incurred by An Post in collecting charges due from postal service users who underpay for postal packets. ComReg also noted its support for An Post highlighting to postal service users the handling charges for underpaid postal packets. However, ComReg also outlined its concern that the fact that these charges are not referenced in the proposed Terms and Conditions amounts to a lack of transparency for postal service users, which is not appropriate having regard to their reasonable needs.

156 ComReg was of the preliminary view that the proposed Terms and Conditions should be amended by inserting a reference in condition B.6 of the Terms and Conditions to the handling charges for delivering underpaid postcards, letters, large letters, packets and incoming cross border postal packets,

3.3.13.2 Views of respondents

- 157 **An Post** states that it “cannot agree to ComReg’s requirement to set out in the Terms and Conditions documents the Charges that appear in the Schedule of Charges”.
- 158 **Barnardos** states that it “share[s] [ComReg’s] concern at the lack of transparency in relation to charges and recommend that these should be included (similar to the current Royal Mail approach, which appears very clear)”.

3.3.13.3 ComReg’s position

- 159 ComReg believes that An Post may have misinterpreted ComReg’s preliminary view in relation to Condition B.6. ComReg’s original stated concern was that the handling charges for delivering underpaid postal packets and parcels were **not referenced** in the proposed Terms and Conditions, and that this amounted to a lack of transparency for postal service users.
- 160 ComReg’s proposed amendment was not to include the detail of such charges. Instead, ComReg proposed “inserting **reference** to the handling charges for delivering underpaid postcards, letters, large letters, packets and incoming cross border postal packets, and for delivering underpaid parcels in the proposed Terms and Conditions in condition B.6 of the Terms and Conditions” (emphasis added).
- 161 This wording would be in keeping with other parts of the proposed Terms and Conditions which refer to the Schedule of Charges²⁴ and would, in ComReg’s view, avoid confusion and meet the reasonable needs of users.
- 162 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.31 of the draft decision in Annex: 1) is as follows:
- 162.1 The following text should be included within Condition B.6 of the proposed Terms and Conditions:
- “Underpaid postal packets shall be liable, upon delivery, to the charges specified in the Schedule of Charges”.

²⁴ Such as in B.6(8)

3.3.14 Charges and Payment: Refund administrative charge

3.3.14.1 ComReg's preliminary views

163 Condition B.6(4)(b) of the proposed SP T&Cs states:

“Refunds will be subject to an administrative Charge which shall be set out in the Schedule of Charges”.

164 ComReg in section 3.2.9.2 of Consultation 15/37 outlined that An Post had not made ComReg aware of this proposed charge prior to ComReg's decision regarding the price cap²⁵ and that to date ComReg has not approved an administration charge for the issuing of refunds for universal postal services and therefore such a charge is not specified in the Schedule of Charges. No charge has previously been imposed in such instances and therefore the proposed charge, if implemented, would be new.

165 ComReg considers that reference to an administration charge for the issuing of refunds for universal postal services (which has not been approved by ComReg and does not currently exist) is confusing for postal service users and amounts to a lack of transparency. The introduction of such a charge would, in effect make an explicit provision for any refund to be reduced. ComReg's view was that this would not be appropriate having regard to the reasonable needs of users.

166 ComReg's preliminary view was that the proposed Terms and Conditions should be amended by deleting condition B.6(4)(b).

3.3.14.2 Views of respondents

167 **An Post** submits that “[t]here is nothing new in the application of administrative charges in the case of refunds” and also submits the following:

“For the sake of clarity, although not exhaustive, we have set out some examples of instances where administrative charges, have to be, as have always been, made:

- 1) *Commission on refund of unused postage stamps and meter franks:
Stamps - 20% up to €250 and 10% over €250; Spoiled Franks -10% of value for over 20 items.*

²⁵ Response to Consultation and Decision on price cap control for universal postal services, [ComReg Document No. 14/59](#), D05/14, dated 18 June 2014 (“ComReg 14/59” and the decision instrument referred to as “D05/14”)

2) *Customs charges due on refused inbound international items: This is where it is necessary for a postal operator to seek the cancellation of customs duty and other fees and it is unsuccessful in this (Article RC 153 UPU Parcel Post Regulations).*

3) *Lost postal packet or contents found after a claim is paid: A customer who had received compensation for a lost postal packet which was subsequently found would be due to return all or part of the compensation paid.*

4) *Deductions from compensation where payments already made: Under Condition 03.(8) compensation payable is to be in substitution for, and not in addition to, any compensation which would otherwise be payable.”*

3.3.14.3 ComReg’s position

168 ‘Part VI Additional Charges’ of the Schedule of Charges provides the following charges:

2. Handling charge for delivering underpaid Parcels.	€1.50
3. Handling charge for delivering parcels which exceed 20kg or 20kg Dimensional Weight or maximum dimensions of 1.5 or girth, 3 meters.	€63 plus €5 for every kg or part thereof in excess of 20kg
4. Customs Clearance Fee	1% of the value of the contents of the Postal Packet subject to a minimum of €7.00

169 No specific administrative charge is detailed in ‘Part VI Additional Charges’ or elsewhere in the Schedule of Charges. An Post did not make ComReg aware of these proposed charges prior to ComReg’s decision regarding the price cap²⁵.

170 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.32 and 6.1.33 of the draft decision in Annex: 1) is as follows:

170.1 The proposed Terms and Conditions should be amended by deleting condition B.6(4)(b).

- 170.2 The Schedule of Charges should be amended so that all of the charges for each universal postal service are clearly and comprehensively set out and are consistent with the price cap decision.

3.3.15 Charges and Payment: Deposit payable by Consignor of Postal Packets

3.3.15.1 ComReg's preliminary views

- 171 Condition B.6(6) of the proposed Terms and Conditions states:

"An Post may require the Consignor of Postal Packets to which these Terms and Conditions apply to pay such amount, as it may prescribe from time to time, by way of security for Charges payable. An Post may refuse or return at its reasonable convenience Postal Packets if the amount so prescribed is not paid to An Post"

- 172 ComReg in section 3.2.9.3 of Consultation 15/37 set out its preliminary views that ComReg is:

- (i) unclear as to what Condition B.6(6) of the proposed Terms and Conditions means, and therefore unable to approve it;
- (ii) concerned that condition B.6(6) permits An Post to charge "*such amount, as it may prescribe from time to time*" and so the basis for calculating this amount is not prescribed causing a lack of transparency for postal service users; and
- (iii) concerned that condition B.6(6) permits An Post to either refuse to transmit by post certain postal packets, or return postal packets which are to be transmitted by post under a universal postal service which would not be appropriate having regard to An Post's universal service obligations.

3.3.15.2 Views of respondents

- 173 An Post agrees to amend Condition B.6(6) to clarify the condition.

3.3.15.3 ComReg's position

- 174 ComReg welcomes An Post's commitment to amend Condition B.6(6) to clarify the condition. ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.

175 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.34 of the draft decision in Annex: 1) is as follows:

175.1 Condition B.6(4)(b) should either be amended by deletion or An Post should make amendments which clarify the condition. In particular, the services to which this condition is applicable and the amount of the deposits required should be clearly stated.

3.3.16 Charges and Payment: Collecting undelivered Registered (Proof of Delivery) postal packets charge

3.3.16.1 ComReg's preliminary views

176 Condition E.6(5) 'Collection of undeliverable Registered (Proof Of Delivery) Postal Packets' of the proposed SP T&Cs states as follows:

"Where An Post is unable to obtain a written receipt at the address of the addressee, it will inform the addressee his servant or agent to collect the Registered (Proof of Delivery) Postal Packet at another place subject to the giving by the addressee, his servant or agent of a written receipt in the form prescribed by An Post.

Where due delivery cannot be completed, An Post may leave a docket at the address of the addressee indicating where and when the Registered (Proof of Delivery) Postal Packet may be collected. An addressee may collect the Registered (Proof of Delivery) Postal Packet at the times set out on the docket subject to payment of the Charges specified in the Schedule of Charges. Registered (Proof of Delivery) Postal Packets may be held for 3 Working Days"

177 ComReg in 3.2.9.4 of Consultation 15/37 set out its preliminary views that reference to a charge to be levied where an addressee needs to collect an undelivered "Registered (Proof of Delivery)" postal packet, and where such a charge has not been approved by ComReg and does not currently exist, is confusing for postal service users. ComReg further stated that in order to ensure transparency and have regard of the reasonable needs of postal service users, deletion of condition E.6(5) is required.

3.3.16.2 Views of respondents

178 An Post submits “*that ComReg has misinterpreted Condition E.6(5)*” and that “*the fees outlined in Part VI Additional Charges of the Schedule of Charges relate to instances of underpayment of postage, oversized parcels and for presentation to customs. They are not therefore in the nature of additional charges but rather fees which customers are ultimately bound to pay either as part of a normal delivery or collection as a DIB (“Sorry We Missed You”) postal packet at the local delivery office.*”

3.3.16.3 ComReg’s position

179 The current text in the proposed Terms and Conditions does not reference specific charges (in Part VI or in any other section of the Schedule of Charges) and is, indeed as An Post itself suggests, open to misinterpretation. Accordingly, ComReg considers that reference to the specific charge(s) ought to be made. An Post did not make ComReg aware of these proposed charges prior to ComReg’s decision regarding the price cap²⁵.

180 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.35 of the draft decision in Annex: 1) is as follows:

180.1 Condition E.6(5) should either be deleted in full or amended to clarify the specific charges which would apply.

3.3.17 Acceptance Issues: Provision of a return address on postal packets

3.3.17.1 ComReg’s preliminary views

181 Condition B.4 of the proposed Terms and Conditions states:

(c) “Every Postal Packet should bear a return postal address.

(d) Every Postal Packet which is a Parcel addressed to a postal address outside the State shall bear a return postal address both on the Postal Packet itself and on the Dispatch Note affixed to the Parcel as required by the Universal Postal Union

The above requirements are specified in order to ensure a Postal Packet’s timely return to the sender in the event of its non delivery for whatever reason and to avoid the necessity of having to open the Postal Packet to ascertain the sender’s details.”

182 In addition, Condition B.4 of the proposed SP T&Cs states:

“To assist in the handling of Postal Packets which cannot be delivered the return address shall therefore appear in the top left hand corner on the address side of each Postal Packet or to the left of the address on a Postal Packet in roll form.”

183 Condition E.2(5) of the proposed BM T&Cs provides that for all universal service bulk mail:

“A return address shall be on the front of the envelope in the top left hand corner;”

184 ComReg in section 3.2.10.1 of Consultation 15/37 set out its view that there will be instances where senders or addressees will not want their names and/or addresses disclosed, for reasons of confidentiality.

185 ComReg set out its preliminary views that:

185.1 in relation to the proposed SP T&Cs, that An Post should amend condition B.4 to indicate that postal service users are not required to put a return address on the envelope (except in relation to a *“Parcel addressed to a postal address outside the State”*); and

185.2 the requirements of condition B.4 and condition E.2.5 in relation to return addresses should be consistent and should be amended to state: *“Every Postal Packet should bear a return postal address”*

3.3.17.2 Views of respondents

186 **An Post** in its response:

186.1 appears to agree in principle that an amendment to the wording of condition B.4 is appropriate, to indicate that postal service users are not required to put a return address on the envelope.

186.2 submits that while it *“agrees that the Bulk Mail Terms and Conditions should also ideally mirror the text in the single piece T&Cs where this is possible and practicable ... [in] this instance it is not possible...”*. An Post relies in this regard on Articles RL 117.2.1 and 125.10 of the UPU Parcel Post Manual.

187 **Barnardos** states that it has a concern regarding the condition requiring inclusion of return address in the top left hand corner on the address side of each postal packet. Barnardos submits that it is aware of cases where addressees do not want their names and addresses disclosed, for reasons relating to the confidentiality of the correspondence. Barnardos states that it is currently under contract to provide services where the funder (a State agency) has instructed it not to include its sender details on the post. Barnardos thus supports ComReg's recommendation that the wording should be: "*Every Postal Packet should bear a return postal address*".

3.3.17.3 ComReg's position

188 ComReg considers that the above wording, which it originally proposed, would not make it sufficiently clear to postal service users that they are not required to put their return address on postal packets (except in relation to a "*Parcel addressed to a postal address outside the State*").

189 ComReg accepts An Post's submissions in relation to the articles of the UPU Letter Post Manual and therefore does not propose any changes to the proposed BM T&Cs relating to the inclusion of return addresses on international bulk mail. ComReg remains of the view that the BM T&Cs should reflect the fact that return addresses are not required on postal packets posted within the State for delivery within the State.

190 ComReg welcomes Barnardos' example of postal service users who do not want their names and addresses disclosed for reasons of confidentiality.

191 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.36 of the draft decision in Annex: 1) is as follows:

191.1 An Post should amend condition B.4(1)(c) of the SP T&Cs and the BM T&Cs and condition E.2(5) of the BM T&Cs to indicate that postal service users are not required to put a return address on postal packets (except for those addressed to addresses outside the State). The appropriate wording for inclusion is: "*It is recommended (although not required) that every Postal Packet should bear a return postal address*".

3.3.18 Delivery Issues: General comments on Section C.3

192 Currently section C.3 is titled "*If An Post can't deliver*".

193 An Post submits that ComReg "*has misinterpreted Section C.3 and that it may not have appreciated that the actions referenced in Condition C.3(6) apply ONLY in the situation where a postal packet is initially not capable of being delivered at all*" (An Post's emphasis).

3.3.18.1 ComReg's position

- 194 An Post's stated position has highlighted to ComReg the lack of clarity in section C.3. ComReg considers that the lack of clarity is not appropriate having regard to the reasonable needs of postal service users.
- 195 ComReg notes that several conditions of the proposed Terms and Conditions appear to be inappropriately located in section C.3, as they are not concerned with circumstances in which a postal packet is undeliverable. These conditions should be located elsewhere in the document. This would be more logical and clearer and in the best interests of users. An Post should take note of this in drafting its final proposed Terms and Conditions.
- 196 ComReg's position (as reflected in 6.1.37 to 6.1.44 of the draft decision in Annex: 1) is that the following amendments are required to clarify what a postal service user can expect when a postal packet is undeliverable;
- 196.1 Section C.3 is inappropriately titled and should be renamed to "Undeliverable postal packets".
- 196.2 Condition C.3(3) "*What is deemed undeliverable?*" has too low a prominence in Section C.3 and should be positioned as the first condition therein, in order to make clear what is considered to be "undeliverable".
- 196.3 As Condition C.3(1) "*Obligation to make one attempt at delivery*" does not relate to circumstances where An Post cannot deliver it should be moved to section C.1 or inserted as a new standalone sub-section within section C;
- 196.4 Condition C.3(2) is titled "*No person at postal address to accept Postal Packet at time of delivery*" however this title does not accurately describe the content of the condition. It should be retitled to more accurately describe its content – for example, "*What happens when an item is undeliverable?*";

- 196.5 The first sentence of proposed Condition C.3(2) currently states:
“Where due delivery cannot be completed, or where a Parcel exceeds the maximum dimensions or weight specified in Section B.1, An Post may leave a docket at the postal address of the addressee or sender, if returned as undeliverable to the postal address of the sender, indicating where and when the Postal Packet may be collected.” This could be confusing for postal service users and thus not meet their reasonable needs. The opening sentence of Condition C.3(2) should be amended to read: *“Where due delivery cannot be completed An Post will leave a docket at the postal address of the addressee indicating where and when the Postal Packet may be collected.”*
- 196.6 Condition C.3(2) does not clearly detail what happens to a postal packet when An Post cannot deliver it and the postal packet has not been collected by the addressee. It should be amended so that it details the return to sender procedure (as referenced by An Post in its response to consultation²⁶ but not provided by An Post). Clear information should also be provided for postal service users in relation to what will happen to a postal packet which (i) has an external return address and (ii) does not have an external return address. The text of Condition C.3(6) appears to fit logically following this explanation, (subject to amendments required) either as part of this condition or as a standalone condition.
- 196.7 Condition C.3(4) is titled *“Underpaid postage to be paid by addressee”* and the text proposed by An Post states:

“Underpaid Postal Packets shall on delivery, be subject to the Charges specified in the Schedule of Charges or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act” (emphasis added).

This emphasis clearly demonstrates that this condition does not relate to a situation where An Post cannot deliver. It should therefore be moved to a standalone section relating to underpaid mail.

3.3.19 Delivery Issues: Undelivered and undeliverable Postal Packets

3.3.19.1 ComReg’s preliminary views

- 197 Condition C.3 (3) of the proposed Terms and Conditions states:

²⁶ This would appear to be the “return scenario” referenced by An Post in its response to consultation, although the reference to the return scenario does not make sense (see paragraph 230)

*“.....Where the postperson is unable to deliver **for whatever reason** a “Return to Sender” adhesive label is completed and attached to the Postal Packet prior to be (sic) returned” (emphasis added).*

198 ComReg in 3.2.11.1 of Consultation 15/37 set out its preliminary views regarding Condition C.3(3), as follows:

- (i) the text “*for whatever reason*” appears to indicate that post persons have full discretion as to the reasons which would result in them being “*unable to deliver*”. ComReg does not consider this to be appropriate having regard to An Post’s universal service obligations and the reasonable needs of postal service, and accordingly should be deleted; and
- (ii) the typographical error “*to be returned*” should be corrected.

3.3.19.2 Views of respondents

199 **An Post** states that it:

- (i) agrees “*to correct all typographical errors when it is finalising its final version of the agreed Terms and Conditions for USO services including the typographical error cited by ComReg in para. 141*”, and
- (ii) proposes “*to use the language from Section 47(4) of the 2011 Act which provides for the type of operational flexibility recognised by the Oireachtas which is needed for a USP when handling mail and we agree to consider deleting reference to “for whatever reason” and using “for any other sufficient reason”*”.

200 **Barnardos** states that it “*support[s] [ComReg’s] suggested change that ‘for whatever reason’ should be deleted from Condition C.3(3) of the proposed Terms and Conditions*”.

3.3.19.3 ComReg’s position

201 Whilst ComReg welcomes An Post’s commitment to correct all typographical errors in the “*final version of the agreed Terms and Conditions*”, ComReg also notes An Post’s vague position that it will “agree to consider” certain amendments. ComReg references its previous comments (see sections 2.2 and 2.3), noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.

202 In relation to An Post’s stated reasons for including the words “*for whatever reason*” in Condition C.3(3), ComReg does not consider that section 47(4) of the 2011 Act has any relevance to this proposed condition.

- 203 ComReg's remains of the view that the words "*for whatever reason*" should be deleted, for two reasons. First, these words appear to indicate that post persons should have full discretion as to the circumstances which would result in them being unable to deliver a postal packet or parcel. This is not appropriate having regard to An Post's universal service obligations and the reasonable needs of postal service users. Second, and predominantly, the text is unnecessary and unhelpful in a condition which is simply meant to indicate what will happen when a post person is unable to deliver a postal packet or parcel - i.e. that a "Return to Sender" adhesive label will be affixed.
- 204 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.45 of the draft decision in Annex: 1) is as follows:
- 204.1 The typographical error "to be returned" should be corrected and the words "*for whatever reason*" should be deleted from Condition C.3 (3) of the proposed Terms and Conditions.

3.3.20 Delivery Issues: Underpaid postage to be paid by addressee

3.3.20.1 ComReg's preliminary views

- 205 Condition C.3 (4) of the proposed Terms and Conditions is titled "*An Post powers to include right to open Postal Packets*" and it states:
- "Underpaid Postal Packets shall on delivery, be subject to the Charges specified in the Schedule of Charges or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act."*
- 206 ComReg in 3.2.11.2 of Consultation 15/37 set out its preliminary view that section 47 of the 2011 Act does not provide for An Post to reserve to itself the right to refuse, detain, defer, withhold, return or dispose of underpaid postal packets, and accordingly Condition C.3(4) should be amended by deleting the following text:
- "or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act."*

3.3.20.2 Views of respondents

- 207 An Post sets out its position on the proposed treatment of underpaid mail at pages 30, 31 and 32 of its response to consultation. An Post's position appears to be that it may deliver an underpaid postal packet or parcel to the addressee (applying the relevant charge as per the Schedule of Charges) or that it may refuse, detain, defer, withhold, return or dispose of an underpaid postal packet or parcel. Regarding the latter option, An Post asserts that an underpaid postal packet or parcel does not comply with the Terms and Conditions and it contends that it may rely upon the provisions in section 47(1) of the 2011 Act.
- 208 An Post, in support of its position:
- 208.1 submits that it views its ability to act in accordance with section 47(1) as *"limited to those [actions] specified"*;
 - 208.2 submits that by relying on its interpretation of section 47(1) it *"is following its legal obligations under the 2011 Act."*; and
 - 208.3 sets out a list of operational reasons²⁷ as to why *"collecting deficient postage exclusively from the addressee"* is an *"unworkable proposition"*.
- 209 **Barnardos** states that *"it is appropriate for An Post to levy charges for underpaid postal packets on the recipient of that postal packet and that it is not appropriate that An Post reserve to itself the right to refuse, detain, defer, withhold, return or dispose of underpaid postal packets, and we would like to see that sentence deleted."*
- 210 **The CWU** states that it *"is concerned that the ComReg consultation document suggests that An Post's terms and conditions should be amended to remove the company's ability to refuse, detain, defer, withhold, return or dispose Postal Packets that have been underpaid. Alternatively, ComReg is stating that the company should 'levy charges for underpaid postal packets on the recipient of that postal packet.' This is a significant and substantial change to the current arrangements and the CWU is opposed to this change"*. The CWU cites a list of reasons²⁸ in support of its position.

²⁷ See page 31 of the An Post submission to Consultation 15/37 ([ComReg 15/58](#))

²⁸ See pages 4-5 of the CWU submission to Consultation 15/37([ComReg 15/58](#))

3.3.20.3 ComReg's position

- 211 The current text of Condition C.3(4) gives little clarity to a postal service user as to what will happen if a postal packet or parcel is underpaid. In the interests of postal service users, the final set Terms and Conditions should clearly set out how An Post proposes to deal with underpaid mail.
- 212 ComReg does not agree with An Post's submission that section 47(1) of the 2011 Act gives it a legal right to "*refuse, detain, defer withhold, return or dispose of*" any underpaid postal packet or parcel.
- 213 Non-compliance with the Terms and Conditions does give An Post a discretion to act in accordance with section 47(1)(a). However the content of the Terms and Conditions is subject to ComReg's supervision (this is clear from section 22(2) and section 24(5) of the 2011 Act). An Post and the CWU characterise this "power" as being provided for in section 47(1). It is only provided for in section 47(1) to the extent that is contained in the Terms and Conditions, which must in turn be approved by ComReg. ComReg does not propose to approve terms and conditions that provide for An Post to have such a wide discretion in relation to underpaid mail.
- 214 ComReg considers that allowing An Post to "*refuse, detail, defer, withhold, return or dispose*" of a postal packet because of underpayment would not be in accordance with the reasonable needs of users. This is because this would give An Post very wide discretion in relation to what can be done to a postal packet in circumstances where there was underpayment (even by a few cents).
- 215 An Post contends that its ability to act in accordance with section 47(1) is "*limited to those [actions] specified*". ComReg's disagrees with this characterisation. The actions allowed by section 47(1) are extremely broad and encompass everything that could possibly be done to a postal packet (up to disposal, which ComReg notes is not even necessarily a "last resort" on a plain reading of section 47(1)). In practice this would mean that An Post would be reserving its right to dispose of a letter just because it was underpaid by a few cent. This would not be in accordance with the reasonable needs of users in circumstances where reliability of the post is very important.

- 216 ComReg notes that An Post represents this proposal for treatment of underpaid mail as *“in accordance with longstanding practice”*. ComReg does not agree that this proposed treatment of underpaid mail is the longstanding practice of An Post. An Post’s practice has always been to attempt delivery of underpaid mail and to collect deficient postage from the addressee. Both a *“Handling charge for delivering underpaid Postcards, Letters, Large Letters, Packets and Incoming Cross Border Postal Packets”* and a *“Handling charge for delivering underpaid Parcels”* are provided for in the Schedule of Charges. An Post’s representation contrasts with the position of the CWU that *“This activity [collection of outstanding postage from the addressee] was undertaken in the past but was discontinued”*.
- 217 ComReg disagrees with An Post’s characterisation of ComReg’s position as requiring the collection of deficient postage *“exclusively from the addressee”* (emphasis added). ComReg at no stage suggested that the collection of deficient postage would be exclusively from the addressee, merely that the addressee would have the first opportunity to pay the deficient postage.
- 218 ComReg disagrees that collection of deficient postage from the addressee would be an “unworkable proposition” as suggested by An Post. ComReg notes that other international postal service providers²⁹ use systems that collect deficient postage by postal service users to paying monies owed online, in person, or by post.
- 219 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.46 of the draft decision (Annex: 1)) is that:
- 219.1 condition C.3(4) of the proposed Terms and Conditions should be amended by deleting the following text *“or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act.”*

3.3.21 Delivery Issues: An Post's powers to open postal packets

3.3.21.1 ComReg’s preliminary views

- 220 Condition C.3 (5) of the proposed Terms and Conditions is titled *“An Post powers to include right to open Postal Packets”* and states:

“An Post may refuse, detain, defer, withhold, return, dispose of and open Postal Packets in exercise of its powers under Section 47 of the 2011 Act.”

²⁹ See for example the [Royal Mail](#) and [Guernsey Post](#)

Postal Packets may be opened by an officer of An Post under Section 47(3) of the 2011 Act where the name and address of the sender cannot be ascertained from the cover, when such Postal Packets are deemed to be:

- *Undeliverable in accordance with section 47(4) of the 2011 Act;*
- *Awaiting collection ‘poste restante’ (addressed ‘care of’ a Post Office or ‘General Delivery’) and not collected;*
- *Due for collection and not collected and **there is no external return address visible**; or*
- *Not in compliance with the Terms and Conditions for the transmission of Postal Packets (e.g. **unpaid or underpaid Postal Packet where there is no external return postal address visible**).*

Postal Packets may also be opened by an officer of An Post, notwithstanding the fact that the name and address of the sender appear on the cover, under Section 53(4) of the 2011 Act -

- *Pursuant to any of the powers as to the transmission of Postal Packets as set out in Section 47 of the 2011 Act;*
- *Pursuant to a direction given by the Minister under Section 110 of the Postal and Telecommunications Services Act of 1983 as applied by Section 54 of the 2011 Act; or under other lawful authority (e.g. at the direction of a Customs Officer).” (emphasis added)*

221 ComReg in section 3.2.11.3 of Consultation 15/37 set out its preliminary views that Condition C.3(5) is not appropriate having regard to An Post’s universal service obligations and the reasonable needs of users and that it would likely have a significantly adverse effect on postal service users, for the following reasons:

221.1 It supplements the text of section 47(3) of the 2011 Act with text not contained in section 47(3) of the 2011 Act in a way that greatly (and inappropriately) extends An Post’s powers, providing wide-ranging discretion as to what An Post can do to postal packets in the course of transmission by post. ComReg’s view is that the fact that postal packets are underpaid with no external return postal address visible does not mean that such postal packets are “*not in compliance with the terms and conditions as to the transmission of postal packets*” for the purposes of either section 47(1) or section 47(3). Accordingly condition C.3(5) should be amended so as to quote directly from section 47 of the 2011 Act; and

221.2 An Post should not reference and present section 53 of the 2011 Act in the manner which it does, namely providing An Post with a power to open postal packets, which is inaccurate, as section 53(4) of the 2011 Act is not a stand-alone power but rather a “carve out” of the prohibition on individual persons on opening of postal packets and mail bags in section 53 of the 2011 Act and accordingly this reference should be deleted; and

221.3 The title is unclear and grammatically incorrect, and should therefore be amended with the new suggested title “*An Post’s powers to open Postal Packets*”.

3.3.21.2 Views of respondents

222 **An Post** does not set out an explicit position regarding ComReg’s stated preliminary view.

223 An Post states that it disagrees with one of the reasons given by ComReg in support of its preliminary view - that Condition C.3(5) would represent a fundamental change to how post has always been treated in Ireland and in commonwealth countries; i.e. as being the property of the addressee. An Post submits that:

“there is no legal principle or precedent in Ireland or in the unspecified commonwealth countries referenced by ComReg providing that post has always been the property of the addressee. Under Irish law, the 1983 Act changed the legal relationship in that An Post and the sender become parties to a contract. This was implied in Section 64(3) of the 1983 Act and continued in the 2011 Act under Section 26(3). Title in a postal packet remains vested in the sender until it is delivered to the addressee. For criminal law purposes the postal packet is deemed to be in the possession of the postal service provider while in the course of transmission. Condition C.3(5) does not represent a fundamental change to what we currently do.”

224 An Post submits that *“Condition C.3(5) deals with An Post’s powers which includes the right to open a postal packet where that postal packet is undeliverable.”*

225 An Post confirms *“that there is no suggestion nor has there ever been a practice within An Post that just because a postal packet posted within the State to an address within the State does not contain a return address on the face of a postal packet that an attempt to deliver that postal packet will not be made. For clarity, when reading Condition C.3 the **return scenario** applies where there is:*

- *no external return address;*

- *no return address on the contents; and*
- *no claim within one, three or six month periods” (emphasis added).*

226 **Barnardos** states that it *“strongly support[s] the ComReg position in this entire section that An Post should not be entitled to open a postal packet simply because it is “unpaid or underpaid” and “has no external return postal address visible”. In these circumstances An Post is still able (and still obliged under its universal service obligation) to deliver the postal packet to the addressee (and levy the appropriate charges, as referenced in condition C3.(4) of the proposed Terms and Conditions)”*.

3.3.21.3 ComReg’s position

- 227 ComReg welcomes Barnardos support of ComReg’s preliminary position in relation An Post's powers to open postal packets.
- 228 ComReg disagrees with An Post’s position as postal packets, once posted, are then in the course of transmission by post and are deemed to be the property of the addressee. An Post supports its position by general references to aspects of legislation, which on ComReg’s reading do not support its position. In any event ComReg’s position is mainly based on the other reasons given; i.e. *“ComReg considers that it cannot approve Terms and Conditions which give An Post this wide-ranging discretion as to what they can do to items in transmission by post. ComReg notes that even if there is no return address on a postal packet, it is still capable of being delivered. An Post is obliged to deliver this postal packet pursuant to its universal service obligation. Furthermore, An Post has obligations to both the sender and the recipient of the postal packet”*.
- 229 ComReg welcomes An Post’s confirmation that *“just because a postal packet posted within the State to an address within the State does not contain a return address on the face of a postal packet that an attempt to deliver that postal packet will not be made”*.
- 230 ComReg is confused by the clarification provided by An Post as to when *“the return scenario applies”*. ComReg does not understand the reference to the *“return scenario”* or how there could be any likelihood of return when there is no external return address or return address inside the postal packet. In any event any clarification should be made via amendments to the Terms and Conditions to provide such clarification to the postal service users.
- 231 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.47 of the draft decision in Annex: 1) is as follows:

- 231.1 Condition C.3(5) of the proposed Terms and Conditions should be amended so that it directly quotes section 47 of the 2011 Act and deleting the current reference to section 53 of the 2011.

3.3.22 Delivery Issues: Postal Packet with no Return Address

3.3.22.1 ComReg's preliminary views

- 232 Condition C.3 (5) of the proposed Terms and Conditions condition states:

“Where the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents, the Postal Packet may be retained under Section 47 of the 2011 Act pending a claim from the sender or addressee. In the absence of any claim within

*(a) a period of one (1) month of receipt of the Postal Packet; or
(b) three (3) months of posting the Postal Packet for delivery in the State; or
(c) six (6) months of posting for a delivery outside the State,
the Postal Packet may be disposed of by An Post.”*

- 233 ComReg in section 3.2.11.4 of Consultation 15/37 set out its preliminary view that Condition C.3(6) should be deleted as it gives An Post the power to retain a postal packet in circumstances where *“the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents”*. ComReg does not consider this appropriate having regard to the reasonable needs of postal service users and as the postal packet could be delivered to the addressee in these circumstances.

3.3.22.2 Views of respondents

- 234 **An Post** submits that *“ComReg has misinterpreted Section C.3 and that it may not have appreciated that the actions referenced in Condition C.3(6) apply ONLY in the situation where a postal packet is initially not capable of being delivered at all. Section C.3 deals with delivery of postal packets where they 'cannot be delivered' and Condition C.3(6) deals with undeliverable postal packets which also have no return address and how we will try and deal with them”*.
- 235 An Post further submits *“that there is no suggestion nor has there ever been a practice within An Post that just because a postal packet posted within the State to an address within the State does not contain a return address on the face of a postal packet that an attempt to deliver that postal packet will not be made. For clarity, when reading Condition C.3 the return scenario applies where there is:*
- *no external return address;*

- *no return address on the contents; and*
- *no claim within one, three or six month periods.*

Where there is no external address an attempt will still be made to deliver if an address on the contents is found on opening the postal packet. For the above reasons, there is no need to amend the current drafting as the current drafting already achieves the result we understand ComReg wants to achieve”.

236 **Barnardos** states that *“In Condition C.3(6) An Post gives itself the power to retain a postal packet in circumstances where “the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents”. This power seems inappropriate as in these circumstances the postal packet could be delivered to the addressee. This condition is not appropriate having regard to the reasonable needs of postal service users. We agree that that Condition C.3(6) should be deleted”.*

3.3.22.3 ComReg’s position

237 ComReg welcomes Barnardos comments in relation the retention of postal packets with no return address.

238 ComReg considers that the clarification provided by An Post does not make matters clearer for the postal service user. The fact that An Post considers that it cannot deliver a postal packet, or is unable to ascertain *“the name of the sender... from the cover of a Postal Packet or its contents”*, does not mean that section 47 of the 2011 Act can be relied on by An Post, as is represented in proposed Condition C.3(6). Section 47 is not relevant to this proposed condition. It is also noted that section 47 does not provide the postal service provider with the power to “retain” (as referenced in condition C.3(6)), section 47 does allow “detention” and “disposal”.

239 ComReg in Consultation 15/37 suggested that An Post should set out a *“Return to Sender”* procedure. ComReg understands that the proposed Section C.3 condition is an attempt by An Post to set out such a procedure.

240 ComReg is confused by the clarification proposed by An Post as to when the return scenario would apply. ComReg does not understand the reference to the *“return scenario”* or how there could be any likelihood of a return where there is no external or internal return address.

241 ComReg is also unclear regarding An Post’s statement that *“Where there is no external address an attempt will still be made to deliver if an address on the contents is found on opening the postal packet”*. Is An Post referencing the “external return address” or the “external delivery address”? Again, ComReg’s overall position is that the current text is unclear and should be clarified.

242 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.48 of the draft decision in Annex: 1) is as follows:

242.1 Condition C.3(6) should be amended as follows:

"Where the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents, the Postal Packet may be retained under Section 47 of the 2011 Act pending a claim from the sender or addressee. In the absence of any claim within

(a) a period of one (1) month of receipt of the Postal Packet; or

(b) three (3) months of posting the Postal Packet for delivery in the State; or

*(c) six (6) months of posting for a delivery outside the State,
the Postal Packet may be disposed of by An Post."*

3.3.23 Delivery Issues: Retention periods and access points to collect undeliverable mail

3.3.23.1 ComReg's preliminary views

243 Condition C.3(2) of the proposed SP T&Cs states:

"No person at postal address to accept Postal Packet at time of delivery

Where due delivery cannot be completed, or where a Parcel exceeds the maximum dimensions or weight specified in Section B.1, An Post may leave a docket at the postal address of the addressee or sender, if returned as undeliverable to the postal address of the sender, indicating where and when the Postal Packet may be collected. An addressee may collect the Postal Packet at the times set out on the docket and subject to payment of any applicable Charges specified in the Schedule of Charges. Postal Packets may be held for 5 Working Days. Foreign Postal Packets may be held for 16 Working Days.

Postal Packets which it has not been possible to deliver shall be retained for collection at a local office notified on the docket for the following periods:

- *3 Working Days for Registered (Proof of Delivery) Postal Packets and for Secure Post (Insured) Postal Packets;*

- *5 Working Days for Standard Postal Packets;*
- *16 Working Days for all Postal Packets from outside the State; and*
- *3 months for Poste Restante*

The instructions for retrieving the Postal Packet, including the times and place of collection, are indicated on the docket.”

244 ComReg in section 3.2.11.5 of Consultation 15/37 set out its preliminary views that:

244.1 the retention periods specified by An Post in Condition C.3(2) of the proposed SP T&Cs are reasonable, if on each “Working Day” the relevant local office is open for a minimum of 8 hours and that it would not be in the interests of the reasonable needs of postal service users if the postal packet were available for collection on the number of “Working Days” specified but for a period of less than 8 hours; and

244.2 the text in condition C.3(2) of An Post’s SP T&Cs should be amended to indicate that Registered (Proof of Delivery) Postal Packets, Secure Post (Insured) Postal Packets, and Standard Postal Packets will be held and available for collection for a minimum of 8 hours on each “Working Day” from each local office where undelivered postal packets are held.

3.3.23.2 Views of respondents:

245 **An Post** states that it *“cannot agree to ComReg’s requested amendment... to keep open its operations for a minimum of 8 hours every working day”* as it submits that this *“would result in an increase in the costs of operating the USO and our ability to continue to provide the USO on a sustainable basis”*. An Post also submits that the arrangements provided for in ComReg 03/50 (Decision D11/03) *“are adequate and meet customer expectations”*.

246 **The CWU** states that it *“is concerned at the ‘Working Day’ being defined as a minimum of 8 hours”* and set out its concerns³⁰ regarding their application *“across all local offices”*.

³⁰ See page 7 of the CWU submission to Consultation 15/37 ([ComReg 15/58](#))

3.3.23.3 ComReg's position:

247 Following consideration of the submissions received, ComReg's position is that the current text in proposed Condition C.3(2) of the SP T&Cs does not need to be amended.

3.3.24 Delivery Issues: Return to Sender

3.3.24.1 ComReg's preliminary views

248 ComReg in section 3.2.11.6 of Consultation 15/37 set out its views that:

- 248.1 the proposed Terms and Conditions are deficient in that they do not detail a return to sender procedure, as postal packets which are undeliverable should be afforded the return to sender treatment;
- 248.2 because no timeframe for returning mail to sender is specified in the Terms and Conditions, there is a lack of transparency for postal service users. This would not in ComReg's view be appropriate, having regard to the reasonable needs of users;
- 248.3 postal packets should be returned to the sender on the working day following the day on which delivery to the addressee was unsuccessful to reflect the next working day delivery requirement of all postal packets;
- 248.4 where returning mail to the sender on the next working day is not possible because additional work may be required, including postal packets that do not have a return address visible on the outer face of the envelope, these postal packets should be returned to sender within 10 days of the date the postal packet was accepted for transmission by post.

3.3.24.2 Views of respondents

249 **An Post** states that it *"cannot agree to amending its Terms and Conditions to provide for a detailed description of a particular internal operational process outlining handling procedures for An Post staff as to how mail is treated when it has to be returned to sender because it cannot be delivered"*.

250 An Post also asserts the following: *“[An Post has] always ensured we provide customers with as much detail as possible in complementary brochures and documentation. As the process to identify a sender may require additional work An Post proposes that the 10 day period be amended as follows: ‘Where the name of the sender cannot be ascertained from the cover of a Postal Packet but the name of the sender can be determined from its contents An Post will make every effort to return such items to sender within 10 days of the date on which the Postal Packet was accepted for transmission by post [however].... the 10 day period may not be met in circumstances where the mail item cannot be delivered and the item goes through the DIB (“Sorry We Missed You”) process’.”*

3.3.24.3 ComReg’s position

251 ComReg does not consider that its suggested text required *“a detailed description of a particular internal operational process”*. The time frame within which a letter will be returned to sender does not relate to an *“internal operational process”*. Indeed An Post itself indicates that its *“custom and practice to date is to include such information for example in customer brochures, web information (sic)”* which is not consistent with its assertion that *the required information is an “internal operational process”*. How An Post arranges its internal operational process to achieve the return to sender within a specific time is a matter for An Post. However, it is in the interests of the reasonable needs of users that they know the timeframe within which a letter will be returned to sender if it is undeliverable.

252 ComReg considers An Post’s proposed wording to be generally acceptable, save that it will need to be amended to reflect the retention periods in section C.3(2) and also to give a firm commitment in relation to return times, as opposed to a vague aspiration in order to meet the reasonable needs of users.

253 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.49 and 6.1.50 of the draft decision (Annex: 1)) is that

253.1 the following text will need to be inserted in the Terms and Conditions An Post’s SP T&Cs

“An Post will return to sender postal packets, for which delivery to the addressee was unsuccessful, on the working day following the expiration of retention periods provided in [section C.3(2) of] the terms and conditions.”

253.2 the following text will need to be inserted in the Terms and Conditions An Post’s SP T&Cs

“An Post will return to sender undeliverable postal packets, on the working day following the date of they are determined to be undeliverable.”

3.3.25 Delivery Issues: Delivery

3.3.25.1 ComReg’s preliminary views

254 Condition B.3 “Postal Addressing” of the proposed Terms and Conditions, provides that:

“A Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act, provided the door aperture or delivery box is deemed to be a secure location, unless the addressee has requested an alternative service (e.g. Redirection Service or MailMinder Service)”

255 Condition C.3(1) of An Post’s proposed SP T&Cs provides that:

“..In apartment and office buildings, where a bay of delivery boxes is provided in the lobby, An Post may deliver to each individual box provided that it has been granted physical access by the owner or management company to the building”

256 ComReg in section 3.2.11.7 of Consultation 15/37 set out its views that the text of these conditions:

256.1 should be amended to reflect the fact that postal service users can avail of alternative arrangements that have been mutually agreed, such as the collection from delivery offices, without the payment of a fee³¹;

256.2 appears to limit the statutory obligation to deliver, under section 6(3) of the 2011 Act, by restricting the delivery of postal packets to those addressees who have a door aperture or delivery box which An Post deems to be a secure location; and

256.3 where An Post has been granted physical access by the owner or management company to a building and therefore has access to the bay of delivery boxes, An Post is under a legal obligation to deliver and accordingly the text of condition c.2(1) should be amended.

257 ComReg preliminary views were that:

³¹ Decision No 4 of D11/03

257.1 the text of condition B.3 should be amended in order to meet the reasonable needs of users to read as follows: *“A Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act, unless the addressee has requested an alternative service (e.g. Redirection Service or Mailminder Service) or alternative arrangements, that have been mutually agreed, are in place”*; and

257.2 the text of condition C.3(1) needs to be amended to indicate that delivery “shall” (not “may”) be provided in the circumstances outlined.

3.3.25.2 Views of respondents

258 **An Post** states that it *“cannot agree to the deletion of the text proposed by ComReg in Condition B.3.”* and that *“the status quo of delivery to the addressee should remain as per Condition B.3.”*

259 An Post states that *“it is not clear from the Consultation document what ComReg means by “alternative arrangements, that have been mutually agreed” (see paragraph 256.1).*

260 An Post states: it *“agrees to consider amending the text of Condition C.3(1).... to propose that in apartment and office buildings, where a bay of delivery boxes is provided in the lobby, An Post shall deliver to each individual box. The address on the mail piece must match the address on the individual box. This delivery commitment will be subject to all of the standard legislative and regulatory caveats and will note that such delivery will be provided once An Post has been granted physical access by the owner or management company to the building and to each individual box provided that there is ease of access at the time of delivery and that there is no risk posed to the health and safety of its employees and staff.”*

261 **The CWU** states that Consultation 15/37 *“appears to suggest that An Post might ‘attempt to restrict the delivery of postal packets’. Given the company’s commitment to the highest standards of service and delivery this seems a fairly incredulous suggestion to make and it is unclear what evidence ComReg is drawing on in doing so”*.

262 **The CWU** cites the following concerns regarding the preliminary views expressed by ComReg in 3.2.11.7 of Consultation 15/37:

- *“It is imperative that mail is delivered securely and An Post should be given discretion in that regard to protect the integrity of the postal system*
- *Allowing customers to make arrangements which might negate the need for the Redirection Service or Mailminder Service would serve only to deny the company important revenue*

- *In theory it would appear that ComReg's proposals would allow for customers to collect their post from delivery offices for free which would make a mockery of the existing systems which have been carefully developed over many years*
- *Delivery routes and parameters have been developed under the auspices of the Collection and Delivery Agreement which was designed to ensure an efficient and timely delivery of mail and to reflect the route a post person has in order to perform their duty*
- *The ComReg proposal would appear to allow customers to dictate the route to some degree and this could have serious implications for the entire delivery system and the USO if that is the case*
- *It is unclear how these proposals would fit with the introduction of postcodes”.*

3.3.25.3 ComReg's position

- 263 Section 6(3)(c)(ii) of the 2011 Act sets out that delivery of a postal packet *“to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered.... shall be a delivery to the addressee”.*
- 264 ComReg considers it necessary to insert added text which states: *“or alternative arrangements, that have been mutually agreed, are in place”.* As ComReg gave examples of what this means and referenced its origin, An Post's claim that it does not understand what ComReg means by this proposed insertion is not sustainable.
- 265 An Post indicates that it *“agrees to consider amending”* Condition C.3(1) in accordance with ComReg's preliminary views. However, this indication lacks specifics as to what An Post proposes to include or indeed whether any amendment is proposed. It is therefore not possible for ComReg to give a view as to whether it would be able to approve an amended version of Condition C.3(1).
- 266 Following consideration of the submissions received, ComReg's position (as reflected in 6.1.51 and 6.1.52 of the draft decision in Annex: 1) is as follows:
- 266.1 Condition B.3 should be amended to read as follows:
- “A Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act, unless the addressee has requested an alternative service (e.g. Redirection Service or MailMinder Service), or alternative arrangements, that have been mutually agreed, are in place”.*

266.2 Condition B.3 should be amended to read as follows:

“..In apartment and office buildings, where a bay of delivery boxes is provided in the lobby, a Postal Packet shall be delivered in accordance with Section 6(3) of the 2011 Act to each individual box provided”.

3.3.26 Complaints and Redress: Complaints procedures

3.3.26.1 ComReg’s preliminary views

267 Condition D.2(1) of the proposed SP T&Cs states:

“Any claim for damage or delay to a Postal Packet must be made in writing to An Post...”

268 ComReg in section 3.2.12.1 of Consultation 15/37 set out the following:

268.1 ComReg was concerned that condition D.2(1) restricts the way that postal service users can submit claims for damage and delay, a restriction which the 2011 Act does not impose, and as such does not meet the reasonable needs of postal service users; and

268.2 ComReg considered that it would be clearer for postal service users if the phrase *“complaints or claims for loss, damage or delay”* were used in place of the phrase *“claim for damage or delay”* in condition D.2(1).

269 ComReg expressed its preliminary view that the text identified from Condition C.2(1) needs to be amended to provide that:

“Any claim for complaints or claims for loss, damage or delay with regard to a postal packet can be made to An Post. Such complaints or claims can be made in person, by telephone, or in writing (regular post or email) and can be made to An Post’s dedicated customer service team, and to personnel in An Post offices where there are customer service facilities.”

3.3.26.2 Views of respondents

270 **An Post** submits that it *“has made every effort to make the complaints procedure accessible as possible, for example, the MP58 enquiry form for missing, damaged or delayed items is available at retail counters and can be completed online”* and that it *“does not agree with ComReg’s requirements for amendment to the Terms and Conditions”*. An Post cites the following concerns:

“(i) the centralisation of enquiry processing is a principle which should be retained as it ensures both uniformity in treatment and efficiency in operations; and

- (ii) *in order to minimise errors in transcription and to provide effective service complaints which are made in person should not be encouraged. It would be preferable if they were restricted to those customers who have literacy problems or who are blind or visually impaired.”*

3.3.26.3 ComReg’s position

- 271 ComReg welcomes An Post’s efforts to make the complaints procedure as accessible as possible. ComReg has considered An Post’s position and understands its stated concerns and in particular the rationale behind having a centralised enquiry process. On this basis, ComReg has altered its suggested amendment to Condition D.2(1).
- 272 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.53 of the draft decision in Annex: 1) is as follows:

272.1 Condition D.2(1) should be amended to read:

“Any complaints or claims for loss, damage or delay with regard to a postal packet can be made to An Post. Such complaints or claims can be made to An Post’s dedicated customer service team. Complaints can be made in person [An Post to insert where this can be done], by telephone [An Post to insert centralised number], or in writing (regular post or email) [An Post to insert addresses of centralised office].”

3.3.27 Complaints and Redress; Compensation for delay of Secure Post (Insured)

- 273 Condition D3(4) of the proposed SP T&Cs relating to “*Secure Post (Insured) Postal Packets*”³² states:

“Subject to Section D.3 (6) if any article of pecuniary value enclosed in, or forming part of, a Secure Post (Insured) Postal Packet, is lost or damaged whilst in the custody of An Post, An Post shall pay compensation.....

- (a) *The amount of compensation payable shall be no greater than the value declared by the sender or €25.00 if no value has been declared or the cost of replacement or reproduction of the packaging whichever is the lesser.”*

3.3.27.1 ComReg’s preliminary views

- 274 ComReg in section 3.2.12.2 of Consultation 15/37 set out its concerns, including that:

³² Universal Service element only

- 274.1 the compensation provided for was not appropriate having regard to, in particular the reasonable needs of users; and
- 274.2 condition D.3(4) of the proposed SP T&Cs does not specify that compensation for quality of service failures (including delay) is also applicable for Secure Post (Insured).
- 275 ComReg in section 3.2.12.2 of Consultation 15/37 set out its preliminary views that:
- 275.1 the text *“or the cost of replacement or reproduction of the packaging whichever is the lesser”* should be deleted; and
- 275.2 condition D.3 (4) should be amended to provide that compensation for delay for Secure Post (Insured) is also available.

3.3.27.2 Views of respondents

- 276 **An Post** agrees with ComReg’s proposal to delete the text *“or the cost of replacement or reproduction of the packaging whichever is the lesser”*.
- 277 An Post states that it *“already pledge[s] to equate instances of serious delay with actual loss of a postal packet”*. An Post refers to Condition D.3(2) and the *“Our commitment to you”* section of its website.

3.3.27.3 ComReg’s position

- 278 ComReg notes the various commitments made by An Post with regard to compensation. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.
- 279 Following consideration of the submissions received, ComReg’s position is (as reflected in 6.1.54 and 6.1.55 of the draft decision in Annex: 1) is as follows:
- 279.1 Condition D.3(4) should be amended to delete the text *“or the cost of replacement or reproduction of the packaging whichever is the lesser”*; and
- 279.2 Condition D.3(4) should be amended to provide that compensation for delay for Secure Post (Insured) is also available.

3.3.28 Complaints and Redress; Compensation for delay in presenting documentation to Customs Authorities

280 Condition D3(6)(h) of the proposed SP T&Cs provides that:

“Compensation shall not be paid.....in respect of delay or seizure of any Postal Packet by any Customs Authority”;

3.3.28.1 ComReg’s preliminary views

281 ComReg in 3.2.12.2 of Consultation 15/37 indicated that it does not consider it appropriate that An Post, via the proposed Terms and Conditions, should give itself the right to withhold compensation to a postal service user due to a failure or delay by An Post in presenting documentation to a Customs Authority. ComReg did not consider this appropriate having regard to the reasonable needs of postal service users

282 ComReg in 3.2.12.2 of Consultation 15/37 indicated its preliminary view that Condition D.3(6)(e) should be deleted from the proposed SP T&Cs.

3.3.28.2 Views of respondents

283 An Post agrees with ComReg that Condition D.3(6)(e) should be deleted from the proposed SP T&Cs.

3.3.28.3 ComReg’s position

284 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.56 of the draft decision in Annex: 1) is as follows:

284.1 Condition D.3(6)(e) needs to be amended by deletion from the proposed SP T&Cs.

3.3.29 Complaints and Redress; Compensation for damage to Documents

285 Condition D.3(6)(c) of the proposed SP T&Cs states:

“Compensation shall not be paid.....in respect of damage to Postal Packets containing eggs, soft fruit, Liquids, glass, Documents or any article of an Exceptionally Fragile nature”;

286 Section F.1 of the proposed Terms and Conditions defines “Documents” to mean:

“items bearing manuscript, typed or printed text contained on (i) paper, parchment, vellum or similar material or (ii) in electronic form, on and/or retrievable from, whether directly or indirectly, any media storage device, including but not limited to any form of computer, USB key, CDs, DVD and/or any other device capable of storing content and/or documents;”

3.3.29.1 ComReg’s preliminary views

- 287 ComReg set out its concern that condition D.3(6)(c) of the proposed SP T&Cs excludes liability for damage to “Documents”, which term is broadly defined. As much of what is actually transmitted by post can be classified as a “Document” this appears to exclude compensation for damage in the majority of cases. ComReg did not consider this to be appropriate having regard to the reasonable needs of postal service users.
- 288 ComReg expressed its preliminary view that Condition D3(6)(c) should be amended to remove the reference to “Documents”.

3.3.29.2 Views of respondents

- 289 **An Post** agrees to consider amending Condition D.3(6)(c) to include the clause “Documents with no intrinsic value ...” An Post further states: “As a principle, compensation is not to be payable for documents which have no intrinsic value whether in physical or electronic form. In circumstances where documents constitute the only contents, the liability would be restricted to the cost of the stationery”
- 290 An Post agrees to amend Condition D.3(6)(c) to clarify that compensation for damage to documents forming part of a Secure Post (Insured) Postal Packet is subject to the limits set out in Condition D.3(4)(a).

3.3.29.3 ComReg’s position

- 291 ComReg notes the various commitments made by An Post with regard to compensation. However, ComReg references its previous comments (see sections 2.2 and 2.3) noting the necessity for ComReg to be provided with what An Post is proposing by way of Terms and Conditions, in order to fulfil its statutory obligation to approve the Terms and Conditions with or without amendment.
- 292 Following consideration of the submissions received, ComReg’s position (as reflected in 6.1.57 of the draft decision in Annex: 1) is as follows:
- 292.1 condition D3(6)(c) of the SP T&Cs should be amended to remove the reference to “Documents”.

3.4 General comments and responses to Question 2

3.4.1 Introduction

293 This section outlines the general comments and responses to Question 2 in Consultation 15/37, which asked whether there are other amendments to the proposed SP T&Cs or the proposed BM T&Cs that respondents required prior to ComReg approving the Terms and Conditions. ComReg has taken into account the responses as outlined below.

3.4.2 Views of respondents

294 **An Post** states that it *“is of the view that, subject to amendments agreed in this response document, the proposed Single Piece Terms and Conditions and Bulk Mail Terms and Conditions are comprehensive documents.”*

295 **The Consumers' Association of Ireland** (“CAI”) submits: *“[There] is an underlying issue of value in all that is proposed. We are of the opinion that consumers are not receiving good value for the prices they are required to pay. In fact, it was the unsustainable cost of posting the hard copy editions of Consumer Choice magazine that forced... [the CAI] to move to place the magazine in online and digital format availability only. By so doing we both eliminated many Members who do not engage online from the independent educational support and awareness of consumer issues as well as losing vital revenue upon which we rely for continuity of our services and representation. We urge ComReg to require An Post to engage directly with the CAI and similar organisations in all requests for increases. We further request and urge that ComReg better consider the impact of these increases on all consumers with the view to revisiting increases allowed for consideration of their reduction”.*

296 **The CWU** submits: *“In general terms the CWU is very concerned at some of the ComReg proposals in circumstances where the proposals appear either to add a significant cost burden to the company or deny them potential revenues. Given the very finely balanced nature of the finances of An Post and the continued loss making burden of the USO, it makes no commercial sense to further inflate the losses the company has to endure in the USO area. To do so would run contrary to the best interests of postal users and indeed the obligations and statutory functions of ComReg to promote the development of the postal sector and the availability of the universal postal service.*

- 297 The **National Disability Authority (NDA)** submits: *"[It] has supported the development of Irish standards on Universal Design for customer engagement for both the energy sector and tourism industry in Ireland.*

These are:

SWiFT 9:2012 "Universal Design for Energy Suppliers"

I.S. 373 "Universal Design for Customer Engagement in Tourism Services"

These standards set out the specifications necessary to ensure that written, web, telephone and face to face communications are usable and accessible to the widest range of users possible, regardless of this age, size, ability or disability. In addition, the National Disability Authority has published a series of "Universal Design for Customer Engagement Toolkits". Based on the specification contained in these standards, the National Disability Authority has published a series of Toolkits that show how these specifications can be met.

The National Disability Authority recommends that the single piece universal postal services booklet containing the current Terms and Conditions and the Schedule of Charges to be made available in all Post Offices should comply with Clause 4.2 "Written Communication" of the specifications set out in the SWiFT 9:2012 "Universal Design for Energy Suppliers" through following the guidance in the Universal Design for Written Communication Toolkit.

The National disability Authority recommends that the online version of the Booklet also comply with Clause 4.4.1 "Web based communication" of the specifications set out in the SWiFT 9:2012 "Universal Design for Energy Suppliers" through following the guidance in the Universal Design for Web Communication Toolkit.

Both Toolkits are available for download at <http://universaldesign.ie/Products-Services/Customer-Engagement-in-Energy-Services/>

SWiFT 9:2012 "Universal Design for Energy Suppliers" is available to download at <http://shop.standards.ie/nsai/>

The National Disability Authority is available to both ComReg and An Post to advise on the steps necessary to ensure that the print and online versions of the Booklets will be accessible and usable to the widest range of people possible."

4 Conclusion and submitting comments

4.1 Conclusion

298 ComReg, in its assessment of An Post's proposed Terms and Conditions, has attempted to balance the reasonable needs of postal service users against minimising the burden of regulatory obligations.

299 This Response to Consultation sets out ComReg's positions on the issues examined in Consultation 15/37 and ComReg's intended next steps. It explains why ComReg is unable at this point in time to approve the version of the Terms and Conditions provided to it by An Post.

300 An Post stated in its response to Consultation 15/37 that it will make certain amendments to its last version of Terms and Conditions. However, An Post has not provided this revised version of its Terms and Conditions. Therefore, ComReg requests An Post to formally notify ComReg of its revised version of its Terms and Conditions.

301 ComReg proposes herein that in the event that it is not provided with a final set of Terms and Conditions which have been duly revised in the required manner, such that ComReg can proceed to approve the Terms and Conditions, with or without amendment, then ComReg reserves the right to make a decision as set out in draft form in Annex 1. Similarly, if the final set of Terms and Conditions are not fully revised, then ComReg reserves the right to make a decision as set out in draft form in Annex 1. Any final decision which ComReg may make would be revised as necessary to take account of:

301.1 responses to this second round of consultation

301.2 An Post's final set of Terms and Conditions which have been duly revised in the required manner (if provided by An Post).

302 In finalising its views on what amendments (if any) are required to An Post's proposed Terms and Conditions, ComReg will consider all responses to this consultation. However, a consultation is not equivalent to a voting exercise and ComReg alone will make the final decisions, having had regard to all relevant information before it.

4.2 Submitting comments

303 The consultation period will run until 5pm on 19 November 2015, during which time ComReg welcomes written comments on any of the issues raised in this consultation.

- 304 It is requested that comments be referenced to the relevant question numbers and/or paragraph numbers from this document. Where views are provided, please provide a supporting rationale for your comments, including if possible, an indication of the broader impact of any changes proposed.
- 305 As it is ComReg's policy to publish all responses in order to make them available for inspection, responses to consultations should be provided as non-confidential documents, with any information for which confidentiality is claimed (e.g. commercially sensitive information) supplied in a separate annex.
- 306 In this respect, please refer to ComReg's Consultation Procedures (ComReg 11/34) and ComReg's guidelines on the Treatment of Confidential Information (ComReg Document No. 05/24).
- 307 We request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.
- 308 All responses to this consultation should be clearly marked:- "Reference: Consultation 15/112", and sent by post, facsimile or e-mail to arrive on or before 5pm, 19 November 2015, to:

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Annex: 1 Draft Decision

Q. 2 Do you believe that the draft text of the proposed Decision below is, from a legal, technical and practical perspective, sufficiently detailed, clear and precise with regards to the specifics proposed? Please explain your response and provide details of any specific amendments you believe are required?

PART I – GENERAL PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1. In this Decision, unless the context otherwise suggests:

“**An Post**” means the universal postal service provider in Ireland, designated pursuant to section 17(1) of the 2011 Act;

“**the 2002 Act**” means the Communication Regulation Acts 2002 to 2011;

“**the 2011 Act**” means the Communications Regulation (Postal Services) Act 2011;

“**ComReg**” means the Commission for Communications Regulation, established by Part 2 of the Communications Regulation Act, 2002;

“**Effective Date**” means the date set out in Section 3.1 of this Decision;

“**the price cap decision**” means Response to Consultation and Decision on price cap control for universal postal services, ComReg 14/59, D05/14, dated 18th June 2014;

“**Schedule of Charges**” means the statement in writing of the charges made by An Post in respect of the universal postal service provision (save in so far as those charges may otherwise be agreed between An Post and a postal service user);

“**Terms and Conditions**” means the statement in writing of the terms and conditions in respect of provision of the universal postal service;

“**the proposed Terms and Conditions**” means the Terms and Conditions as notified by An Post to ComReg pursuant to section 22(1)(a) of the 2011 Act on 17th and 24th of November 2014;

“**the proposed SP T&Cs**” means the Terms and Conditions as notified by An Post to ComReg pursuant to section 22(1)(a) of the 2011 Act on 24th November 2014, relating to single piece mail;

“**the proposed BM T&Cs**” means the Terms and Conditions as notified by An Post to ComReg pursuant to section 22(1)(a) of the 2011 Act on 17th November 2014, relating to bulk mail.

PART II – STATUTORY POWERS, SCOPE AND APPLICATION AND REASONS

2. STATUTORY POWERS GIVING RISE TO THIS DECISION

2.1. This Decision is made by ComReg:

- (i) Pursuant to sections 51 and 22(2) of the 2011 Act;
- (ii) Having, where appropriate, had regard to sections 21(2), 24(2), 24(3) and 24(11) of the 2011 Act;
- (iii) Having, where appropriate, had regard to sections 10(1)(ba) and section 12(1)(c) and 12(2A) of the 2002 Act as amended;
- (iv) Having, where appropriate, pursuant to Section 13 of the Communications Regulation Acts 2002 to 2011 complied with Ministerial policy direction³³;
- (v) Having had regard to the reasoning and analysis set out in ComReg Documents No. 15/37 and No. 15/112 and having considered representations received from interested parties in response to ComReg Documents No. 15/37 and No. 15/112.

3. SCOPE AND APPLICATION

3.1. This Decision is addressed to An Post, is binding upon An Post and An Post shall comply with it in all respects.

4. REASONS

5. This Decision is based on the detailed reasons out in ComReg Documents No. 15/37 and No. 15/112.

PART III – DECISION

6. DECISION TO AMEND THE TERMS AND CONDITIONS

6.1. ComReg has, for the purpose of approving Terms and Conditions under section 22(2) of the 2011 Act, considered whether the Terms and Conditions are appropriate, and has decided to approve the Terms and Conditions subject to the following amendments:

³³ Policy Decisions made by the Minister for Communications, Marine and Natural Resources on 21 February, 2003 and 26 March, 2004.

- 6.1.1. amend the proposed Terms and Conditions to ensure that the language used is plain and intelligible;
- 6.1.2. amend the proposed Terms and Conditions by simplifying the numbering to ensure consistency and ease of reference for postal service users;
- 6.1.3. amend the proposed Terms and Conditions to include a graphical representation of what can be posted and what compensation will be paid for loss, theft, damage, or issues relating to quality of service, for postal packets sent using (i) standard and (ii) insured services;
- 6.1.4. amend the proposed Terms and Conditions to include a graphical representation of the dimensions of postal items (letter/postcard, large envelope, packet and parcel) within the proposed Terms and Conditions which conveys the information as set out in [condition B.1 of] the proposed Terms and Conditions;
- 6.1.5. amend the proposed Terms and Conditions to include a graphical representation of the differences between the universal postal services to convey the information as set out in [Section E of] the proposed Terms and Conditions;
- 6.1.6. amend the proposed Terms and Conditions by consolidating the defined terms used in the Terms and Conditions into a single comprehensive listing. When defined terms are used for the first time, they must be highlighted (e.g. shown in bold print) and hyperlinked to the appropriate definition;
- 6.1.7. amend the proposed Terms and Conditions to exclude references to terms which are contained in documents external to the Terms and Conditions. In limited circumstances where such reference may be necessary, the Terms and Conditions must clearly direct postal service users to where these documents can be found. The Terms and Conditions must not make reference to documents external to the Terms and Conditions that are not easily available to postal service users, such as the Foreign Parcels (Customs) Warrant, 1885;
- 6.1.8. amend the Terms and Conditions to ensure any drafting errors³⁴ including mistaken references, spelling and punctuation errors, and inconsistency in terms used are rectified;

³⁴ A non-exhaustive list of drafting errors was set out in Annex 2 of Consultation 15/37

- 6.1.9. amend the proposed Terms and Conditions to ensure that there is consistency between the proposed SP T&Cs and proposed BM T&Cs (as appropriate);
- 6.1.10. amend the section “*How to Access An Post’s Universal Services*” in the “*Introduction*” of the proposed SP T&Cs to include Delivery Service Units as access points for postal service users for standard postal packets (to include standard meter mail but exclude meter mail that is being sent using a bulk mail service).;
- 6.1.11. amend the proposed Terms and Conditions to ensure that capital letters are only used for defined terms (or where it is grammatically appropriate);
- 6.1.12. amend the proposed Terms and Conditions to ensure that defined terms are used properly and consistently and in particular address the non-exhaustive list of the issues ComReg identified in this regard as set out in in Annex 4 of 15/37³⁵;
- 6.1.13. amend the proposed Terms and Conditions to insert a definition of “*Postal Packets for the Blind and Partially Sighted*” referencing or reflecting the universal postal union (“UPU”) description of “items for the blind”³⁶ in the definitions section and the term then to be used consistently throughout the Terms and Conditions;
- 6.1.14. amend the definitions of “*Fragile*” and “*Exceptionally Fragile Articles*” in the proposed Terms and Conditions so that postal service users are in no doubt as to what the distinction between the terms is;
- 6.1.15. amend the definitions of “*Liquid*” and “*Flammable or Corrosive solids or Liquids*” in the proposed Terms and Conditions to ensure that postal service users are clear as to what the distinction between the terms is and whether it is permitted to send any “*Liquids*” in domestic postal packets;
- 6.1.16. amend condition B.6(4)(a) in the proposed Terms and Conditions to make it clear when An Post will refund a “Charge” and the types of conditions An Post will attach to refunds in specific circumstances. An Post must indicate that it will, in general, provide full refunds; and that in the event that limited refunds are proposed, limits should be outlined that fairly balance the interests of the parties;

³⁵ a non-exhaustive list of the issues ComReg identified in this regard was set out in Annex 4 of 15/37

³⁶ Contained at Article 7(3) of the UPU Letter Post Manual

- 6.1.17. amend condition B.6(5) in the proposed Terms and Conditions to make it clear what in general terms the circumstances are that would cause doubt or dispute in establishing which service a postal packet is to be conveyed in;
- 6.1.18. amend condition E.9.1(3) in the proposed Terms and Conditions by deleting it or by inserting text which indicates limits on An Post's right to refuse or discontinue, for example, by limiting this right to circumstances where An Post has serious grounds for termination of the "PO Box Service" and indicating that An Post will provide the postal service user with reasonable notice of the discontinuation which will provide clear justification in written form to support An Post's reasoning for refusing or discontinuing the provision of the PO Box Service;
- 6.1.19. amend Condition E.9.2A(12) in the proposed Terms and Conditions by deleting it or by inserting text to indicate limits on An Post's right to refuse or discontinue, for example indicating that An Post will only discontinue the "Redirection Service" if there are serious grounds for this and that reasonable notice of the discontinuation of the "Redirection Service" will be given which will provide clear justification in written form to support An Post's reasoning for refusing or discontinuing the provision of the Redirection Service;
- 6.1.20. amend the proposed Terms and Conditions in order to make the restrictions An Post is attaching to the sending of money by post, if any, clear;
- 6.1.21. amend the proposed Terms and Conditions in order to set out for all universal postal services whether "*Paper Money*" can be transmitted by post, or not;
- 6.1.22. in the event that postal service users need to avail of specific service in order to post money (such as the "*Secure Post (Insured)*" service) the proposed Terms and Conditions must be amended in order to clearly state this;
- 6.1.23. amend the proposed Terms and Conditions to explicitly set out whether compensation is or is not available;
- 6.1.24. amend section E.7 ("Single Piece - Secure Post (Insured)") of the proposed Terms and Conditions to give clarity as to whether it is possible to send "*Paper Money*" using the "*Secure Post (Insured)*" service to addresses outside the State;

- 6.1.25. amend condition B.2(1) the proposed Terms and Conditions to provide details of the “*special rules in relation to the packing of any particular Postal Packet or article*”;
- 6.1.26. amend condition B.7(4) of the proposed SP T&Cs to state:
- “Postage stamps on Postal Packets presented at a Post Office counter or posted at a collection box are cancelled by means of automated processing or manual cancellation which will have the date of posting and acceptance of the postal packet for onward transmission by post applied. Where automated cancellation has not occurred, the postage stamps shall be cancelled by means of a hand stamp, ink pen or marker.”;*
- 6.1.27. amend the terms relating to Single Piece Letters, Single Piece Large Envelopes, and Single Piece Packets services to indicate that these services have “*a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012 subject to the following exclusion: the objective should not include postal packets to addresses outside the European Union with incomplete or misleading customs declarations.*”;
- 6.1.28. amend the terms relating to Single Piece Parcels service services to indicate that these services have “*a transit time objective as specified in the published Statutory Instrument S.I. 280 of 2012, subject to the following exclusion: the objective should not include postal parcels to addresses outside the European Union with incomplete or misleading customs declarations.*”;
- 6.1.29. amend condition E.7 of the proposed SP T&Cs to provide clear information setting out the different levels of insurance cover and compensatory amounts applicable to each service;
- 6.1.30. amend condition E9.1 of the proposed SP T&Cs to delete references to the “*caller’s service*”;
- 6.1.31. amend Condition B.6 of the proposed Terms and Conditions to include the following text: “Underpaid postal packets shall be liable, upon delivery, to the charges specified in the Schedule of Charges”;
- 6.1.32. amend the proposed Terms and Conditions by deleting condition B.6(4)(b);
- 6.1.33. amend the Schedule of Charges so that all of the charges for each universal postal service are clearly and comprehensively set out and are consistent with the price cap decision;

- 6.1.34. amend the proposed Terms and Conditions by deleting condition B.6(4)(b) or alternatively make amendments which clarify condition B.6(4)(b) in particular, the services to which this condition is applicable and the amount of the deposits required must be clearly stated;
- 6.1.35. amend condition E.6(5) of the proposed Terms and Conditions by deletion in full or by amendment to clarify the specific charges which apply;
- 6.1.36. amend condition B.4(1)(c) of the SP T&Cs and the BM T&Cs and condition E.2(5) of the BM T&Cs to indicate that postal service users are not required to put a return address on the envelope (except in relation to a postal packets addressed to a postal address outside the State). The appropriate wording for inclusion is *"It is recommended (although not required) that every Postal Packet should bear a return postal address"*;
- 6.1.37. amend the title of section C.3 to rename it "Undeliverable postal packets".
- 6.1.38. amend condition C.3(3) of the proposed Terms and Conditions *"What is deemed undeliverable?"* by positioning as the first condition within Section C.3 to explain what precisely is considered undeliverable;
- 6.1.39. amend condition C.3(1) of the proposed Terms and Conditions *"Obligation to make one attempt at delivery"* by moving either to section C.1 or inserting as a new section within section C;
- 6.1.40. amend condition C.3(2) of the proposed Terms and Conditions by renaming to *"What happens when an item is undeliverable?"*;
- 6.1.41. amend the first sentence within condition C.3(2) of the proposed Terms and Conditions to read: "Where due delivery cannot be completed An Post will leave a docket at the postal address of the addressee indicating where and when the Postal Packet may be collected."
- 6.1.42. amend condition C.3(2) of the proposed Terms and Conditions to detail what happens to a postal packet in circumstances when An Post cannot deliver and the postal packet has not been collected by the addressee to include return to sender procedures; and to detail information explaining what will happen to a postal packet which (i) has an external return address and (ii) has no external return address;

- 6.1.43. amend condition C.3(6) of the proposed Terms and Conditions by either appending to condition C.3(2) (subject to amendments required) or positioning as a standalone condition immediately following C.3(2);
- 6.1.44. amend condition C.3(4) of the proposed Terms and Conditions by moving to a standalone section relating to underpaid mail;
- 6.1.45. amend condition C.3 (3) of the proposed Terms and Conditions by correcting the typographical error "to be returned" and deleting the text "*for whatever reason*";
- 6.1.46. amend condition C.3(4) of the proposed Terms and Conditions by deleting the following text "*or may be refused, detained, deferred, withheld, returned or disposed as prescribed under Section 47 of the 2011 Act.*";
- 6.1.47. amend condition C.3(5) of the proposed Terms and Conditions so as to quote directly from section 47 of the 2011 Act, and delete the reference to section 53 of the 2011;
- 6.1.48. amend condition C.3(6) by deletion of the text "*under Section 47 of the 2011 Act*" so condition C.3(6) reads as follows:

"Where the name of the sender cannot be ascertained from the cover of a Postal Packet or its contents, the Postal Packet may be retained pending a claim from the sender or addressee. In the absence of any claim within

(a) a period of one (1) month of receipt of the Postal Packet; or

(b) three (3) months of posting the Postal Packet for delivery in the State; or

(c) six (6) months of posting for a delivery outside the State, the Postal Packet may be disposed of by An Post."

- 6.1.49. amend the proposed Terms and Conditions by insertion of the following text:

"An Post will return to sender postal packets, for which delivery to the addressee was unsuccessful, on the working day following the expiration of retention periods provided in [section C.3(2)] of the terms and conditions."

- 6.1.50. amend the proposed Terms and Conditions by insertion of the following text:

An Post will return to sender undeliverable postal packets, on the working day following the date of they are determined to be undeliverable.”

- 6.1.51. amend condition B.3 to read as follows:

“A Postal Packet shall be delivered, in accordance with Section 6(3) of the 2011 Act, unless the addressee has requested an alternative service (e.g. Redirection Service or MailMinder Service), or alternative arrangements, that have been mutually agreed, are in place”;

- 6.1.52. amend condition B.3 to read as follows:

“..In apartment and office buildings, where a bay of delivery boxes is provided in the lobby, a Postal Packet shall be delivered, in accordance with Section 6(3) of the 2011 Act, to each individual box provided”;

- 6.1.53. amend condition D.2(1) to read:

“Any complaints or claims for loss, damage or delay with regard to a postal packet can be made to An Post. Such complaints or claims can be made to An Post’s dedicated customer service team. Complaints can be made in person [An Post to insert where this can be done], by telephone [An Post to insert centralised number], or in writing (regular post or email) [An Post to insert addresses of centralised office]”;

- 6.1.54. amend condition D.3 (4) to delete the text *“or the cost of replacement or reproduction of the packaging whichever is the lesser”* ;

- 6.1.55. amend condition D.3 (4) to provide that compensation for delay for Secure Post (Insured) is also available;

- 6.1.56. amend condition D.3(6)(e) by deletion from the proposed SP T&Cs;

- 6.1.57. amend condition D3(6)(c) of the SP T&Cs to remove the reference to “Documents”;

PART IV – OPERATION AND EFFECTIVE DATE

1. STATUTORY POWERS NOT AFFECTED

- 1.1. Nothing in this Decision shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision) from time to time.

2. MAINTENANCE OF OBLIGATIONS

- 2.1. Unless expressly stated otherwise in this Decision, all obligations and requirements contained in Decision Notices and Directions made by ComReg applying to An Post and in force immediately prior to the Effective Date of this Decision, are continued in force by this Decision and An Post shall comply with same for as long as An Post is the universal postal service provider.
- 2.2. For the avoidance of doubt, to the extent that there is any conflict between a Decision dated prior to the Effective Date and An Post's obligations set out herein, it is the latter which shall prevail.
- 2.3. If any Section(s), clause(s), or provision(s), or portion(s) thereof, contained in this Decision is(are) found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that(those) Section(s), clause(s), or provision(s), or portion(s) thereof shall, to the extent required, be severed from this Decision and rendered ineffective as far as possible without modifying the remaining Section(s), clause(s), or provision(s), or portion(s) thereof, of this Decision, and shall not in any way affect the validity or enforcement of this Decision or other Directions.

3. EFFECTIVE DATE

- 3.1. The Effective Date of this Decision shall be the date of its notification to An Post and it shall remain in force until further notice by ComReg, or until An Post ceases to be the universal postal service provider.

[INSERT]

[COMMISSIONER/CHAIRPERSON]

THE COMMISSION FOR COMMUNICATIONS REGULATION

THE [] DAY OF [] 2015

Annex: 2 Summary Legal Basis

1. Section 22 of the 2011 Act provides that An Post shall give to the Commission a statement in writing³⁷ of the Terms and Conditions and the charges made by it in respect of the universal postal service provision³⁸ (save in so far as those charges may otherwise be agreed between the USP and a postal service user), and that ComReg shall³⁹, approve, with or without amendment, the Terms and Conditions notified to it.
2. Section 24(2) of the 2011 provides that *“The terms and conditions shall be such as to ensure compliance with the obligations imposed on the universal postal service provider by or under the Communications Regulation Acts 2002 to 2011 in respect of the provision of a universal postal service and shall include—*
 - (a) the terms and conditions in accordance with which a postal service user may avail of the postal services concerned, and*
 - (b) terms and conditions relating to, and its procedures for dealing with, complaints made by postal service users relating to the universal postal service provision.”*
3. Section 24(3) of the 2011 Act provides that *“For the purposes of approving terms and conditions under section 22(2) or 23(1), the Commission, shall consider whether the terms and conditions are appropriate having regard to the obligations imposed on the universal service provider by or under the Communications Regulation Acts 2002 to 2011 in respect of the provision of a universal postal service and the reasonable needs of users, and do not have a significantly adverse effect on postal service users.”*
4. Section 10(1)(ba) of the Communications Regulation Acts 2002 to 2011 (“the 2002 Act”), as inserted by section 9 of the 2011 Act gives ComReg the statutory function to ensure the provision of a universal postal service that meets the reasonable needs of postal service users. Section 12(1)(c) of the 2002 Act, as amended by section 10 of the 2011 Act, sets out ComReg’s statutory objectives in exercising that function, which include:
 - *“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”*

³⁷ not later than 21 days after the coming into operation of the 2011 Act

³⁸ ComReg issued its Response to Consultation and ComReg’s Consent to change the charges of certain postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams, [Decision No. D05/13, ComReg Document No. 13/21](#), on 1 March 2013

³⁹ within 6 months of the coming into operation of the 2011 Act

- *“to promote the interests of postal service users within the Community”*
5. In addition, section 12(2A) of the 2002 Act, as inserted by section 10 of the 2011 Act sets out "reasonable measures" which ComReg shall take aimed at achieving the above objectives including:
- “ (a) establishing such monitoring and regulatory procedures for the purposes of ensuring compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 as are necessary to secure the provision of a universal postal service,*
- (b) ensuring that postal service users may avail of a universal postal service that meets their reasonable needs,*
- (c) in so far as the facilitation of competition and innovation is concerned, ensuring that postal service users derive maximum benefit in terms of choice, price and quality, and*
- (d) in so far as the promotion of the interests of postal service users within the Community is concerned—*
- (i) ensuring a high level of protection for postal service users in their dealings with postal service providers, in particular by—*
- (I) ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved, and*
- (II) consulting and cooperating with the National Consumer Agency as appropriate,*
- and*
- (ii) addressing the needs of specific social groups, in particular, disabled postal service users.”*
6. Section 16 of the Communications Regulation (Postal Services) Act 2011 (“2011 Act”) sets out a general description of the *“universal postal service”* which the designated USP is required to provide.
7. Section 16(9) of the 2011 Act required ComReg to *“...make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service”*.
8. Section 21(1) of the 2011 Act provides, amongst other things, that a USP is required to provide a universal postal service with *“identical services to postal*

service users under comparable conditions” and that it should “comply with the terms and conditions of its universal postal service provision published”.

Questions

Section

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- Q. 1 Do you agree with ComReg’s proposal to amend Directions 1(c) and 1(d) of D11/03 as set out in paragraph 71? Please give a detailed explanation for your answer. 18
- Q. 2 Do you believe that the draft text of the proposed Decision below is, from a legal, technical and practical perspective, sufficiently detailed, clear and precise with regards to the specifics proposed? Please explain your response and provide details of any specific amendments you believe are required? 74