



Commission for  
**Communications Regulation**

## Consultation Paper

### **The Universal Postal Service Formulating a working definition**

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All responses to this consultation should be clearly marked:-  
“Reference: Submission re ComReg 05/16” as indicated above,  
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(current consultations), to arrive on or before 5pm, Wednesday  
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## 1 Foreword

The Communications Regulation Act 2002 established ComReg as the regulator for the postal services industry. The Act placed a duty on ComReg to exercise its functions in a manner which promotes *‘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 users.’*

An Post is no longer the only provider of postal services in Ireland. Competition between An Post and other operators for items of correspondence weighing over 100g has been permitted since January 2003, the market for outbound international mail has been fully opened to competition since 1 January 2004, and the weight limit of the ‘reserved area’ for domestic services will be further reduced to 50g in January 2006. As Ireland moves towards a fully competitive postal market it becomes increasingly important to be able to identify the essential elements of a postal service which, in a competitive market, will need to be guaranteed.

This consultation will start the debate about what services should be provided as part of the universal postal service in Ireland. When a service is characterised as part of the universal service it must be available to everyone in the country (for example, collection and delivery on every working day and not less than five days a week), at a minimum established quality. The European Communities (Postal Services) Regulations 2002<sup>1</sup> contains a list of ‘minimum facilities’ that must form part of the universal postal service. Using this consultation ComReg will put flesh on the bones of this very broad framework of the universal service requirement and thus formulate a customer focussed working definition of the universal service. This process will help ensure that ComReg safeguards the services that postal customers need.

In the light of responses to this consultation, ComReg will issue a Response to Consultation setting out its working definition of the universal postal service and in turn, which services An Post (as the current designated universal service provider) should be providing to fulfil its obligation to provide a universal service of specified quality. By using the consultation process, ComReg hopes to formulate a customer driven working definition.

This consultation paper invites all interested parties to respond by Wednesday 6<sup>th</sup> April, 2005.

**Mike Byrne,  
Commissioner, Commission for Communications Regulation.**

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<sup>1</sup> S.I. No. 616 of 2002

## 2 Executive Summary

In order to facilitate the creation of a Single Market, the European Treaties required that most of the services provided by state monopolies be opened up to competition. In the case of postal services, a phased system of market opening was agreed and the progression towards a fully competitive postal services market is now underway. However liberalisation must not come at the cost of universal service: a basic package of quality postal services must remain available to everyone in Ireland at an affordable price. Therefore it is increasingly important to be able to identify the essential elements of a postal service which will need to be guaranteed in the competitive market.

Regulation 4(4) of the European Communities (Postal Services) Regulations 2002, as enacted by S.I. No. 616 of 2002 (the '2002 Regulations') defines the universal postal service in terms of minimum requirements and facilities. This definition lacks sufficient clarity and allows some flexibility in interpretation. Accordingly there is a need to formulate a working definition of what constitutes the universal postal service in terms of specific services, so that ComReg can fulfil its statutory objective to ensure that these will continue to be available at an affordable price.

The document initiates a discussion of the specific services that could be provided as part of the universal service. Services considered are:-

- letter services;
- bulk mail services;
- separate insured and registered mail services;
- parcel services;
- ancillary and other services.

Comments are invited on whether these are appropriate services to be classified as part of the universal service.

ComReg is of the opinion that it will be useful to make an assessment of the impact that adopting a working definition of the universal service might have and is asking respondents to comment on the potential impact of adopting such a definition on the universal service provider and on the customer.

This consultation will run until 6<sup>th</sup> April 2005, during which time the Commission welcomes written comments on any of the issues raised in this paper.

### 3 Introduction

Traditionally postal services were provided on a monopoly basis by state controlled enterprises. However monopolies are rarely permitted in the Single Market and therefore the liberalisation of the market in postal services, as in other industries, has been initiated.

As an essential instrument of communication and trade, the postal service is of great importance for private and business customers alike and there is concern that market forces alone may not ensure customer needs are fully met. This concern is apparent in the obligation placed by Article 3(4) of Directive 97/67/EC<sup>2</sup> (the 'Postal Services Directive') on Member States to ensure that a certain minimum level of postal service (known as the 'universal service') is guaranteed in respect of:

- the clearance, sorting, transport and distribution of postal items up to 2kg;
- the clearance, sorting, transport and distribution of postal packages up to 10kg;
- services for registered items and services for insured items.

This approach gives considerable freedom to the governments of individual Member States to customise their universal service requirement<sup>3</sup>. In Ireland the 2002 Regulations which transpose the Postal Services Directive simply restated these minimum requirements<sup>4</sup>.

Therefore, in order to fully protect postal customers ComReg must adopt a working definition of the 'universal service'. By using the consultation process, ComReg will attempt to formulate a customer focussed working definition of the universal service and thus seek to ensure that the services which postal customers need are safeguarded.

The purpose of this consultation process is to clarify which services should be provided as part of the universal postal service in Ireland.

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<sup>2</sup> Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 with regard to the further opening to competition of Community postal services.

<sup>3</sup> See Appendix C 'Defining the universal service in other Member States'

<sup>4</sup> Except that Ireland chose to set the limit for postal packages at 20 kg. The Postal Services Directive allows a range from 10 kg to 20 kg.

## 4 What is 'universal service'?

### 4.1.1 Theoretical basis

The European Treaties require that there should be freedom to provide services<sup>5</sup>. There is also a recognition that market liberalisation might impact on the availability of traditional postal services at “affordable” prices. In the preface to its Notice on the application of the competition rules to the postal sector<sup>6</sup> the European Commission observes that ‘*New technologies such as fax or electronic mail, are putting enormous pressures on the traditional postal services. Those developments have given rise to worries about the future of these services accompanied by concerns over employment and economic and social cohesion*’. Therefore the Postal Services Directive requires Member States to: ‘... ensure that the provision of the universal service is guaranteed’<sup>7</sup>.

The definition of universal service must set out what constitutes an acceptable level of service for customers. In countries where postal markets have been opened to competition, e.g. Sweden and New Zealand, the market has ensured that customers have received an enhanced service. It would only be if the market failed to provide the universal service that regulatory intervention would be necessary.

### 4.1.2 Practical meaning

When a service is characterised as part of the universal service it must be available to everyone in the country (including collection and delivery on every working day and not less than five days a week), at a minimum established quality. Tariffs for such services must be affordable and comply with the other tariff principles set out in the 2002 Regulations<sup>8</sup> (for example; geared to costs, transparency and non-discrimination).

This consultation does not directly concern delivery, access, quality of service or accounting issues. At issue is which services should be provided as part of the ‘universal service’. However the determination may impact on other issues, which have been (or will be (as and if required)) dealt with in other consultations.

## 4.2 Existing position

### 4.2.1 Legal basis

The Communications Regulation Act 2002 (s.12(1)(c)) places an obligation on ComReg to exercise its functions in a manner which promotes ‘*the development of*

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<sup>5</sup> Article 3(c) EC lists the abolition of restrictions on the freedom to provide services between Member States as one of the characteristics of the internal market.

<sup>6</sup> Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services 98/C 39/02

<sup>7</sup> Article 4

<sup>8</sup> Regulation 9(1)

*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 users.'*

Regulation 4 of the 2002 Regulations describes the universal service as a 'right', 'involving the permanent provision of a postal service of a specified quality ..... at affordable prices for all users' and places a statutory obligation on the universal service provider to provide on every working day, and not less than five days a week, as a minimum one clearance and one delivery to the home or premises of every natural or legal person in the State.

Regulation 4(4) further provides a list of 'minimum facilities' that that the universal postal service comprises, namely;

- the clearance, sorting, transport and distribution of postal items up to 2kg;
- the clearance, sorting, transport and distribution of postal packages up to 20kg;
- services for registered items; and
- services for insured items.

These minimum requirements are almost exactly the same as in the Postal Services Directive, on which the 2002 Regulations were based, except Ireland chose to set the limit for domestic postal packages at 20 kg (the Postal Services Directive allows a range from 10 kg to a maximum of 20 kg).

Regulation 5(e) of the 2002 Regulations requires that the services of a universal service provider 'shall evolve in response to the technical, economic and social environment and to the needs of users'.

For full details of the legislative basis see Appendix A of this paper.

#### 4.2.2 An Post's view of the universal service provision

An Post is currently designated as a universal service provider<sup>9</sup> and in that capacity it is obliged under Regulations 6(1) and (2) of the 2002 Regulations to "provide users with regular, detailed and up to date information on the particular features of the universal service"<sup>10</sup>

For illustrative purposes, the following are the services which An Post considers to be universal services<sup>11</sup>:-

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<sup>9</sup> Regulation 4(2)(a) of the 2002 Regulations

<sup>10</sup> See Direction No.6 in '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 Notice D11/03' Document No. 03/50

<sup>11</sup> Sources: An Post 'Guide to Postal Rates – effective from 5<sup>th</sup> January 2004', An Post Annual Report 2003, pg. 18



- Services within the reserved area, as set out in Regulation 8 of the 2002 Regulations<sup>12</sup>;
- Standard letter service<sup>13</sup>- a service for letters, postcards, large envelopes and packages;
- Postaim - a discounted deferred postal service for pre-sorted advertising or promotional material;
- Registered Letter Service - a secure delivery service with compensation<sup>14</sup> for loss or damage to items posted. Confirmation of delivery is available on request;
- Sending Books Abroad -special rates are available for posting books to addresses outside of Ireland;
- Economy parcel service (only provided domestically and to Northern Ireland, Great Britain, USA and Canada); and
- Priority parcel service (only to those destinations where there is no economy service – where an economy service is provided An Post argues that the priority service is outside the universal service).

#### 4.2.3 ComReg's view of the universal service provision

The list of 'minimum facilities' contained in Regulation 4(4) of the 2002 Regulations are merely a very broad framework of the universal service requirement. ComReg will use this consultation process to consider the needs of modern business and domestic customers and so put flesh on the bones of this framework. It is hoped that the end result will be a customer focussed working definition of the universal service and will help to ensure that ComReg safeguards the services that customers need.

The range of services to be provided as part of the universal service must, in ComReg's opinion, be:

- sufficient to meet the needs of all users,
- sufficient to fulfil Ireland's obligations under inter-governmental treaties, e.g. the UPU Convention,
- clearly defined.

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<sup>12</sup> See Appendix A "Legislative Basis"

<sup>13</sup> Until recently advertised as the First Class Letter Service (domestic) and Priority /Economy Letter Post (cross-border)

<sup>14</sup> Within the island of Ireland compensation is available up to €320. Registered Post (International) is limited by country, ranging from €35 (various) to €900 (Britain)

ComReg is advised that only services within the scope of the universal service may be reserved to a universal service provider<sup>15</sup>. This is set out in Regulation 8 of the 2002 Regulations which provides that “The following services shall be reserved for An Post *as a universal service provider*...” (emphasis added). This also means that if a service is within the reserved area the same service outside the reserved area (because the weight/price falls outside the limits of the reserved area set out in Regulation 8 of the 2002 Regulations) must also be part of the wider universal service. For example, if a “large envelope” weighing 45g is within the reserved area, a “large envelope” weighing 200g, although outside the reserved area, is within the universal service.

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<sup>15</sup> See Appendix A “Legislative Basis” Recital 11 to Directive 2002/39/EC

## 5 Developing a working definition of the universal service

### 5.1 Current market situation

In considering the scope of the universal service the current degree of effective competition in the postal market must be taken into consideration i.e.

- Other operators are prohibited from providing services for items of correspondence within the reserved area<sup>16</sup>.
- Outside the reserved area there is little direct competition for delivery of items of correspondence within the State<sup>17</sup>.

### 5.2 Importance of a working definition of the universal service

#### 5.2.1 Importance to customers

The working definition will result in increased certainty for customers (businesses, organisations and individuals) as to what services the universal service provider is obliged to provide for them. ComReg believes that the best way of safeguarding the universal service is if customers know exactly what they have a right to expect<sup>18</sup>.

A clear working definition will also assist customers seeking compensation or reimbursement for loss or damage. In such a situation it is important for the customer to be able to distinguish between universal services and non-universal services. Regulation 15(1) of the 2002 Regulations obliges the universal service provider to have transparent, simple and inexpensive procedures for dealing with users complaints enabling 'disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement or compensation or both'. An Post has immunity from liability in respect of any loss or damage suffered by a person in the use of a universal postal service<sup>19</sup>. However, An Post may be held legally liable in respect of loss or damage suffered by a person in the use of a non-universal postal service<sup>20</sup>.

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<sup>16</sup> See Regulation 8 of the 2002 Regulations which sets out the scope of the reserved area.

<sup>17</sup> 87% of businesses use An Post for letter post and when asked to name a company that could be used for sending letters besides An Post, 75% of businesses could not name any other provider. Source: TNS Mrbi Business Postal Services Survey, Document No. 04/121e

<sup>18</sup> This position was previously indicated in '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 Notice D11/03' Document No. 03/50' pg. 47

<sup>19</sup> Section 64 of the Postal and Telecommunications Services Act, 1983 limits the liability of the postal company in respect of any loss or damage suffered by a person in the use of a postal service

<sup>20</sup> Regulation 4(7) of the 2002 Regulations restricts the s.64 limitation to postal services within the universal service.

### 5.2.2 Regulatory importance

The concept of universal service is fundamental to the regulatory framework and therefore a prescriptive list of the totality of services or facilities that currently comprise the universal service will facilitate ComReg in carrying out its designated regulatory function by:-

- identifying which services An Post (as the current universal service provider) should be providing in order to discharge its obligation to provide a universal service of specified quality.
- clarifying which services are subject to regulation and obligations such as the specific accounting provisions.
- clarifying for which services ComReg is obliged to specify and monitor a quality of service target<sup>21</sup>.
- facilitating analysis of the economic requirements of the universal service, as required to assess the extent of the reserved area<sup>22</sup> and the degree of cross-subsidisation necessary<sup>23</sup>.
- facilitating the monitoring of compliance with Regulations 4, 5 and 9 of the 2002 Regulations. Regulation 4 sets out specific requirements with regard to access points, collections and delivery and the minimum range and quality (in its broadest sense) of universal services to be provided. Regulation 5 sets out specific requirements with respect to provision of the universal service and Regulation 9 sets out the tariff principles that the universal service provider must comply with in relation to services which form part of its universal service.

Using the consultation process to more clearly define the universal service means that ComReg will be able to formulate a customer focussed working definition of the universal service and therefore ensure that it is safeguarding the services that postal customers need.

### 5.2.3 Why now?

As Ireland moves towards a fully competitive postal market it becomes increasingly important to be able to identify the essential elements of a postal service which ComReg will need to ensure are provided in a competitive market.

In the short term it is also important to formulate a working definition of the universal service in order to ensure that certain services are provided in a market with very little real competition.

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<sup>21</sup> Regulation 12 of the 2002 Regulations

<sup>22</sup> The Postal Services Directive repeatedly insists that a reservation may be introduced only "to the extent necessary to ensure the maintenance of universal service"

<sup>23</sup> Regulation 9(5) of the 2002 Regulations allows cross subsidisation of universal services 'only to the extent to which it is shown to be strictly necessary to fulfil specific universal service obligations imposed in the competitive area'

A key issue in the debate about the Postal Services Directives was the concern that, as state controlled monopolies, the public postal operators in the past had maintained financial equilibrium by reducing services and quality rather than seeking to improve efficiency<sup>24</sup>. This could give rise to a potential conflict of interest if a universal service provider provides two services that are broadly substitutable; one within universal service charged at an affordable ‘geared to cost’ price, the other outside the universal service and priced at a premium, which generates a greater profit margin. In such a situation, it would be important to ensure that the quality of service afforded to the universal service is not allowed to decline in order to increase demand for (and profit from) the non-regulated service. Such a situation would clearly not be in the interests of customers.

#### 5.2.4 *Future evolution of the universal service*

It is important to note that the working definition arrived at following this consultation will not be a finite definition of the universal service. As the postal market develops, the scope of the universal service will need to evolve<sup>25</sup>. ComReg will review the requirements of the universal service periodically and therefore the outcome of the current consultation should not be seen as permanently fixing the definition.

Specifying the minimum level of service guaranteed does not mean that other postal services will not be provided, or that a universal service provider will not offer a better quality of service than the minimum prescribed. Subject to any legal obligations imposed on a universal service provider, these are matters for its commercial judgment or, except where there are transitional restrictions on market entry, the commercial judgment of any other service provider who wishes to enter the market.

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<sup>24</sup> The Commission notes that there is a ‘... possibility that, where they are granted special or exclusive rights, postal operators may let the quality of the service decline and omit to take necessary steps to improve service quality’ Article 2.7, Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services 98/C 39/02

<sup>25</sup> Article 5 of the Postal Services Directive 97/67 makes specific reference to the need for the universal service to ‘*evolve in response to the technical, economic and social environment and to the needs of users*’

## **6 Services that could be regarded as part of the universal service**

### **6.1 Letter services**

#### *6.1.1 Current service standard*

An Post currently provides a standard suite of services including services for letters, postcards, large envelopes and packages (up to a weight of 2kg outside Ireland) as part of the universal service. The target for these standard letter services is next day delivery<sup>26</sup> although current performance falls well short<sup>27</sup>.

#### *6.1.2 Is the current single tier service acceptable?*

In approximately half of EU countries, customers are given a choice between a priority service with a next day delivery target and a slower cheaper non-priority service. Where customers have such a choice and there is a notable differential in price, about 70% of mail is posted at the cheaper / slower non-priority postage rates<sup>28</sup>.

In a single tier service it is only possible to meet the service requirements of all customers by providing the quicker (priority) service, however this means that some customers have to pay for a higher level of service than they require.

Given that there would probably be a substantial demand for a slower / cheaper service in Ireland, is the current offer of a single tier service acceptable and/or sustainable?

#### *6.1.3 Consultation issues*

As Ireland is a small country with relatively low volumes of mail, would the level of work (and resulting increased costs) required to segregate mail between priority and non-priority mail be justified, or would the resulting increase in tariffs be such as to more than negate any benefit of a two-tier letter post system? Two types of mail can be discussed in this context, namely metered mail and stamped mail.

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<sup>26</sup> The current target for mail posted throughout the State for delivery in the State is 94% to be delivered on the next working day and 99.5% to be delivered within three working days D+3. Source: 'Response to Consultation, Quality of Service Target 2004, Single Piece Priority Mail, 1 June 2004', Document No. 04/56

<sup>27</sup> For the 9 months to September 2004 73% of mail posted throughout the State for delivery in the State was delivered on the next working day and 96% was delivered within three working days. Source: TNS Mrbi monitor commissioned by ComReg, 'Information Notice: Quality of Service Domestic Single Piece Mail - Performance of An Post Qtr 3, July-September 2004 & January-September YTD 2004', Document No. 04/119

<sup>28</sup> For example in Britain where such a choice is offered to all customers (Source: 'The UK Letters Market 2000-2003, A Market Report, January 2004', Postcomm) or for bulk mail customers in Ireland, where discounts are offered for "deferred delivery"

- Metered mail

Currently An Post offers a deferred delivery service for bulk mail, so customers who post in substantial quantities<sup>29</sup> have a choice between priority and non-priority services. However business customers who post less than 500 items at any one time or who do not have access to a franking machine do not have such a choice. As 85% of business users send less than 250 letters per week<sup>30</sup>, this is an issue of concern.

Metered mail is normally segregated by the customer into separate pouches for local and distant destinations, so sorting instead into pouches for priority and non-priority / deferred delivery mail (the segregation necessary to provide both services) without a minimum quantity requirement<sup>31</sup>, should not give rise to any significant extra costs for this group of customers. Should such a choice be provided for these customers as part of the universal service?

- Stamped mail

On the other hand mail posted by businesses and individuals in pillar boxes, post offices etc. with postage stamps affixed would need to be segregated in the mails sorting centre. For most of the year the volume is probably too low to justify the costs involved in such sortation.

However, the bulk of stamped letter post is sent in the month of December. This includes not only Christmas mail but mail generated due to the approaching end of the financial year (given the recent trend to align both the financial and annual calendar). Perhaps a special 'Christmas Card service', as is provided in the Netherlands and Finland, should be provided as part of the universal service? As well as providing customers with a cheaper method of posting Christmas cards, it would remove the 'glut' of mail items from the general postal pipe-line and help stimulate mail volumes. This would protect the normal letter service from the significant reduction in quality that is currently experienced in December.

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<sup>29</sup> To avail of the service the minimum number of items that must be posted at any one time is – 500 (if payment is by franking meter impression) or 2000 (if payment is by Ceandunás account).

<sup>30</sup> Source: TNS Mrbi Business Postal Services Survey, Document No. 04/121e

<sup>31</sup> In practice An Post's customers will only go to the expense of buying or leasing a franking machine if they post significant quantities of mail over the course of the year, thus the service is unlikely to be used by low volume users.

**Q. 1. Is one 'single tier' letter service, within the universal service, sufficient?**

**Please give reasons for your answer.**

**Q. 2. Should the universal service include a deferred delivery option for meter customers? Please give reasons for your answer.**

**Q. 3. Should the universal service include a special Christmas Card stamped mail service? Please give reasons for your answer.**

## **6.2 Bulk mail services**

### *6.2.1 Current service offering*

Bulk mail comprises correspondence, documents or publications consisting of a substantial number of similar items which are deposited at the same place and at the same time to be conveyed and delivered to the addressees. An Post currently provides a number of different bulk mail products (e.g. pre-sort, early presentation, deferred delivery, Postaim<sup>32</sup>).

### *6.2.2 Importance of bulk mail*

Bulk mail is a product that is used predominantly by business mailers. Business mail currently represents c.80% of the total mail posted and is essential for the effective functioning of business and commerce in Ireland. Many large business mailers need to be able to send mail such as statements, advertising mail and bills to all their customers, regardless of where in the country they live. Access to an efficient bulk mail service is also imperative for smaller businesses, facilitating contact with their customer base locally, nationwide and internationally.

### *6.2.3 The case for inclusion in the working definition of the universal service*

In a fully competitive market the case for regulatory intervention would be almost non-existent. However where, as in Ireland, the former monopoly continues to enjoy a dominant position the regulator must guard to ensure that the incumbent postal service provider does not use its unique delivery network as a competitive weapon in the market for bulk business mailings (i.e. there must be no abuse of the dominant position). A commercial strategy by the universal service provider which focuses on the needs of the largest customers could have the effect of discouraging market entry and denying smaller customers a choice. Furthermore as there will be a 'reserved area' in which competitors are prohibited from providing services until at least 31 December 2008, there is a need to ensure that even the largest customers<sup>33</sup> can obtain

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<sup>32</sup> Postaim is a 10 day deferred delivery service and only available to large mailers in respect of pre-sorted advertising or promotional material.

<sup>33</sup> While the larger producers of bulk mail have considerable buying power very few will have sufficient volumes on their own account to encourage market entry.



the services they require. This ‘guarding’ would be facilitated if the bulk mail was part of the universal service.

Furthermore Regulation 9(3) of the 2002 Regulations acknowledges that some services for businesses, bulk mailers or consolidators of mail from different customers are part of the universal service and provides that the tariffs and the associated conditions should be subject to regulatory supervision.

On the other hand, the bulk mail tariffs are currently presented as a discount off the basic price. An argument can be made therefore that the bulk mail service should be seen as provided under a commercial agreement between An Post and its customers rather than as part of the universal service.

#### 6.2.4 *Consultation issues*

ComReg takes the view that a limited range of bulk mail services should be regarded as part of the universal service for the foreseeable future (i.e. until there is evidence that the needs of all business customers can be fulfilled by a competitive market). The services which ComReg suggests should be part of that limited range are as follows:

- a service offering ‘delivery only’ to businesses, bulk mailers or consolidators of mail from different customers who are able to present their mail sorted in delivery sequence or by delivery office
- a service offering ‘deferred delivery’ to businesses, bulk mailers or consolidators of mail from different customers
- a service offering a combination of ‘delivery only’ and an extended delivery cycle (i.e. the existing Postaim service, without any restriction as to content)

Should different considerations apply to international services, where markets are already fully open to competition?

An Post is of course free to provide other services for business outside the universal service for which they feel there is a customer demand. These services will not be subject to regulatory control<sup>34</sup>.

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<sup>34</sup> Note that if a service is within the reserved area the same service outside the reserved area must also be part of the universal service. See 4.2.3

**Q. 4. Should the universal service include a bulk mail service? Please give reasons for your answer.**

**Q. 5. If you answered Q.4 in the affirmative, what bulk mail services should be included as part of the universal service? Please give reasons for your answer.**

**Q. 6. Should different considerations apply to international bulk mail services, where markets are already fully open to competition? Please give reasons for your answer.**

### **6.3 Separate insured & registered mail services**

#### *6.3.1 Current service offering*

Currently An Post offers a registration service which combines the features of the defined registration and insured services. This service includes confirmation of delivery on request, secure handling of the postal item and a relatively low compensation limit<sup>35</sup>. Additional insurance is available but An Post argue that it is outside the scope of the universal service. An Post provides this service for letter post only (maximum weight 2kg) although there are some comparable facilities for parcels which are discussed in the context of that service offering (see below 6.4).

#### *6.3.2 Consultation issues*

Regulation 4(4)(c) of the 2002 Regulations requires that the universal service include a stand alone service for registered items<sup>36</sup>. Provision of a combined registration and insurance service may require some customers to pay for secure handling, which may not be required or necessary. Therefore, perhaps An Post should provide a stand alone 'registration' system (as provided for in the Regulations) for those customers who only require proof of delivery<sup>37</sup>?

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<sup>35</sup> €320 limit for the domestic service. The limits in the international service vary between €35 and €900, depending on destination.

<sup>36</sup> A 'registered item' is defined in the 2002 Regulations as 'a service providing a flat-rate guarantee against risks of loss, theft or damage and supplying the sender, where appropriate upon request, with proof of the handing in of the postal item or of its delivery to the addressee'

<sup>37</sup> There are over 600 Acts of the Oireachtas that require the use of registered post in certain circumstances.

Regulation 4(4)(d) of 2002 Regulations requires that the universal service include services for insured items<sup>38</sup>. Although the 2002 Regulations specify no limit as to value for insurance purposes, Article 14 RE 403 of the UPU<sup>39</sup> Letter Post Regulations provides that the maximum amount of insured value that each administration may set ‘may not be less than 4000 SDR (€4,600) in accordance with Article 15.2 of the UPU Convention’. ComReg suggests that the limit on compensation payable for items lost or delayed in the insured service should be increased from the current limit of €320 in the domestic service to at least €4,600, as provided for in the UPU Letter Post Regulations.

- Q. 7. Should the universal service include a lower cost service, providing proof of delivery only, without the secure handling necessary for transporting valuable goods?**
- Q. 8. What limit should be placed on the compensation payable for items lost or delayed in the insured service?**

## 6.4 Parcel Services

### 6.4.1 Current service offering

An Post classifies only a single parcel service to each destination as being within the universal service. Currently where both an economy and a priority service exist to a destination, only the economy service is classified as being within the universal service. However, where only a priority service is provided it is classified as being within the universal service. This results in a situation where the level of service provided as part of the universal service varies depending on the destination - see diagram below.

Overview of An Post’s current USO parcel offering							
Destination	IRL	NI	GB	EU	Non EU Europe	US & Can	ROW
Type of service	Economy	Economy	Economy	Priority	Priority	Economy	Priority
Price (€)-2kg	6.50	8.00	12.00	28.00	30.00	21.00	47.00
Price (€)-5kg	9.50	11.00	16.80	46.00	52.00	39.00	97.00
Transit time(wd <sup>(1)</sup> ) <sup>(2)</sup>	1/2	1/2	5/7	2/9	3/12	18/24	6/18
Registration available? <sup>(3)</sup>	✗	✗	✗	✓	✓	✗	✗
Insurance included?	✗	✗	✗	✓ max €150	✗ <sup>(4)</sup>	✗	✗
Optional insurance limits	€100	€100	€100	€1,000	✗ <sup>(4)</sup>	€100	✗

Notes: (1) wd = working days, (2) Min & Max time for this category, (3) ‘Track and Trace’ (4) With the exception of the Channel Islands, Switzerland & Norway, where the inclusive insurance limits are €150 and the optional insurance limits are €1,000

<sup>38</sup> An ‘insured item’ is defined in the 2002 Regulations as ‘a service insuring the postal item up to the value declared by the sender in the event of loss, theft or damage’

<sup>39</sup> Universal Postal Union

Analysing the service provision from a different perspective, i.e. the An Post parcel offering in totality, it is possible to draw attention to further anomalies in relation to publicly available parcel services provided by An Post.

Overview of An Post's current parcel offering									
Service	EMS <sup>(1)</sup>	Priority							Econ <sup>(2)</sup>
Destination	All	IRL	NI	GB	EU	Non EU Europe	US & Can	ROW	All <sup>(3)</sup>
Universal Service?	×	×	×	×	✓	✓	×	✓	✓
Subject to price control?	×	×	×	×	✓	✓	×	✓	✓
Exempt from VAT?	×	✓	✓	✓	✓	✓	✓	✓	✓
Immunity from liability?	×	×	×	×	✓	✓	×	✓	✓

Note: This table shows An Post's position (as ComReg understands it) on these issues.

Notes: (1) EMS Courier is a time certain, guaranteed, worldwide courier service (2) Economy mail service (3) Only provided to IRL, NI, GB, US & Canada

#### 6.4.2 Observations on An Post's current service offering

Several issues arise from the service offering for parcels outlined above;

- The transit times for the universal parcel service vary substantially. For example the advertised delivery time for the universal parcel service to our nearest neighbour Great Britain (5/7 days) is substantially longer than to the larger EU countries (generally 3/4 days).
- Under s.64 of the Postal and Telecommunications Services Act, 1983, An Post has immunity from liability in respect of any loss or damage suffered by a person in the use of a universal postal service. Such immunity is not available if the person was using a service outside the universal service (See 5.2.1 on this point). It seems illogical that there is exemption from being sued if the priority parcel is addressed to France but not if it is addressed to Britain or the United States.
- Under Regulation 9 of the 2002 Regulations, ComReg has a duty to ensure that prices for the universal service comply with the tariff principles (affordable, geared to cost etc.). It is anomalous to view ComReg as having an obligation to protect customers posting priority parcels to France but not those posting same to Britain or America.
- Ireland, as a member of the United Nations, decides under the UPU Convention (an intergovernmental treaty) which international services should be provided. Therefore, An Post should not be able to pick and choose which parts of those agreements it will undertake to provide as part of its universal service obligations.

### 6.4.3 Consultation issues

ComReg suggests that there should be one universal service parcel offering and that this should be as follows;

A parcel service to all destinations with:-

- target delivery times - as per current 'priority' offering from An Post
- prices that comply with the tariff principles (geared to cost, affordable etc., see Regulation 9(1) of the 2002 Regulations)
- a registration option
- an insurance option – with compensation payable for the value of the goods up to a maximum of €5,300, (the lowest level permissible under the UPU Parcel Post Regulations, see above 6.3.2)

Whether the economy service should be provided would then be a commercial decision for An Post to make.

**Q. 9. Do you agree that the universal service should include one single standard parcel offering to all destinations (as suggested by ComReg)? Please give reasons for your answer.**

## 6.5 Ancillary services

An Post offers a number of ancillary services which it regards as being outside the scope of the universal service. These services are, and always have been, an integral part of the postal service. Historically there was no charge for them and one remains free of charge. From a practical point of view the provision of these services can rarely be separated from the universal postal service (they 'piggy back' on the universal service), and currently only the universal service provider can realistically provide them. It is in this context that we will analyse these services.

- **Redirection** -allows users to have their mail redirected from their old address to a new address.
- **Mailminder**- provides for mail to be held while users are away on holiday etc, for a period up to and including 12 weeks, and delivered on their return.
- **"Private boxes / bags"**- are long-term facilities to have mail held at a post office pending collection, rather than having it delivered to an address.

- **Certificate of posting** – this service provides customers with a certificate proving that they posted a postal item on a specific day.

It could be argued there are few economic or social arguments (the usual justifications for a service being ‘universal’) that can be advanced in favour of these being provided as part of the universal postal service.

On the other hand these are not separate services per se but requirements that stem from the provision of a postal service. They operate to preserve the security and integrity of the mail and are necessary in order to fulfil the operator’s legal obligations.

As these ancillary obligations are being provided in conjunction with a universal service, ComReg proposes that they should be viewed as part of the universal service and as such under regulatory control.

**Q. 10. Do you agree that Redirection, Mailminder, Private boxes / bags and Certificates of posting, when provided for universal postal services, constitute part of the universal service? Please give reasons for your answer.**

## 6.6 Other services

There is a range of other postal services that some customers may consider should be included within ComReg’s working definition of the universal service, this includes<sup>40</sup>:-

- Business reply / Freepost
- Swiftpost
- Publicity post
- Special collections for businesses
- Free postal service for blind and partially sighted persons
- Periodicals service
- Sending books abroad

When considering this issue, respondents should bear in mind that many of these services are provided on a commercial basis in markets already open to competition.

Attention is drawn to the following services:

- Business reply / Freepost service

As this service is important to many businesses and involves a nationwide network of access points (which currently and for the foreseeable future only An Post possess), there would seem to be merit in including it in the working definition of the universal service.

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<sup>40</sup> Please note this list is not exhaustive

- Free services for blind and partially sighted persons.

Regulation 8(1)(b) of the 2002 Regulations provides that the free postal service for blind and partially sighted persons is reserved to An Post. As set out in 4.2.3, the reserved area is a subset of the universal service and therefore, if a service is within the reserved area the same service outside the reserved area must also be part of the universal service. ComReg are therefore of the opinion that the free postal service for blind and partially sighted person is part of the universal service.

- Publicity post service

This is a service that An Post provides for the delivery of unaddressed items. It cannot be considered for inclusion in the definition of the universal service as it does not fall within the statutory definition of postal items in the 2002 Regulations, which requires that postal items be addressed<sup>41</sup>.

**Q. 11. Are there any other services which you think should be characterised as part of the universal service? Are there any other issues which you think are relevant? Please give reasons for your answer.**

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<sup>41</sup> Although it can be noted that unaddressed postal services fall within the definition of postal services submitted to the WTO/GATS by the European Commission. See 'Communication from the European communities and their member states, GATS 2000: Postal/courier services, 22 March 2001'.

## **7 Impact Assessment**

ComReg's objective is to produce a working definition of the universal service and by doing so is not imposing any further regulatory obligation but rather setting out how it will measure the obligations set out in the 2002 Regulations. ComReg is of the opinion however that it will be useful to make an assessment of the impact that setting a working definition of the universal service might have.

Bear in mind that when defining the universal service, it is necessary to consider how that working definition will impact on the financial viability of the universal service as a whole.

Keeping the range of services within the universal service at a minimum appears attractive on the basis that the smaller the universal service, the smaller the burden (and cost) it will incur. However, the postal services industry has high levels of fixed costs, mainly attributable to the distribution (delivery) network. This network is shared between both universal and non-universal services and the costs must be apportioned between both sets of services on a fully distributed basis (see Recital 29 of the Postal Services Directive 97/67). A restricted definition of the universal service could result in excessive network costs being apportioned to the universal service. If all network costs incurred as a result of specific regulatory requirements (e.g. daily deliveries) are apportioned to the universal service(s), the apparent profitability of the universal service will be reduced. Defining the universal service in a narrow fashion will not therefore necessarily mean that the 'cost' is reduced. By omitting profitable elements, the cost of providing the universal service would increase rather than decrease.



**Q. 12. How, in your opinion, will having clarity about the services to be provided as part of the universal service, impact on the provision of an affordable universal postal service to all and on the Government's core policy goal for the postal sector of a high quality service on a par with the highest quality standards in key comparator economies in the EU? Please give reasons for your answer.**

**Q. 13. How, in your judgment, will your proposed working definition of the universal service impact on the following issues;**

- (a) your ability to get the services you require,**
- (b) the price you pay for postage,**
- (c) your choice of operator,**
- (d) the quality of the postal service,**
- (e) the general development of the postal sector.**

**Where possible, please quantify the overall financial effect on you / your company or organisation.**

**Q. 14. How, in your opinion, will your working definition of the universal service impact on the costs of providing the universal service?**

## **8 Submitting Comments**

All comments are welcome, however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 2<sup>nd</sup> March 2005 to 6<sup>h</sup> April 2005 during which the Commission welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will review the working definition of the universal service and publish a report on the consultation which will, inter alia summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish the names of all respondents and make available for inspection responses to the consultation at its Offices.

Please note ComReg may publish all submissions with the Response to Consultation, subject to confidentiality requests.

ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful. Respondents are requested to clearly identify confidential material and if possible to include it in a separate annex to the response. Such information will be treated as strictly confidential.

## Appendix A – Legislative basis

### Communications Regulation Act 2002

The Communications Regulation Act 2002 established ComReg as the regulator for the postal services industry. The Act in s.12(1)(c) places an obligation on ComReg to exercise its functions in a manner which promotes *‘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 users.’*

### European Postal Services Directive

The Postal Services Directive 97/67/EC (as amended by Directive 39/2002/EC) is designed to gradually open the Community postal market to competition, while harmonising and enhancing the universal postal service for all citizens of the Community. While accepting the authority of member states to shape universal service to meet country-specific requirements, it requires member states to meet certain minimum requirements in the provision of a universal service (one collection from appropriate access points and one delivery to all addresses, every working day, in respect of postal items up to 2kg and postal packages up to 10 kg, plus services for registered items and insured items, all at affordable prices). These minimum criteria imply considerable freedom for a member state government in designing its national universal service obligation.

Recital 11 to Directive 2002/39/EC provides that *‘The basic aim of safeguarding the durable provision of a universal service matching the standard of quality defined by the Member States in accordance with Article 3 of Directive 97/67/EC on a consistent basis throughout the Community can be secured if, in this area, the possibility of reserving services is maintained and, at the same time, conditions of high efficiency ensured by a sufficient degree of freedom to provide services.’*

### The European Communities (Postal Services) Regulations 2002

The 2002 Regulations (contained in S.I. No. 616 of 2002) gave effect in Ireland to the Postal Services Directive. Regulation 4(1)(a) provides that *‘Users at all points in the State shall enjoy the right to a universal service (“universal service”) involving the permanent provision of a postal service of a specified quality and, subject to Regulation 9(1), at affordable prices for all users.’*

Regulation 4 of the Regulations provides that the universal postal service comprises of at a minimum;

- one collection from appropriate access points and one delivery to all addresses
- every working day (at a minimum 5 days a week) in respect of postal items up to 2 kg and postal packages up to 20 kg;
- services for registered items and
- services for insured items.

These minimum requirements are almost exactly the same as in the Postal Services Directive, except Ireland chose to set the limit for domestic postal items at 20 kilograms (the Postal Services Directive gives a range of minimum 10 kilograms and maximum 20 kilograms).

Regulation 5 states the requirements of the universal service. Regulation 5(e) of the 2002 Regulations requires that the services of a universal service provider 'shall evolve in response to the technical, economic and social environment and to the needs of users'

Regulation 6 specifies the information to be provided by the universal service provider in respect of the universal service.

Regulation 8 sets out the services reserved to An Post as a universal service provider, namely -

- (a) the clearance, sorting, transport and delivery of items of domestic correspondence, cross-border correspondence and direct mail, whether by accelerated delivery or not, within both of the following weight and price limits -
  - (i) the weight limit shall be -
    - (i) from 1 January 2003, 100 grams, and
    - (ii) from 1 January 2006, 50 grams,
  - (ii) these weight limits do not apply -
    - (i) from 1 January 2003, if the price is equal to or more than, three times, and
    - (ii) from 1 January 2006, if the price is equal to or more than two and a half times,the public tariff for an item of correspondence in the first weight step of the fastest category,
- (b) the free postal service for blind and partially sighted persons operated by An Post from time to time,
- (c) until 1 January 2004, outgoing cross-border correspondence within the same weight and price limits referred to in paragraph(a).'

Regulation 9 specifies the tariff principles to be observed. Regulation 11 specifies the accounting procedures.

### **Universal Postal Convention**

The Universal Postal Union (UPU) via Article 1 of the Universal Postal Convention obliges its 189 member countries to ensure that '*all users/customers enjoy the right to a universal postal service involving the permanent provision of quality basic postal services at all points in their territory, at affordable prices*' and further provides that '*With this aim in view, member countries shall set forth, within the framework of their national postal legislation or by other customary means, the scope of the postal services offered and the requirement for quality and affordable prices, taking into account both the needs of the population and their national conditions.*'

## Appendix B – Consultation Questions

**Q.1** Is one ‘single tier’ letter service, within the universal service, sufficient?

Please give reasons for your answer.

**Q.2** Should the universal service include a deferred delivery option for meter customers? Please give reasons for your answer.

**Q.3** Should the universal service include a special Christmas Card stamped mail service? Please give reasons for your answer.

**Q.4** Should the universal service include a bulk mail service? Please give reasons for your answer.

**Q.5** If you answered Q.4 in the affirmative, what bulk mail services should be included as part of the universal service? Please give reasons for your answer.

**Q.6** Should different considerations apply to international bulk mail services, where markets are already fully open to competition? Please give reasons for your answer.

**Q.7** Should the universal service include a lower cost service, providing proof of delivery only, without the secure handling necessary for transporting valuable goods?

**Q.8** What limit should be placed on the compensation payable for items lost or delayed in the insured service?

**Q.9** Do you agree that the universal service should include one single standard parcel offering to all destinations (as suggested by ComReg)? Please give reasons for your answer.

**Q.10** Do you agree that Redirection, Mailminder, Private boxes / bags and Certificates of posting, when provided for universal postal services, constitute part of the universal service? Please give reasons for your answer.

**Q.11** Are there any other services which you think should be characterised as part of the universal service? Are there any other issues which you think are relevant? Please give reasons for your answer.

**Q.12** How, in your opinion, will having clarity about the services to be provided as part of the universal service, impact on the provision of an affordable universal postal service to all and on the Government's core policy goal for the postal sector of a high quality service on a par with the highest quality standards in key comparator economies in the EU? Please give reasons for your answer.

**Q.13** How, in your judgment, will your proposed working definition of the universal service impact on the following issues;

- (a) your ability to get the services you require,
- (b) the price you pay for postage,
- (c) your choice of operator,
- (d) the quality of the postal service,
- (e) the general development of the postal sector.

Where possible, please quantify the overall financial effect on you / your company or organisation.

**Q.14** How, in your opinion, will your working definition of the universal service impact on the costs of providing the universal service?

## Appendix C – Defining the Universal Service in other Member States

### *Germany*

In Germany the universal service is defined in some detail in law and includes:-

- a letter post service (up to 2 kg) including next day standard; letters/postcards, registered, insured, cod and express delivery items;
- a parcel post service (up to 20 kg), including a registered parcel service and an insured parcel service;
- a newspaper and periodicals service; and
- a bulk direct mail service (defined in this instance as letters with identical content up to 50 grams with a minimum 50 items per mailing).

### *The Netherlands*

In the Netherlands where since the late 1970s a distinction has been drawn between private and business customers, the universal service specifically excludes bulk mail outside the reserved area and only applies to the following:-

- a single class overnight letter service (up to 2kg), including a registered service and an insured service; and
- a parcel service (up to 10kg domestic, 20kg international), including a registered service and an insured service.

### *Sweden*

In Sweden, the universal service obligation is not laid down by law, but is provided for in the licence granted to Posten AB. It includes:-

- a priority and a non-priority mail service for “single or a few” letters (up to 2 kg), including a registered service and an insured service;
- a parcel service for “single or a few” items (up to 20 kg), including a registered service and an insured service; and
- a bulk direct mail service.

### *The UK*

In the UK the NRA, Postcomm recently adopted a universal service definition based on an extensive public consultation process about the needs of postal users.

Postcomm defined five key areas of universal service. These are:-

- priority and non-priority mail services (for letters and packets up to 2kgs), including a registered service and an insured service;
- a provision for a basic bulk mail offering;
- a non-priority parcel service (up to 20kgs), including a registered service and an insured service;
- an international outbound service;
- a range of support services seen as necessary to the security and integrity of the mail e.g. re-direction and retention of mail.

### *Other*

In other countries such as France the universal service includes all services traditionally provided by state-controlled postal operators.