Commission for
Communications Regulation

Universal postal service accounting obligations

Response to Consultation and Direction

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1 Introduction

1. An Post, the designated universal postal service provider ("USP"), is currently subject to the 2006 Accounting Direction[1] as issued by the Commission for Communications Regulation ("ComReg").

2. The purpose of the accounting direction is to set out the USP's accounting obligations in respect of the universal postal service and to ensure transparency on the costing and profitability of the universal postal service, set out in the Regulatory Accounts. This provides ComReg with the information necessary for it to discharge its statutory functions under the *Communications Regulation (Postal Services) Act 2011* ("2011 Act"). The accounting obligations also enable ComReg to monitor the USP's compliance with various other obligations under the 2011 Act, including the tariff and terminal dues requirements.

3. As per section 31(6) of the 2011 Act, the USP's accounting obligations are in addition to, and not in substitution for, the provisions of the Companies Acts relating to the preparation of statutory accounts and their audit. The Regulatory Accounts[2] are thus an additional set of accounts to meet the information requirements of ComReg and are not substitutes for the statutory accounts which An Post must prepare under the Companies Acts. The Directors of An Post remain solely responsible for the preparation and audit of those statutory accounts.

4. The Regulatory Accounts are of critical importance to ComReg in the discharge of its functions and objectives in the postal sector. This is particularly true in light of the financial and liquidity challenges facing the USP, largely due to the significant decline in traditional mail volumes in recent years and An Post's concurrent deteriorating cash position and high cash outflow rate.

5. An Post is the sole designated provider of the universal postal service and, therefore, its financial and liquidity challenges go to the heart of the fulfilment of the universal postal service. ComReg considers that a critical element, in addressing these challenges, is having sufficiently detailed accounting information. Without such information, ComReg can have no proper understanding as to what is happening within the USP, in terms of how volumes, revenues and costs are being allocated to the various mail streams, both within and outside of the universal postal service.

[1] ComReg Document No. 06/63

[2] For information, the USP's Summary Regulatory Accounts (Regulatory Accounts with limited redactions for confidential information) can be found at http://www.anpostmedia.com/Media/An_Post_2015_Regulatory_Accounts%20_Summary%202015.pdf

6. Following a public consultation[3], ComReg has decided to give the direction herein to the USP pursuant to section 31 of the 2011 Act ("2017 Accounting Direction"). The 2017 Accounting Direction replaces the 2006 Accounting Direction, established under the older statutory framework.[4] For the most part, the existing requirements under the 2006 Accounting Direction will continue under the 2017 Accounting Direction. The new requirements are few in number, minimal in their effect, and proportionate having regard to their purpose.

[3] ComReg Document No. 15/135

[4] The European Communities (Postal Services) Regulations 2002 (S.I. 616/2002) and the European Communities (Postal Services) (Amendment) Regulations 2008 (S.I. 135/2008).

2 Executive Summary

7. Section 31 of the 2011 Act provides that ComReg may give a direction to the USP, requiring it to keep separate accounts for each of its postal services, to include distinguishing between those services which are part of the universal postal service and those which are not.

8. ComReg may give such a direction where it is satisfied that competition in the market for postal services is not fully effective. ComReg remains satisfied that the universal postal services specified in the *Communications Regulation (Universal Postal Service) Regulations 2012*[5] constitute a separate market and that there is no effective competition in that market.

9. The USP is currently subject to the 2006 Accounting Direction which issued under the older statutory framework which was replaced by the 2011 Act. ComReg stated in Consultation 15/135, and remains of the view, that it is appropriate to replace the 2006 Accounting Direction, given the passage of time and as a new statutory framework is now in place. In Consultation 15/135, ComReg sought the views of interested parties on its proposal to replace the 2006 Accounting Direction with a new direction, to issue under section 31 of the 2011 Act.

10. This Response to Consultation and Decision sets out the 2017 Accounting Direction which is very similar to the 2006 Accounting Direction as to its overall purpose and effect, though certain parts have been updated and refined as described herein.

11. An effective accounting direction is an essential component of the postal regulatory programme in order to ensure that robust and reliable cost accounting information is produced by the USP and provided to ComReg, enabling ComReg to engage in the degree of regulatory oversight required by law. If ComReg is not provided with sufficiently granular accounting information then it cannot fully and effectively meet its remit as the designated national regulatory authority for the purposes of the Postal Directive.[6] That would be to the ultimate detriment of Irish postal service users, who are entitled to a universal postal service which meets their reasonable needs, particularly as to its availability throughout the State, its affordability, and its quality.

[5] S.I. 280 of 2012

[6] Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 ("Postal Directive"), as amended by subsequent Directives in 2002 and 2008, which was transposed into Irish Law by the 2011 Act.

12. In making the 2017 Accounting Direction, ComReg has had full regard to its relevant statutory functions, objectives, and powers and has considered all relevant or associated material, including:

- The 2006 Accounting Direction;
- ComReg's accounting directions in the telecom and broadcasting sectors;
- Pre-consultation engagement with, and all submissions by[7], the USP;
- Recommendations by Frontier Economics (Document No. 17/06c) and PLCWW (Document No. 17/06d); and
- Responses received to Consultation 15/135[8].

2.1 The 2017 Accounting Direction

13. The 2017 Accounting Direction is set out in chapter 7. For the most part, it continues the existing requirements under the 2006 Accounting Direction. Where it refines or improves on the 2006 Accounting Direction, ComReg considers such refinements or improvements to be proportionate to their intended purposes and that they can be implemented by the USP with relative ease and at no, or at minimal, additional cost.

14. In summary, the 2017 Accounting Direction provides for the following:

(a) to maintain the following current requirements (contained in the 2006 Accounting Direction):

- that the USP must provide a set of Regulatory Accounts (confidential to ComReg) from which a summary set of accounts with redactions will be extracted for publication ("Summary Regulatory Accounts");
- in relation to volume and revenue recording;
- in respect of cost allocation;
- that detailed information on the USP's process to identify avoidable, variable and fixed costs be included in the USP's Accounting Manual;

[7] For information, non-confidential pre-consultation submissions by the USP are published as Document Nos. 15/135d, 15/135e, 15/135f.
[8] Non-confidential submissions are published as Document Nos. 16/10, 16/45, 17/06s.

- in respect of cost identification;
- in respect of inter-company and inter-segment charges;
- that the USP provide its Regulatory Accounts within 19 weeks of the end of the USP's financial year;
- that the USP provide cost detail for each price point for each universal postal service (noting that that is now a statutory requirement under section 28(1) of the 2011 Act);
- that a "present fairly" audit be conducted by a Regulatory Auditor, appointed by the USP and having a contractual duty of care to ComReg; and
- that the USP is not required to publish its Accounting Manual.

(b) to reduce the following current requirements (contained in the 2006 Accounting Direction):

- to no longer require that there must be a reconciliation between revenue-derived volumes and operational-counted volumes at the service level: this requirement is being reduced to a less detailed level, namely a comparison at format level - i.e. letter, large envelope, packet, and parcel. Furthermore, the 2017 Accounting Direction requires the USP to provide reconciliation (to, at most, 5% by format) and commentary only if the difference between the revenue-derived and operational-based mail volumes is greater than 5% by format; and
- to no longer require that the USP's Accounting Manual be approved by ComReg.

(c) to add the following new requirements (not contained in the 2006 Accounting Direction):

- to strengthen the current requirement that cost allocation drivers be reviewed, updated and verified and to require that details of all cost drivers, together with reasons for any changes to cost drivers, must be documented in the USP's Accounting Manual;
- to strengthen the current requirement that the USP's process to identify avoidable, variable and fixed costs must be documented in the USP's Accounting Manual, to include worked examples of each cost category;
- to strengthen the current requirements concerning inter-company and inter-segment charges, by requiring that the source of inter-segment revenue be reported in a matrix form in the Regulatory Accounts;

- to require the USP to report its Balance Sheet in confidence to ComReg within 4 weeks of the end of each quarter until its cash position reaches a sufficient level (minimum balance of €100m[9], excluding amounts held in trust);

- to require improved reporting by the USP on its:

    - capital expenditure; and

    - payroll expenditure;

- to require the USP to include sufficient detail on the accounting principles applied in, and the basis of preparation of, the Regulatory Accounts and the Summary Regulatory Accounts; and

- to require the USP to provide improved information in relation to its mail volumes, in particular:

    - to include in its Accounting Manual details as to how its operational-based mail volumes are calculated, including the process for validating machine counts (as machine counts account for the vast majority of operational volumes) and the degree of accuracy to which machines are tested (to increase confidence and to ensure accuracy in the machine counts which will be used as a check against the revenue-derived volumes);

    - to include in its Accounting Manual details of the process by which the USP physically counts flats, packets, and parcels at DSUs; and

    - that ComReg may, where it considers it appropriate (for example, where the difference between the reconciliation of revenue-derived and operational-based volumes at format level exceeds 5%, by format) appoint a competent body (for example, an expert on postal networks) to review the USP's revenue-derived and operational-based mail volume recording and reconciliation.

15. The 2017 Accounting Direction, following ComReg's consideration of responses to Consultation 15/135 and other evidence, adopts some changed positions from those proposed in Consultation 15/135. For ease of reference, these are summarised in the table below:

[9] Equivalent to just over one month's cash

	Preliminary view in 15/135	ComReg's Position for 2017 Accounting Direction
Reconciliation of revenue-derived volumes and operational-counted mail volumes	Reconcile by format (reduced from service level required by 2006 Direction) and detailed explanation of differences. Publish in Summary Regulatory Accounts.	Comparison by format. Where difference by format >5%, provide explanation & reconcile to 5% by format. No requirement to publish in Summary Regulatory Accounts – only provide in Regulatory Accounts (confidential to ComReg).
Reconciliation of operational volume counts	Quarterly reconciliation of Mail Centre ("MC") to Delivery Service Unit ("DSU") volumes, by format. Publish in Summary Regulatory Accounts.	No longer required.
Audit of reconciliation with operational volumes	Shall be audited by Regulatory Auditor.	No longer to be audited by Regulatory Auditor. However, where consider appropriate (e.g. greater than 5% difference by format), ComReg reserves right to appoint expert to review.
Reporting the process for measuring operational volumes and their accuracy	**Machine counts**: Details of how operational volumes are to be calculated, process for validating machine counts and the degree of accuracy tested to be included in the Accounting Manual. **Manual counts:** Process for review of average container fills and review quarterly, & include results of reviews in the Accounting Manual.	Maintain requirement to provide detail on **machine counts** but remove requirement regarding average container fills. Instead, the USP to provide detail in Accounting Manual of how it conducts daily **manual counts** of every flat/packet/parcel at DSUs.
Costs for each universal postal service price	Maintains requirement from 2006 Accounting Direction to provide cost for each price point, detailed explanation of how costs are allocated to services with different tariffs & explain in the Accounting Manual where weight factors do not align with the various tariff price points.	No change as statutory requirement. As noted in Consultation 15/135, the USP can either: - improve capability to split its costs by weight step or, - reduce the number of price bands by weight step (as the USP already contends that it is format rather than weight that drives cost).
Inter-segment / inter-company transactions	Matrix of inter-segment / inter-company transactions – to show flow of charges between segments - to be published in Regulatory	Matrix still required but no longer required to be published in the Summary Regulatory Accounts.

	Preliminary view in 15/135	ComReg's Position for 2017 Accounting Direction
	Accounts (Confidential and Summary).	
Capital Expenditure	More detailed commentary on capex. To be published in Summary Regulatory Accounts.	More detailed commentary on capex remains but no longer required to be published in the Summary Regulatory Accounts.
Payroll costs	Average FTE and payroll costs for each business segment (mails, retail, subs/other) & for Mails segment (split into USO & non-USO) to be provided in Regulatory Accounts. To also be published in Summary Regulatory Accounts.	More detail on payroll and FTE remains but no longer required to be published in the Summary Regulatory Accounts.
Scope of Regulatory Auditor	Regulatory Accounts and Accounting Manual, reconciliation of operating volumes, etc (proposed criteria listed in Consultation 15/135).	Maintaining status quo as per the 2006 Accounting Direction, limiting to existing audit scope set out in existing letter of engagement (tripartite agreement) between Regulatory Auditor, the USP, and ComReg.
Appointment of Regulatory Auditor	Appointed by ComReg with contractual "Duty of Care" to the USP.	Maintain status quo as per the 2006 Accounting Direction; appointed by the USP with contractual "Duty of Care" to ComReg. Adding, as per existing letter of engagement, ComReg can appoint for "Agreed Upon Procedures" and separate expert engagement where required e.g. review of Accounting Manual. ComReg also reserves the right to appoint another competent body, other than the Regulatory Auditor, to provide a separate expert opinion.
Regulatory Accounts and Summary Regulatory Accounts	As per existing with some additional items where required.	No changes other than above. Maintaining the status quo.

16. A Regulatory Accounts schedule has been developed in order to minimise any ambiguity as to the content and format of the Regulatory Accounts and the detail of the information to be included therein. The schedule includes required areas of commentary. The Regulatory Accounts schedule is set out in Document No. 17/06a and the Summary Regulatory Accounts schedule (to be published by the USP) is set out in Document No. 17/06b.

17. The 2017 Accounting Direction will apply to the USP's Regulatory Accounts for the year ending 31 December 2017 and thereafter.

3 Background

18. The Regulatory Accounts are of critical importance to ComReg in the discharge of its statutory functions and objectives in the postal sector. This is particularly true in light of the financial and liquidity challenges facing An Post, the sole USP, largely due to the significant decline in traditional mail volumes in recent years and An Post's concurrent deteriorating cash position and high cash outflow rate.

19. An Post is the sole designated provider of the universal postal service and therefore its financial and liquidity challenges go to the heart of the universal postal service. ComReg considers that a critical element, in addressing these challenges, is having sufficiently detailed accounting information. Without such information, ComReg can have no proper understanding as to what is happening within the USP, in terms of how volumes, revenues and costs are being allocated to the various mail streams, both within and outside of the universal postal service.

20. Since the Consultation[10], ComReg and its expert advisers have further engaged with the USP, throughout 2016. In early 2016, ComReg prepared a detailed clarification request and working document on the USP's response to consultation, for response by the USP. ComReg also worked through the other three responses to consultation, from Chartered Accountants Ireland (CAI), KPMG and PwC. ComReg and Frontier Economics met with representatives of CAI, KPMG and PwC on 26 April 2016 to further discuss their responses. ComReg also engaged an independent expert, PLCWW, on postal volumes to conduct a detailed review of the USP's volume recording and reporting system. Frontier Economics and PLCWW met with the USP in late 2016 to conduct its review work, resulting in reports[11] published alongside this Response to Consultation and Decision.

Detail	Dates
ComReg published the Accounting Direction Consultation	21 December 2015
Responses to Consultation received from An Post, Chartered Accountants Ireland (CAI), KPMG and PwC	Published 12 February 2016; ComReg Document 16/10
ComReg seeks further clarification from An Post in letter and staff working document in relation to the USP's response to consultation	15 March 2016

[10] ComReg Document 15/135 "Consultation on universal postal service accounting obligations" dated 21 December 2015
[11] ComReg Document No. 17/06c and ComReg Document No. 17/06d

Response and additional information received from An Post in response to information request of 15 March 2016	26 April 2016 – published in ComReg Document No. 16/45 dated 31 May 2016
ComReg and Frontier Economics met with Chartered Accountants Ireland (CAI), as well as representatives from PwC and KPMG	26 April 2016
Frontier Economics and PLCWW met with An Post team in Cavan and GPO to discuss its volume recording systems used at DSUs and MCs	17 – 18 August 2016
Further meetings in relation to postal volume recording between Frontier Economics and An Post, and also ComReg, Frontier Economics, PLCWW and An Post	4 October 2016 and 1 December 2016
Expert report from PLCWW on operational volume reconciliation and other matters provided to ComReg	Published alongside this Response to Consultation – Document 17/06d

3.1 Legal and Regulatory

21. The USP is currently subject to the 2006 Accounting Direction which issued under the older statutory framework, since replaced by the 2011 Act which transposes the "Postal Directive" into Irish law.[12] Any reference in this document to a provision of the 2011 Act should be inferred as also referencing the corresponding provision of the Postal Directive, unless otherwise stated. In addition, all references in this document to "section(s)" are references to "section(s) of the 2011 Act", unless otherwise stated. The 2017 Accounting Direction applies to any "universal postal service provider" ("USP") designated as such under section 17 of the 2011 Act. Currently there is only one USP, An Post, and references to An Post in this Response to Consultation and Decision should be read as being references to An Post in its capacity as the sole designated USP, unless the context indicates otherwise.

[12] Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 ("Postal Directive"), as amended by subsequent Directives in 2002 and 2008, which was transposed into Irish Law by the 2011 Act.

3.1.1 2011 Act

22. ComReg's functions in relation to the postal sector are:

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

(b) "*to monitor and ensure compliance by postal service providers with the [statutory] obligations imposed on them* …"

20. ComReg objectives in the exercise of its above functions are:[13]

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

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

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

21. Section 31 provides that ComReg, subject to any or all of the conditions as specified therein being met, may give a direction to the USP requiring it to keep, in its internal accounting system, separate accounts for each service it provides. The provision of robust accounting data by the USP is essential to ensure that both ComReg and the USP can meet their respective obligations under the 2011 Act, including the following:

- Complying with, and ensuring compliance with, section 31 - universal postal service accounting obligations.[14]
- The requirements under section 28 that the tariffs for universal postal services shall be affordable, cost-oriented, uniform, transparent, and non-discriminatory.

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[13] Sections 10 & 12 of the Communications Regulation Act 2002, as respectively amended by sections 9 & 10 of the Communications Regulation (Postal Services) Act 2011

[14] Article 14 of the Postal Directive requires that Member States shall take the measures necessary to ensure that the accounting of the universal service providers is conducted in accordance with the provisions of Article 14 of the Postal Directive. Article 14 of the Postal Directive goes on to set out the requirements which universal service providers must meet in relation to the keeping of accounts. Article 14 of the Postal Directive also sets out the criteria which a universal service provider must meet in relation to the allocation of costs.

- Terminal dues agreements under section 29 - a USP must ensure that its agreements on terminal dues for intra-Community cross-border mail are fixed in relation to the costs of processing and delivering incoming cross-border mail, that the levels of remuneration relate to the quality of service achieved, and that terminal dues are transparent and non-discriminatory.

- Price regulation under section 30 – ComReg requires adequate information to set a price cap and to monitor compliance with, or to review, a price cap. Though there is currently a Bill before the Oireachtas which, if enacted, would repeal section 30 of the 2011 Act and the current price cap decision,[15] this amending legislation would not reduce ComReg's accounting information requirements and therefore would not impact on the 2017 Accounting Direction. Indeed, the Bill proposes that ComReg would prepare a report for the Minister on the consequences of the repeal of the price cap and such a report would be critically dependent on ComReg having a full and robust set of Regulatory Accounts.

- Access to the USP's network under section 33 - a postal service provider has the right to enter into negotiations with a USP with a view to concluding an agreement to access the USP's postal network and such a provider may serve notice on ComReg upon the commencement of any such negotiations. In particular, section 33(7) provides that ComReg, in making a decision in relation to an access dispute, may determine the price of access.

- Assessing any application for funding by the USP under section 35 - a USP which seeks funding for the net costs of providing a universal postal service may submit a request in writing to ComReg, to include such supporting information as ComReg may reasonably require. ComReg must then determine if the universal postal service represents a net cost to, and an unfair financial burden on, the USP. In making such a determination, ComReg must take into account (i) the methodology used by the USP with respect to the information given to ComReg and (ii) the extent to which the USP is complying with its statutory obligations relating to the provision of a universal postal service in a cost-efficient manner.

- As noted above, ComReg has the core statutory function "*to ensure the provision of a universal postal service that meets the reasonable needs of postal service users*". An Post is the sole provider of the universal postal service and therefore the significant financial and liquidity challenges which An Post faces (including the decline in traditional mail volumes and its deteriorating cash position and high cash outflow) go to the heart of its ability

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15 http://www.oireachtas.ie/viewdoc.asp?DocID=34292&&CatID=59%20(Uimhir%20118%20de%202016)

to provide the universal postal service. A critical element in addressing these challenges is that ComReg be provided with a sufficiently detailed set of Regulatory Accounts.

Section 31 – ComReg's power to issue an Accounting Direction

22. ComReg may give a direction under section 31(1) of the 2011 Act if any or all of the conditions specified in section 31(2) are met. These conditions include, at section 31(2)(c), that ComReg is satisfied that competition in the market for postal services is not fully effective. ComReg formed an opinion to such effect in Decision D13/13, dated 6 September 2013:

   "*The Commission for Communications Regulation, pursuant to section 30(2) of the Communications Regulation (Postal Services) Act 2011 ("2011 Act"), is of the opinion that the universal postal services specified in the Communications Regulation (Universal Postal Service) Regulations, 2012 (S.I. 280 of 2012) constitute a separate market and that there is no effective competition in that market…*

   This Opinion shall remain in force until further notice."

23. ComReg remains of the opinion that the universal postal services specified in S.I. 280 of 2012 constitute a separate market in which there is no effective competition. Further detail on ComReg's position in this regard can be found at chapter 6.

24. If the above situation should change – i.e. if ComReg should form the opinion that certain universal postal services do face effective competition - then ComReg would propose revising its specification of the universal postal service by removing such services from the specification. In summary, ComReg would make such a proposal, if for example, a postal service is freely available in an open, competitive market thereby removing any requirement for it to be a universal postal service, thereby reducing further the degree of regulation on An Post as the universal postal service provider.

25. Section 31(1) provides that where all or any of the conditions specified in section 31(2) are met, ComReg may give a direction providing for the keeping by a USP, in its internal accounting system, of separate accounts for each service it provides which is:

   - part of the universal postal service, and
   - not part of the universal postal service.

26. Section 31(3) states that such a direction shall provide for:

   - rules relating to the identification of costs;

- rules relating to the allocation of costs;
- rules relating to the use of internal cost accounting systems;
- the verification by a statutory auditor of compliance with internal cost accounting systems;
- the publication of such accounts and other information as ComReg considers appropriate (subject to the protection of any information which ComReg considers confidential);
- the publication of a statement of compliance with section 31 and ComReg's Direction; and
- such other matters relating to the requirements of section 31 and ComReg's Direction as ComReg considers appropriate.

27. Section 31(4) requires ComReg to keep available, to an adequate level of detail, information on the cost accounting systems applied by a USP, and to submit such information to the European Commission on request.

28. Section 31(5) requires that the USP shall make available in confidence to the European Commission, on request, detailed accounting information arising from its cost accounting systems.

29. In addition to the provisions in section 31 as outlined above, ComReg would note that an appropriately dis-aggregated set of Regulatory Accounts is also an essential input to ensuring compliance with sections 28, 29, 30, 33 and 35 of the 2011 Act.

Section 28 – tariff requirements and Section 30 – price cap

30. Article 12 of the Postal Directive requires Member States to take steps to ensure that tariffs, for each service forming part of the universal postal service, comply with the "tariff principles", which include the following:

(i). Prices shall be affordable and must be such that all users, independent of geographical location …have access to the services provided …

(ii). Prices shall be cost-oriented and give incentives for an efficient universal service …

(iii). Tariffs shall be transparent and non-discriminatory.

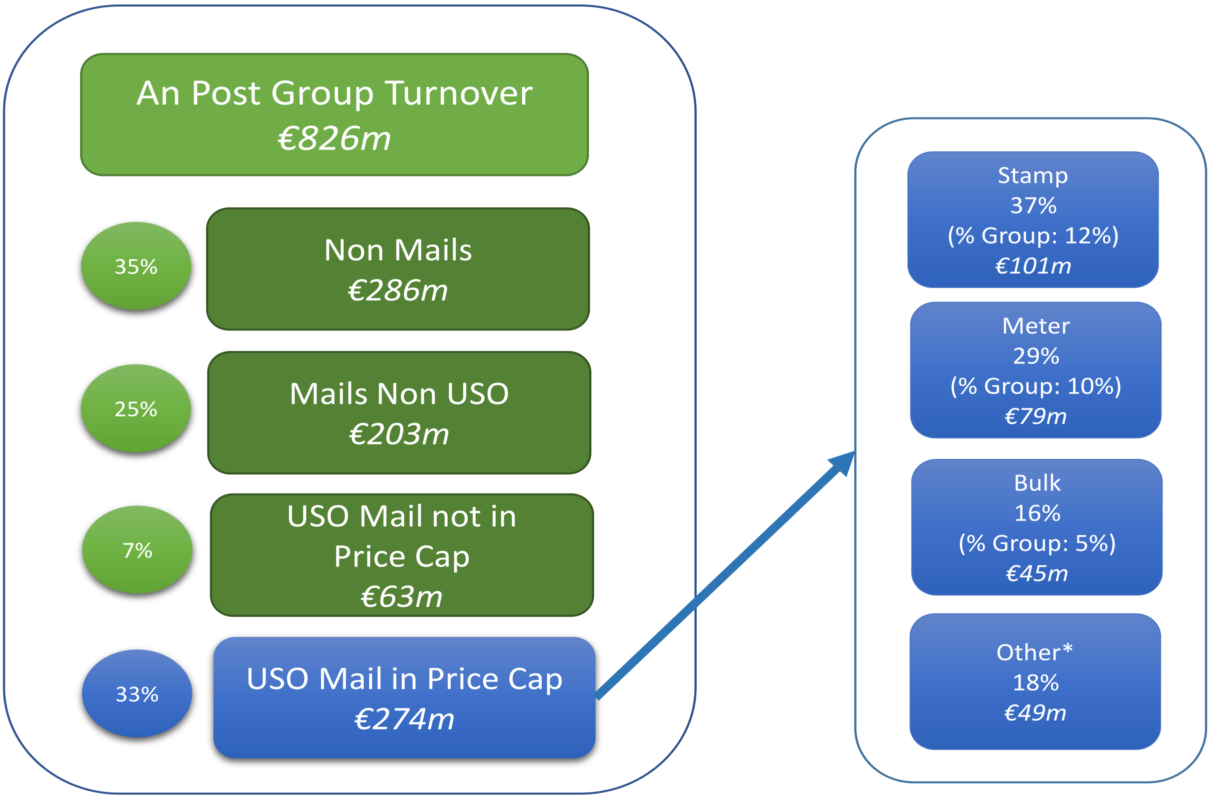
31. The above tariff principles were transposed into Irish law by sections 28 and 30 of the 2011 Act (they are described therein as the "tariff requirements"). The USP's prices for its universal postal services must comply with the tariff requirements, in that such prices must be affordable, cost-oriented, uniform, transparent, and non-discriminatory. To ensure that this is done, the USP must possess robust cost data on each of its universal postal services. ComReg also requires access to the same data, in order to monitor compliance.

32. A 5-year price cap for certain universal postal services came into effect in June 2014, under section 30 of the 2011 Act. For the purposes of monitoring compliance with the price cap, and/or reviewing and possibly amending the price cap, the USP must be able to accurately determine its costs in providing the universal postal services (and only those services) which fall within the price cap. Mail volumes were also a key input in setting the price cap and in ComReg's current review[16] of the price cap and so it is essential that the USP can accurately determine its mail volumes. Accurate costs and volume data, to the required level of granularity, are thus essential to ensure that the universal postal service remains sustainable, affordable, and available to all postal service users. ComReg is aware that there is currently a Bill before the Oireachtas which, if enacted, would amend postal service regulation by repealing section 30 and the current price cap decision made under section 30 and in effect since June 2014.[17] However, ComReg considers that this amending legislation and the cessation of any form of *ex ante* price regulation would not reduce ComReg's accounting information requirements and therefore would not impact on the 2017 Accounting Direction. Indeed, the Bill proposes that ComReg would prepare a report for the Minister on the consequences of the repeal of the price cap and such a report would be critically dependent on ComReg having a full and robust set of Regulatory Accounts.

33. As set out in Figure 1, the price cap only accounts for about 33% of the USP's revenues. This means that the USP is completely free to adjust any of its prices for its non-universal postal services and/or for its other services, which altogether account for about 67% of its total revenues. Also, it is worth noting that the posting of letters accounts for most of universal postal service volumes, for example, domestically, 9 of 10 items sent by universal postal services are letters.

[16] ComReg Document No. 16/81 'An Post's performance under the price cap' dated 16 September 2016
[17] Communications Regulation (Postal Services) (Amendment) Bill 2016
http://www.oireachtas.ie/viewdoc.asp?DocID=34292&&CatID=59%20(Uimhir%20118%20de%202016)

Figure 1. The USP's revenues in 2015



Source: ComReg analysis of the USP's regulatory accounts

Section 29 – terminal dues

34. Under section 29 of the 2011 Act, the USP must ensure that its agreements on terminal dues for intra-community cross-border mail meet the following requirements:

- terminal dues shall be fixed in relation to the costs of processing and delivering incoming cross-border mail;
- levels of remuneration shall be related to the quality of service achieved; and
- terminal dues shall be transparent and non-discriminatory.

35. In order to meet the above cost and non-discrimination requirements, the USP must have robust data on its costs in processing and delivering incoming intra-community cross-border mail, and ComReg requires such data in order to monitor the USP's compliance with section 29.

Section 33 – access to the USP's postal network

36. Section 33 concerns access to the USP's postal network. A postal service provider may enter into negotiations with the USP with a view to concluding an agreement to access the USP's postal network. Such a provider may serve notice on ComReg when such negotiations commence and where an agreement has not been reached within a period specified by ComReg, ComReg shall then take such steps as are necessary to resolve the dispute. Under section 33(7), ComReg may impose or amend conditions relating to access to a USP's network which may include conditions as to:

- the price of access,
- terms and conditions relating to matters other than price, and
- rules for the separation of accounts relating to access to the postal network.

37. In order to meet its potential obligations under section 33, ComReg would require robust accounting data on the costs (and particularly the avoided costs) which the USP would incur in providing access to its postal network.

Section 35 – net cost of provision of universal postal service

38. Section 35 concerns any application by the USP for funding of the net costs (if any) of providing the universal postal services. If a USP should seek funding for the net costs of providing a universal postal service then it may submit a request in writing to ComReg, to include such supporting information as ComReg may reasonably require. ComReg must then determine if the universal postal service represents a net cost to, and an unfair financial burden on, the USP. In making such a determination ComReg must take into account:

(i). the methodology used by the USP with respect to the information given to ComReg;

(ii). the extent to which the USP is, in ComReg's opinion, complying with its statutory obligations to provide the universal postal service in a cost-efficient manner; and

(iii). any other information which ComReg considers relevant.

In order to properly assess any such application for funding by the USP and to make a decision in relation to same, ComReg would require robust accounting data on the costs of providing the universal postal services.[18]

[18] ComReg has set out the requirements of any net cost application by the USP in D09/13 dated 25 July 2013.

3.1.2 Postal Directive

39. Article 14 of the Postal Directive concerns accounting by the USP and requires that:

- there are separate accounts within the internal accounting system in order to clearly distinguish between each of the services which are part of the universal service and those which are not;
- this accounting separation shall be used as an input to calculate the net cost of the universal postal service; and
- such internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.

40. With respect to the cost allocation process, Article 14 of the Postal Directive requires that:

- costs which can be directly assigned to a particular service or services shall be so assigned; and
- common costs (i.e. costs which cannot be directly assigned to a particular service or services) shall be allocated as follows:
    - whenever possible, common costs shall be allocated on the basis of direct analysis of the origin of the costs themselves;
    - when direct analysis is not possible, common cost categories shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct assignment or allocation is possible, the indirect linkage shall be based on comparable cost structures;
    - when neither direct nor indirect measures of cost allocation can be found, the cost category shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and, on the other hand, to the other services; and
    - common costs, which are necessary for the provision of both universal postal services and non-universal postal services, shall be allocated appropriately; the same cost drivers[19] must be applied to both universal postal services and non-universal postal services.

[19] Cost driver is an event or factor that has a systematic relationship to a particular type of cost and which causes that cost to be incurred

3.2 The importance of the Regulatory Accounts

41. The Regulatory Accounts are derived from the USP's cost accounting system. A company's cost accounting system differs from its financial reporting system in that the former provides a greater disaggregation of information, such as costs and revenues by service/product or business unit. As such, cost accounting systems are typically used to analyse and aid decision making. The data produced by cost accounting systems is also fundamental to proper regulatory oversight, such as ensuring that the pricing of universal services complies with the tariff requirements.

42. Fundamental to any cost accounting system is cost allocation. This is particularly the case for a sector such as post in which there is a large portion of common costs – i.e. costs that cannot be directly assigned to a particular service. For example, cost allocation is critical to determining prices for universal postal services, as such prices must be orientated towards costs. Given that universal postal services are not provided in a competitive market, there may be an incentive for a USP to use revenues from its universal postal services to cross subsidise its non-universal postal services, by allocating excess costs to universal postal services. That could undermine the affordability of universal postal services and/or thwart competition in non-universal postal services. Either would be outcome contrary to ComReg's objectives to ensure the availability of an affordable universal postal service for all and to facilitate the development of competition in the postal sector.

43. Therefore, any set of Regulatory Accounts must be based on cost allocation rules which are clear, transparent and objectively applied, in order to produce robust information which can be relied upon in making evidence-based regulatory decisions.

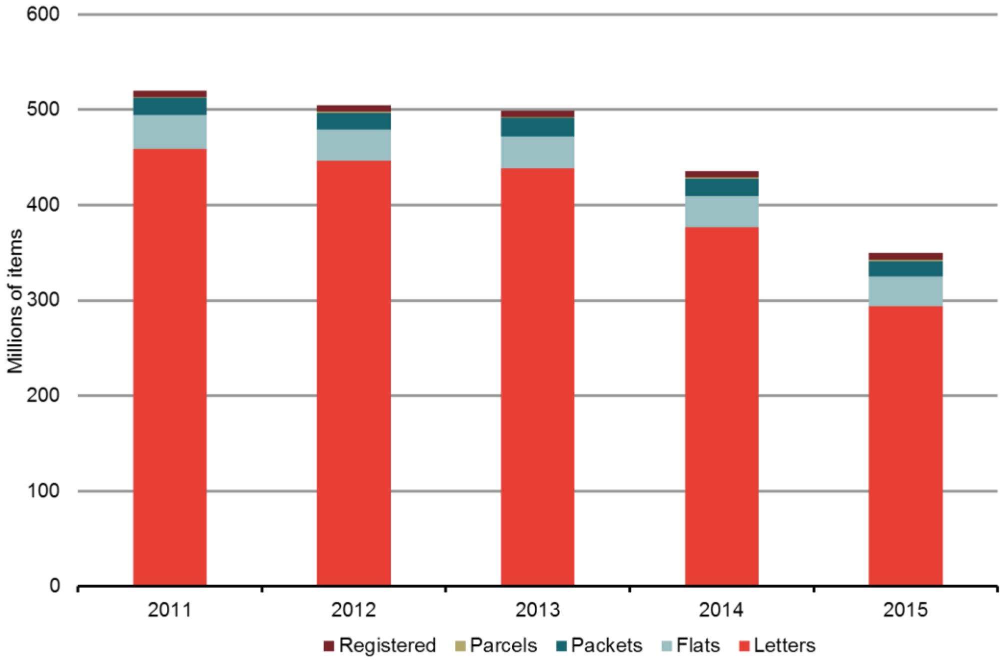
Concerns over the sustainability of the universal postal service

44. Globally, the postal sector has undergone substantial change in recent years and Ireland has not been immune from these changes. Mail volumes, especially letters, have decreased significantly. This has largely been driven by e-substitution which has impacted on traditional mail volumes. Large mailers, in particular, have sought to reduce spending and find cheaper alternatives to reaching customers, such as electronic billing and invoicing[20]. But as against the decrease in letter mail volumes, growth in online shopping has led to a substantial increase in the volumes of packets and parcels. However, most packets and parcels originate with B2C large mailers who use commercially negotiated postal services that are not usually part of the universal service. Packets and parcels which are within the universal postal service tend to be single piece C2B or C2C and these are typically presented for delivery at the USP's post office counters. There is currently limited competition for these mailings.

45. As a consequence of the above trends, the USP's total mail volumes within the universal postal service decreased by approximately one third between 2011 and 2015 (Figure 2). This has impacted on the USP's revenues from the universal postal service which fell by 9% between 2011 and 2015 (Figure 3). In addition, there has not been any significant reduction in the costs of providing the universal postal service, by which to offset the reduced revenues resulting from the decreased mail volumes.

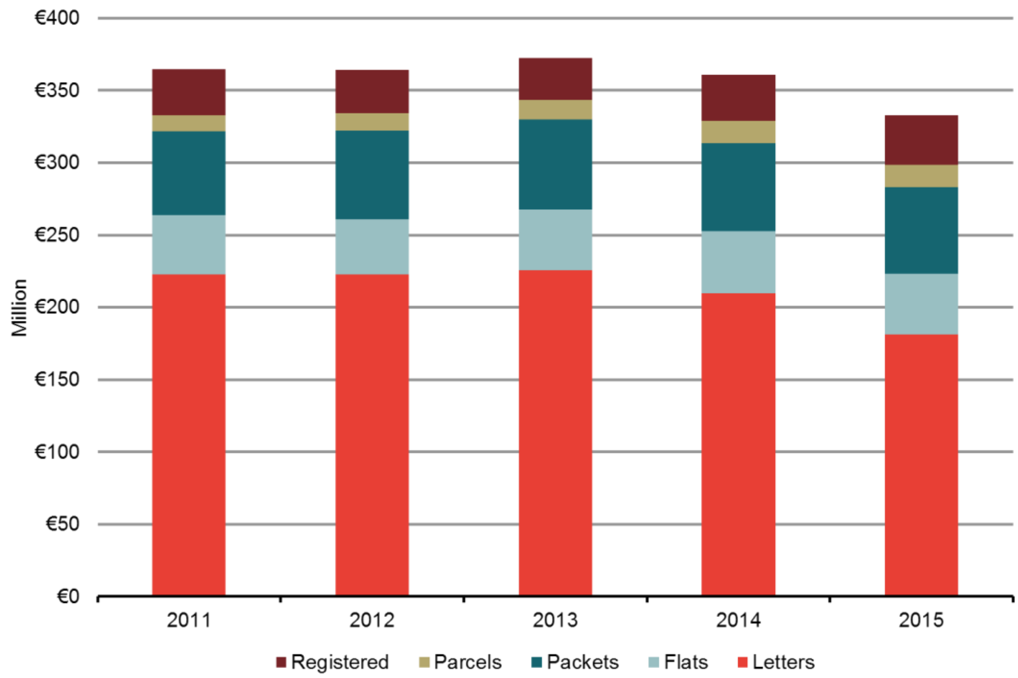
[20] See report by Frontier Economics on postal users' needs dated 18 November 2016 (published at ComReg Document No. 16/107)

Figure 2. The USP's universal postal service mail volumes by format



Source: Frontier Economics' analysis of the USP's regulatory accounts

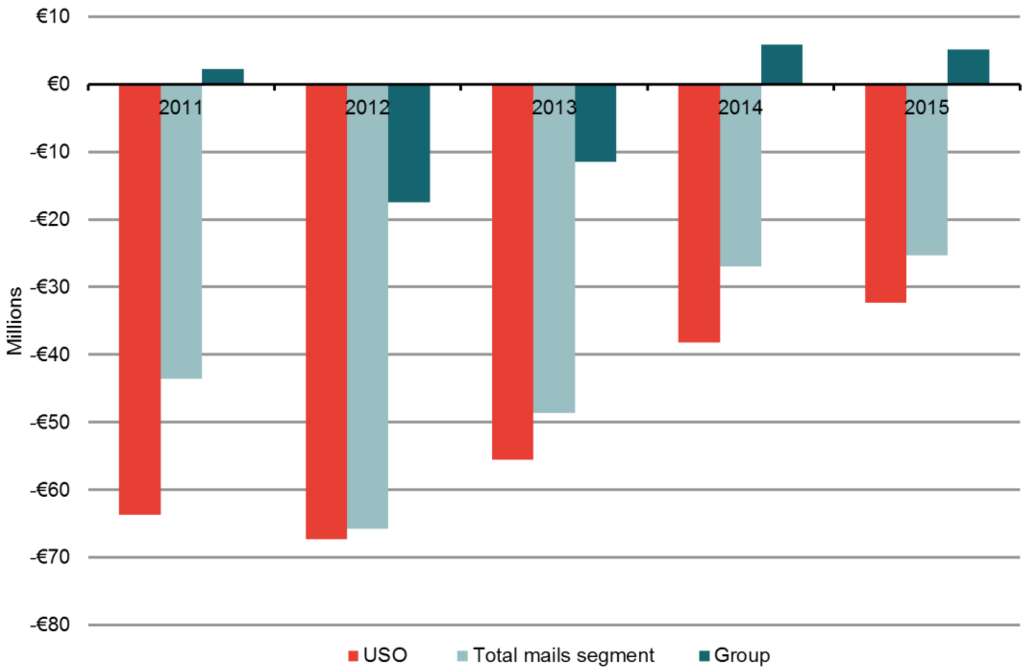
Figure 3. The USP's universal postal service turnover by format



Source: Frontier Economics' analysis of the USP's regulatory accounts

46. The USP's audited Regulatory Accounts show that it has been incurring significant financial losses in providing the universal postal service.[21] Total losses on the universal postal service were €64 million in 2011 and €32 million in 2015 (see Figure 4). The more recent reduction in the size of the annual loss appears to be the result of price increases made pursuant to the current price cap for certain domestic and international outbound mail - for example, stamped and metered letters. However, the USP is still incurring significant losses on its universal postal services. This is partly because its international inbound segment is running at a loss (the USP's key terminal dues agreement does not cover its cost[22]) and also due to the USP's performance under the price cap not being as expected.[23]

Figure 4. USO, total mails segment and group's operating profit/loss



Source: Frontier Economics' analysis of the USP's regulatory accounts

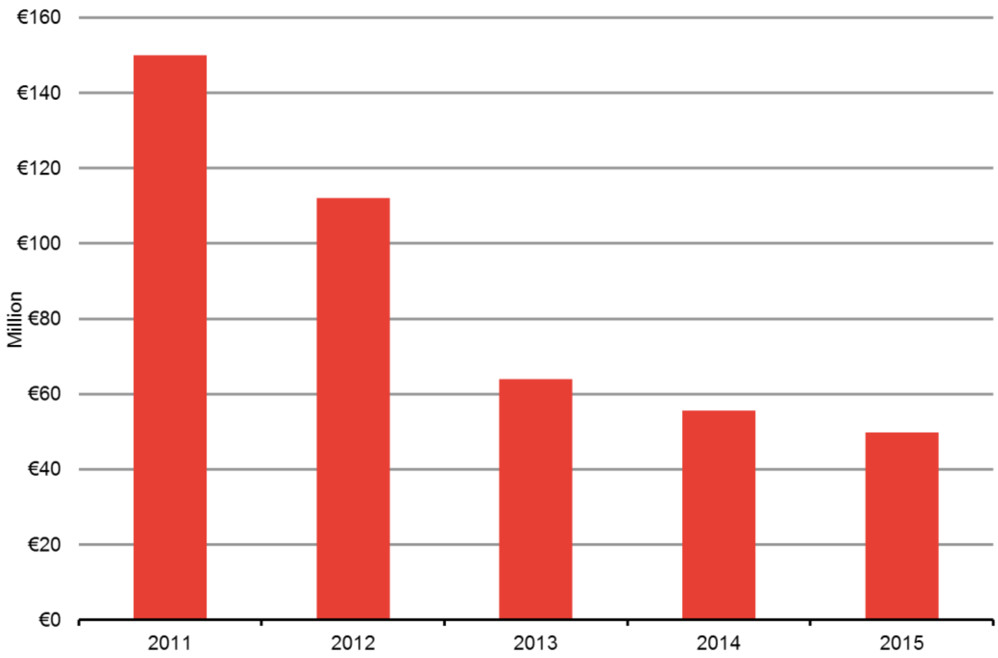
[21] For the avoidance of doubt, this does not equate to any "net cost" associated with the provision of the universal postal service which will be calculated in accordance with the methodology set out in D09/13 (13/69) dated 23 July 2013

[22] See ComReg Document No. 16/53 dated 26 July 2016

[23] See ComReg Document No. 16/81 dated 16 September 2016

47. The USP's letter mail volumes continue to decline and the consequential decline in revenues, coupled with the failure to adjust related costs, means, among other things[24], that there has been a significant decrease in its cash balances at year end. The liquidity crisis that An Post faces has been steadily developing over several years. An Post's group cash position has fallen from approximately €350 million in 2008 to less than €50 million in 2015, excluding monies held in trust[25]. This significant downward trend means that regulatory monitoring at this time is particularly important, given that a lack of liquidity could jeopardise the USP's ability to provide its universal service obligations. Since 2013, ComReg has engaged experts to review the financial situation of An Post and has informed An Post's shareholders and stakeholders of these findings through reports and in our publications[26].

Figure 5. An Post group cash reserves (in hand and at bank – excluding amounts held in trust)



Source: Frontier Economics' analysis of the USP's Financial Statements 2011 -15

[24] Expenditure on capital (e.g. mail sorting machines) and voluntary severance / voluntary early retirement.
[25] See note 14 of An Post's audited financial statements. The majority of amounts held in trust relates to funds held on behalf of the National Treasury Management Agency (NTMA).
[26] ComReg noted these concerns publicly in Document Nos. 16/81, 16/53, 15/135, 14/59, 13/21, 12/138.

48. Given the above, the Accounting Direction is a key component of the current postal regulatory programme. If complied with, it should ensure that robust Regulatory Accounts are produced by the USP, which in turn should ComReg enable to engage in the degree of regulatory oversight required by law with the ultimate objective of ensuring the continued availability of an affordable universal postal service of sufficient quality that meets the reasonable needs of all postal service users in the State.

4 Universal postal service accounting obligations

49. ComReg's published consultation procedures[27] note that a public consultation allows ComReg to consider the views of interested parties prior to making a decision on any matter, while also noting that the consultation process is not equivalent to a voting exercise and the final decision on any matter lies solely with ComReg.

50. Four interested parties responded to Consultation 15/135:[28]

- An Post ("USP")
- Chartered Accountants Ireland ("CAI")
- KPMG
- PricewaterhouseCoopers ("PwC")

51. ComReg has now considered all four responses, including the USP's clarifications to its original response dated 26 April 2016[29] and 23 June 2016[30] (made on foot of a staff working document from ComReg). ComReg also held a joint meeting with CAI, KPMG, and PwC on 26 April 2016, to discuss CAI's response.

52. Consultation 15/135 asked interested parties:

Q. 1 Do you agree or disagree with ComReg's preliminary views on updating the Accounting Direction? Please explain your response and provide any supporting evidence.

Q. 2 Do you agree or disagree with ComReg's preliminary views on the format of the Regulatory Accounts as set out in ComReg 15/135b? Do you agree or disagree with ComReg's preliminary views on what in the Regulatory Accounts is made public as set out above and in the Summary Regulatory Accounts set out in ComReg 15/135c? Please explain your response and provide any supporting evidence.

53. Consultation 15/135 sought the views of interested parties on the issue of updating the 2006 Accounting Direction, under the following headings:

(1) Measuring mail volumes and revenues

[27] ComReg Document 11/34 "Information Notice on ComReg Consultation Procedures" dated 6 May 2011
[28] Published at ComReg Document 16/10 dated 12 February 2016
[29] ComReg Document 16/45 "Submission to Consultation on universal postal service accounting obligations" dated 31 May 2016
[30] ComReg Document No. 17/06s

(2) Cost identification and allocation

(3) Regulatory reporting

(4) Compliance requirements

(5) Timetable to comply with Direction

(6) Format of the Regulatory Accounts.

54. This chapter is structured using the same headings as above. Each section begins with a summary of ComReg's preliminary views on the particular issue as expressed in Consultation 15/135, followed by a summary of the respondents' main views, and concluding with a setting out of ComReg's final position.

4.1 Accounting Direction rules for measuring mail volumes and revenues

55. As noted in Consultation 15/135, the USP has different methods for measuring its mail volumes and revenues, depending on the particular service. ComReg, in Consultation 15/135, set out its preliminary view that the 2006 Accounting Direction requirements on measuring mail volumes and revenues remain appropriate.

56. ComReg thus proposed that no change be made and that the current requirement (that "the Regulatory Accounts shall contain volume information that shows mail volume, by service, recorded from revenue data recorded at the point of sale") be carried over.

Views of Respondents

57. The USP agrees that the current methods of recording volumes and revenues are appropriate and do not need modification.

ComReg's Position

58. Pursuant to section 31(3)(g) of the 2011 Act, ComReg's position is that:

- the Regulatory Accounts shall contain volume information that shows mail volume, by service, recorded from revenue data recorded at the point of sale.

4.1.1 Reconciliation of revenue and operational mail volumes

59. The 2006 Accounting Direction requires that revenue-derived and operational-based volumes be reconciled at the service level (e.g. stamped letter, meter letter, stamped packet etc.). In Consultation 15/135, ComReg proposed making this requirement less onerous by requiring that revenue-derived and operational-based volumes be reconciled at the format level (e.g. letters, large envelope/flat, packets, parcels). In making this proposal, ComReg had regard to international best practice[31] and to recommendations by Frontier Economics.

Views of Respondents

60. The USP states that it currently fulfils this requirement of the 2006 Accounting Direction by providing a mail volume comparison by format, and not by service. This is accompanied by qualitative explanations of any differences in comparable mail volumes, based on estimation methods.

61. The USP expresses concerns regarding ComReg's expectations that the USP should submit a detailed reconciliation of comparable mail volumes, which, according to the USP is not possible in the "accounting" sense. The USP submits that differences between its operational-based volumes and revenue-derived volumes (top-down estimates) are largely due to the different factors which characterise the two methods and, consequently, that it is not possible to reconcile the respective mail volume figures on a 'unit by unit' basis. The USP submits that this means that audits of its volume mail reconciliations are not possible, particularly in the context of the "presents fairly" audit framework. The USP states that "*the deviation between the two estimates cannot be analysed as it is mostly due to systematic differences in estimation methodologies*."

62. The USP further submits that the existing requirements relating to mail volumes in the 2006 Accounting Direction need to be clarified. The USP refers to section 3.1(f) of the 2006 Accounting Direction which states that a supplementary schedule should be provided that reconciles revenue-derived and operational-based volumes, and the USP compares this provision to section 4.3.2(c) of the same document, which states that these volumes "shall be compared".

63. The USP further submits:

- that the supplementary schedule, which the USP includes in its current Regulatory Accounts, meets the existing requirements and that ComReg has not given justification for any change to this;

[31] See CERP (2009) Recommendation on Best Practices for Cost Accounting Rules III and ERGP (2013) Report of specific cost allocation rules

- that the difference between comparable operational-based and revenue-derived mail volumes is less than 5% and that this level of difference is acceptable; and

- that ComReg should provide more information as to the level of difference which it considers to be acceptable.

64. The USP states that it uses both operational-based and revenue-derived volumes for internal management of its business and that it believes this to be the case across the postal industry. The USP states that it uses its revenue-derived volumes to manage sales performance and its operational-based volumes to manage operational performance. The USP states that its operational-based volumes are used "… to provide a comparison and cross check for the revenue based volumes …" In this regard, the USP submits:

- that it is not clear why ComReg is now seeking details of all volume data which the USP uses to manage its business;

- that ComReg has not sufficiently explained the issue which it seeks to resolve by requiring a "reconciliation" of the different mail volumes;

- that there is concern as to the level of confidentiality of the "reconciliation" or comparison (the USP considers that this information should not be included in the public version of the Regulatory Accounts, the Summary Regulatory Accounts);

- that a reconciliation conducted in an "accounting" sense (which according to the USP is not feasible) would need to contain a breakdown of mail volumes by service;

- that publishing information on volumes by service could damage it commercially because of the high competitive pressure which it faces in some segments of its mail business;

- that requiring a volume reconciliation does not appear to be common practice amongst other European operators;

- that having to reconcile comparable mail volumes at the *service* level would require significant additional operational and administration processes in order to capture data, and that this would include additional operational streaming and manual data gathering for each postal service.

- that ComReg appears to have misunderstood that the revenue-derived mail volume estimates are used to allocate revenues and costs, with the revenues being those captured in the USP's Statutory Revenue General Ledger, and that these allocations are already subject to extensive scrutiny through the Real Mail Study (RMS), which is audited by an independent auditor appointed by ComReg.

ComReg's Position

65. This issue boils down to the fact that a USP must know, to a reasonable degree of accuracy, how many mail items pass through its network and how many of those items fall into each mail segment. A USP can acquire this information in two ways – it can physically count the actual mail items as they pass through its network (operational-based volumes) or it can work backwards and estimate the volume of mail items based on the resulting revenue figures (revenue-derived volumes). In practice, USPs do both. In particular, operational-based volumes are necessary to provide the USP with an early warning of significant volume declines; revenue-derived estimates cannot provide this early warning. It is also necessary that a USP can account, again to a reasonable degree of accuracy, for any difference between its operational-based and revenue-derived volumes. Because both sets of figures represent the exact same thing – mail volumes – it stands to reason that any significant difference between these two sets of figures must be explainable. The greater the difference between the two sets of figures, or the greater the failure to reconcile that difference, the less reliance can be placed on the accuracy of either set of figures.

66. In Consultation 15/135, ComReg proposed that revenue-derived and operational-based mail volumes should be reconciled by format rather than by service. The USP has confirmed that it currently does reconcile by format. There should therefore be no additional costs to the USP in maintaining its current practice. ComReg does not require reconciliation by service though this is the level of reconciliation specified in the 2006 Accounting Direction. The 2017 Accounting Direction will formally reduce the reconciliation requirement to the level of format.

67. Requiring that revenue-derived and operational-based volumes be reconciled by format is a means of ensuring that mail volume information in the Regulatory Accounts is robust and reliable. It is essential that the USP knows its actual mail volumes and understands volume trends, particularly given current significant volume declines and ComReg's function to ensure the provision of a universal postal service. Significant volume declines could jeopardise the provision of the universal postal service. Better reporting and understanding of mail volume declines should provide an earlier warning of any such declines than could otherwise be obtained.

68. Further, and as the USP notes, revenue-derived volumes are mainly estimates whilst operational-based volumes are mainly based on the actual counting of mail, mostly by machine, and are used to manage the operational performance of the business (for example, staffing levels are the main cost in providing postal services and these are based on operational mail counts / flows). Accurate operational-based mail volumes are therefore a key input in assessing and controlling the costs of a postal business. They are important for providing early warning of any volume declines and for checking the accuracy of revenue-derived volume estimates, which are only performed annually.

69. Since Consultation 15/135, ComReg has engaged an independent expert on postal volumes to review the USP's response to the consultation, to meet the USP to discuss volume recording[32], and to provide a report to include recommendation(s) on volume recording and reporting. The report of the independent expert[33] is published alongside this Decision. In summary, the report contains the following findings:

i) The current and historical differences between comparable revenue-derived and operational-based mail volumes should be of major concern to the USP because this calls into question the accuracy of both sets of estimates of the volumes of mail which the USP is handling and it may also be undermining the basis of its product costings. It also compromises the process of regulatory decision-making which relies heavily on the accuracy of mail volume data.

ii) A reconciliation of revenue-derived and operational-based mail volumes is best practice and is performed by a number of USP's in other European jurisdictions.[34] Whilst this exercise may identify a divergence, it is important that any such divergence is investigated and explained and that actions are taken to correct it if it falls outside acceptable defined limits.

iii) Mail volumes recorded at DSUs should be accurate as every flat and packet is counted daily by the USP and letter volumes are mainly counted by the USP's sorting machines and so those figures should also be relatively accurate. It should be possible for the USP to use this operational-based volume count data to reconcile to its revenue-derived volume data.

iv) The USP's current systems should already be capable of providing more accurate operational-based mail volume data and so the additional costs, which the USP has proposed as necessary for it to accurately report operational-based volumes, do not appear to be justified.

[32] Meeting 4 October 2016
[33] ComReg Document No. 17/06d
[34] ERGP 2013 study citing that 60% of countries included in the study perform a reconciliation of volumes, including Royal Mail (UK).

70. ComReg's position, taken pursuant to section 31(3)(g) of the 2011 Act and having considered the USP's submissions and the report of ComReg's independent expert, is that the USP should be required to provide: (i) a comparison by format between its revenue-derived and operational-based mail volumes, and (ii) an explanation of the difference between such comparable sets of mail volume figures, where the difference exceeds 5% by format, and a reconciliation of any such figures to at most 5%, by format.

71. ComReg notes the following regarding the USP's submissions:

- A reconciliation to 5% by format should be possible as the USP's operational-based volumes for letters are mainly machine-counted while every packet, flat, and parcel is physically counted at a DSU. This means that there should be little or no additional cost to the USP in respect of these operational counts, given the extent to which they are already performed. It is simply a matter of using these existing operational counts for the purposes of the reconciliation.

- ComReg agrees with the USP that a 5% difference between operational-based and revenue-derived mail volume estimates, by format, is acceptable (though ComReg considers 5% to be the upper limit of an acceptable difference and that every reasonable measure should still be taken to minimise the difference).

- The USP, having confirmed that it does currently reconcile its operational-based and revenue-derived mail volume estimates, has not provided any supporting evidence as to why continuing this practice would result in significant additional costs. ComReg's independent expert also considers that no significant additional costs should be incurred.

72. The USP currently publishes its reconciliation of its operational-based and revenue-derived mail volume in its Summary Regulatory Accounts.[35] The 2006 Accounting Direction does not require that this be done and the 2017 Accounting Direction will maintain this position. However, the USP may continue to publish its reconciliation in its Summary Regulatory Accounts, if it so wishes.

73. ComReg's position is that the USP shall be required to produce an annual set of Regulatory Accounts which contain:

- mail volume data, by service, recorded from revenue data recorded at the point of sale;

35 http://www.anpostmedia.com/Media/An_Post_2015_Regulatory_Accounts%20_Summary%202015.pdf

- a supplementary schedule which compares, by format, revenue-derived mail volume data with operational-based mail volume data, together with details of mail volume trends by format recorded using the two methods; and

- where the difference between comparable operational-based and revenue-derived mail volume data exceeds 5%, by format, a detailed explanation of said difference and a reconciliation to at most 5% difference.

74. ComReg's view in relation to the audit of the USP's reconciliation is addressed in section 4.1.3.

4.1.2 Reconciliation of operational volume counts

75. In Consultation 15/135, ComReg set out its preliminary view that, pursuant to section 31(3)(g) of the 2011 Act, the updated Accounting Direction should require the USP to reconcile mail volume data from its Mail Centres with mail volume data from its DSUs, on a quarterly basis and by format, and that this reconciliation should be included in the Regulatory Accounts, in the supplementary schedule of reconciled mail volumes.

Views of Respondents

76. The USP submits that it would be disproportionate and overly costly for it to have to reconcile mail volume data from its Mail Centres with mail volume data from its DSUs, on a quarterly basis by format. In support of its submission, the USP provided its estimate of the cost of implementing a system to reconcile *by service* and to reconcile between Mail Centres and DSU's. The USP estimates the cost of implementing both requirements as about €4.9m per annum and, based on this estimate, the USP submits that ComReg should specify that the USP shall continue to reconcile at the *format level*.

77. The USP confirms that it currently does estimate mail volumes in its Mail Centres and in its DSUs, for operational reasons, but that the two sets of estimates are derived using different methodologies - Mail Centre volumes are based on daily machine counts at the four Mail Centres while volumes in the DSUs (of which there are about 300) are based on a higher level count of containers (assumptions as to average container fills are applied in order to estimate total volumes). The USP submits that an "accounting style" reconciliation of the two sets of estimates is not possible because they are derived using different methodologies. The USP further states that it does not reconcile its Mail Centre volumes with its DSU volumes.

78. The USP further submits that it would need to invest in significant additional resources in order to collect the additional data and perform the necessary checks which it submits would be required under ComReg's proposal. The USP states that it currently uses its Mail Centre mail volumes, as these are mostly based on machine counts and are therefore more accurate. However, the USP also suggests that some additional visibility on its Mail Centre and DSU mail volumes estimates could be provided, in the form of a comparison between the two figures, and that a qualitative explanation of any differences could be provided, similar to what is currently provided for revenue-derived and operational-based volume data.

79. PwC also disagrees with the proposal. PwC states its understanding that there would be considerable difficulties in trying to reconcile Mail Centre and DSU volume estimates, in the manner proposed, and that such volume estimates are used purely for postal operations planning purposes and not for any accounting purpose. PwC considers that the business case for the USP to make a significant investment, in order to increase the accuracy & attempt to reconcile the two data sets, is not clear.

ComReg's Position

80. Much of the USP's submission, as to the additional annual costs of approximately €4.9m which it claims it would incur, is not correct as the claimed costs, in large, are based on a requirement that ComReg was never proposing. This is because the USP's submission mainly relates to the claimed costs of reconciling volumes *by service* but this was never proposed for the 2017 Accounting Direction, which instead seeks reconciliation to the less onerous level of *by format*. Therefore, the claimed cost for a reconciliation *by service* do not apply.

81. The USP's submitted claimed costs of approximately €4.9m also relate in part to the proposal in the Consultation of requiring a reconcilation Mail Centre and DSU operational mail volumes. However, given ComReg's position in section 4.1.4 below, regarding the USP's operational "walk counts" of flats, packets, and parcels at its DSUs, the proposal to reconcile Mail Centre and DSU operational mail volumes is not required in the 2017 Accounting Direction. Therefore, the claimed cost for this operational mail volume reconciliation do not apply.

82. ComReg notes the USP's offer to provide additional visibility on the reconciliation of its operational volume counts, to include a qualitative explanation of the difference. ComReg will seek such information from the USP as required.

4.1.3 Audit of the reconciliation with operational based volumes

83. In Consultation 15/135, ComReg proposed that the USP's revenue-derived and operational-based mail volume reconciliations should be audited by the Regulatory Auditor, pursuant to section 31(3)(g) of the 2011 Act. ComReg expressed its preliminary view that this would give added assurance that the USP's mail volume measurements were accurate over time and that this would benefit ComReg and the USP. ComReg would again note, in this regard, that its core statutory function is to ensure the provision of a universal postal service and that if mail volumes should continue to significantly decline then this could have a significant adverse effect on the USP's ability to continue to provide the universal postal service.

Views of Respondents

84. The USP submits that the above proposal is not possible because:

- the two methodologies, which respectively underpin the revenue-derived and the operational-based mail volume estimates, are inherently different from one another and rely on different assumptions; and
- an auditor could not opine on such matters in a manner that would provide an acceptable level of assurance.

85. The USP further submits that ComReg's assertion in Consultation 15/135, that an audit of the reconciliation represents "best practice", is unfounded. Referring to the ERGP[36] study cited by ComReg and Frontier Economics, the USP submits that the sample of countries in that study does not appear to be closely comparable to Ireland, because the ERGP study does not specify the type of "reconciliation" that applies in these countries.

86. The USP further submits that this type of request is much closer in nature to the regulatory information that both Eircom and RTE/2RN currently provide to ComReg, under the heading of "Additional Financial Information".

87. The USP suggests that "agreed upon procedures" could be entered into with an auditor on an exceptional basis, so that the necessary assurance could be provided. PwC makes the same suggestion.

88. PwC also does not support the above proposal because:

- revenue-derived and operational-based volume estimates come from fundamentally different systems and processes;

[36] ERGP (2013), Report on specific cost allocation issues: In this study, 36% of the countries sampled included an independent audit of the reconciliation in their regulatory accounts.

- variances between both sets of estimates are to be expected due to such factors as the manual nature of non-machine counts, double counting of mail items due to mail routing processes, and the timing of recognition of revenue;

- an audit of this reconciliation is not appropriate as the reconciliation includes items which do not relate to historic financial information.

ComReg's Position

89. ComReg would again note that understanding mail volumes and volume trends is of critical importance and that this is especially true given that the USP has faced, and continues to face, significant volume declines. ComReg considers that better understanding and reporting of volumes, and of volume declines, should provide earlier warning of any significant declines in mail volumes, again noting that such declines could jeopardise the future provision of the universal postal service.

90. ComReg has decided that it will not require an audit of the USP's reconciliations of its revenue-derived and operational-based mail volumes by the Regulatory Auditor. This is in part because of the separate decision that revenue-derived and operational-based volumes that are within 5% of one another, by format, need not be reconciled, and having regard to the submissions received (including that an audit is not appropriate as volume reconciliation includes items which do not relate to historical financial information).

91. However, ComReg remains of the view that mail volume data should be as accurate as possible, particularly as significant declines in mail volumes could jeopardise the future provision of the universal postal service. Therefore, the USP should take all reasonable measures which are likely to lend assurance as to the accuracy of its mail volume data and its mail volume forecasts.

92. ComReg has thus decided that if it considers it appropriate (for example, if the volume difference by format exceeds 5%) then it may appoint a competent body (for example, an expert on postal networks) to review the USP's recording and reconciliation of its revenue-derived and operational-based mail volume data.

4.1.4 Reporting the process for measuring operational based volumes and their accuracy

Automated machine counts

93. In Consultation 15/135, ComReg proposed that the USP should include details as to how its operational-based mail volumes are recorded, pursuant to section 31(3)(g) of the 2011 Act and because the counting of mail by machine accounts for most operational-based volumes. This would include specifying the process by which machine counts are validated and the degree of accuracy to which the machines are tested in order to ensure the accuracy of, and thereby increase confidence in, the results of the machine counts.

Manual counts

94. ComReg proposed that the USP should:

- include in its Accounting Manual details of the process for reviewing average container fills;
- review average container fills every quarter; and
- report the results of the average container fill reviews in its Accounting Manual.

95. ComReg expressed its view that the above measures should improve the accuracy of manual counts, which are very important especially as large packets and parcels cannot be counted by machine and must be counted manually.

Views of Respondents

96. The USP submits that the cost of having to include details of how its operational-based volumes are recorded would not be proportionate to the resulting benefits. The USP submits that operational-based volumes are not used in its Regulatory Accounts, except to provide a comparison and a cross-check for the revenue-derived volumes which are the basis for its Regulatory Accounts. The USP questions the justification for the amount of additional investment which, in its opinion, would be needed to increase the level of control over the estimation of the operational-based volumes.

97. The USP further submits that section 31 of the 2011 Act does not provide a clear legal basis for an Accounting Direction to require that such specific details be included, or that a specified format be used in a written document such as the Accounting Manual.

98. In relation to its the manual mail counts, the USP submits that the proposed requirements would violate the principles of materiality and proportionality, in that the USP would incur additional administration costs in having to report quarterly on the average container fills which it uses to estimate quarterly operational volumes. The USP claims that the following additional resources would need to be put in place:

- A formal reporting structure between Operations and Regulatory Affairs to document the process for all container fills at Mail Centres and Delivery Service Units;
- A formal process to document any changes to the process; and
- A formal process to document the outcome of quarterly reviews.

99. The USP further submits that mail volumes are reported annually and, therefore, that assumptions used in estimating mail volumes should be annual assumptions which already control for seasonal adjustments. The USP states that it would consider providing updated estimates on average container fills annually, to update the assumptions used in the volumes estimation.

ComReg's Position

100. Operational-based volumes are mostly based the on actual counting of mail items, mostly by machine, and the results are used to manage the operational performance of the USP's business (for example, staffing levels are the main cost in providing postal services and these are based on operational mail counts / flows). Therefore, accurate operational-based mail volumes are a key input in assessing and controlling the costs to the USP of its postal business. Operational-based volumes should provide early warning of any volume declines and are also important for checking the accuracy of revenue-derived volume estimates, which are only performed annually.

101. ComReg, having decided that revenue-derived and operational-based mail volumes that are within 5% of one another by format need not be reconciled and having considered the submissions of respondents, has decided that it remains appropriate for the USP to improve its reporting of its operational mail counts in the Accounting Manual. Therefore, ComReg's position is to require the USP to document in its Accounting Manual:

- how machine-counted mail volumes are calculated (given that machine counts account for most operational-based mail volumes) to include specifying the process for validating machine counts and the degree of accuracy to which machines are tested; and

- the process by which the USP's flats, packets, and parcels are manually counted at its DSUs.

102. An improved process for the reporting of the above information, specified in the Accounting Manual, should support the reconciliation of revenue-derived and operational-based mail volumes and thereby promote ComReg's understanding of the operational-based volume counts. This is important because operational-based volumes:

- drive the USP's operation of its entire postal business, including staffing levels and costs which account for the vast majority of costs in providing postal services; and

- provide a comparison check against revenue-derived volume estimates (as noted above, a proper understanding of volumes and volume trends is critical especially as the USP continues to face significant volume declines which could jeopardise the universal postal service; operational-based volumes are mostly based on actual machine counts and so they should provide better early warning than revenue-derived volume estimates).

4.2 Cost Identification and Allocation

103. Sections 31(3)(a) & (b) of the 2011 Act state that any accounting direction shall provide for (a) rules relating to the identification of costs, and (b) rules relating to the allocation of costs. The 2006 Accounting Direction sets out the following rules on identifying and allocating costs:

- The Accounting Manual shall set out how the operating cost of the various aspects of the USP's postal network are identified.

- The Accounting Manual shall set out the basis on which the costs of particular activities are to be apportioned between services. Costs shall be apportioned between the various services that use each aspect of the network on the basis of factors/drivers which reflect the different impact of each postal packet on the cost of the activity.

4.2.1 Identification of costs

104. In Consultation 15/135, ComReg proposed that the existing requirements under the 2006 Accounting Direction - that the USP must provide details of the processes by which it identifies avoidable, variable, and fixed costs – should be carried over in the updated Accounting Direction, pursuant to section 31(3)(a) of the 2011 Act and in order to ensure that ComReg can exercise its various functions under the 2011 Act.

105. Currently, the USP's Accounting Manual contains no detail on the process by which it identifies its avoidable costs. ComReg needs to fully understand this process in order to carry out certain functions. For example, section 33 of the 2011 Act provides that ComReg, in certain circumstances, may have to resolve any dispute as may arise between the USP and another postal service provider seeking access to the USP's network, which intervention may include ComReg setting the price of access. In setting the price for access to the USP's network, it would be necessary for ComReg to know the USP's avoidable costs.

Views of Respondents

106. The USP makes the following submissions:

- that avoidable, fixed & variable costs are costing labels which it does not normally use within its Historical Cost Accounts, which form the basis for the production of its Regulatory Accounts;

- that avoidable, fixed & variable costs do not form part of the regulatory accounts produced by Eircom or RTE (though the USP acknowledges that they do form part of the Additional Financial Information that is provided to ComReg by Eircom and RTE);

- that requiring the USP to include, in its annual Regulatory Accounts, the process by which it identifies its avoidable, fixed & variable costs, appears unnecessary and disproportionate and does not appear to be common practice amongst other operators;

- that the relevant statutory provision does not support ComReg's proposal (ComReg takes this to mean that the USP contends that ComReg lacks the power in law to impose such a condition under section 31 of the 2011 Act);

- that the Regulatory Accounts are not designed to and should not contain information that could be of use in resolving a network access dispute under section 33 of the 2011 Act and should only include information necessary for ComReg to perform its functions, and that requiring certain information to be pre-emptively included, "just in case" a s.33 dispute should occur, would be inappropriate and non-proportional.

107. The USP, however, states that it would separately engage with ComReg if further information was needed, in the context of a specific s.33 investigation or dispute.

108. In relation to calculating the net cost of the universal postal service, the USP refers to ComReg having issued a separate direction on this matter and, given that separate direction, the USP submits that no adjustment need be made to the Accounting Direction in relation to this matter. The USP adds that in the case of any net cost submission it would identify avoided cost for a given scenario in line with the profitability cost methodology outlined by ComReg in Document 13/69.

ComReg's Position

109. ComReg merely proposes to carry over, in the 2017 Accounting Direction, the same requirements as are already included in the 2006 Accounting Direction – namely, that the USP must provide details of the processes by which it identifies its avoidable, variable, and fixed costs. This requirement relates to improved reporting in the USP's Accounting Manual by also requiring the USP to provide detailed worked examples of how it identifies each cost category. The purpose of the requirement is also unchanged – it is to ensure that ComReg can exercise its various statutory functions (which are also mostly unchanged though they are now set out in the Communications Regulation Act 2002 and in the 2011 Act).

110. Further, and in order to clarify an apparent misunderstanding by the USP as to the specific nature of the requirement, ComReg would note that the USP would only be required to provide details of the processes by which it identifies its avoidable, variable, and fixed costs in its Accounting Manual. The USP would not be required to provide such details in its actual Regulatory Accounts.

111. The requirement should therefore not be especially burdensome on the USP and any associated costs should be minimal. It should be possible to set out the processes at issue this just once, and to then merely update the details of such processes if any of them are amended. As against the relatively non-onerous nature of the requirement, clarity of information on this issue is necessary for the USP and ComReg, having particular regard to sections 33 and 35 of the 2011 Act. It must be clear as to how the USP identifies such costs and this information must also be readily available in advance of any section 33 dispute arising.

4.2.2 Allocation of costs

112. Consultation 15/135 noted that the requirements in the 2006 Accounting Direction on cost allocation are consistent with Article 14 of the Postal Services Directive and international best practice. ComReg therefore proposed to maintain the current requirements under the Accounting Direction pursuant to section 31(3)(a) & (b) of the 2011 Act.

Views of Respondents

113. The USP agrees that the current requirements on the allocation of cost activities remain relevant and that they should be maintained in the Accounting Direction.

ComReg's Position

114. The 2006 Accounting Direction requirements on the allocation of the cost activities (direct, indirect, and common) will be maintained in the 2017 Accounting Direction as these requirements are consistent with Article 14 of the Postal Services Directive.

4.2.2.1 Cost drivers

115. In Consultation 15/135, ComReg noted that the current level of detail provided by the USP, as to how its cost drivers are set and reviewed, provides very little transparency to ComReg. ComReg proposed that the updated Accounting Direction should require more detail as to how cost drivers are set, by requiring the USP to provide in its Accounting Manual:

- full details of its cost drivers; and
- where there has been a year-on-year change in the methodology of its cost drivers, to provide full details as to the nature and reason of any such changes and reasons as to why any prior-year adjustment to the Regulatory Accounts has or has not been made.

Views of Respondents

116. The USP submits that it is unclear exactly what additional information is required. The USP states that that it already conducts an annual review of its cost drivers and provides any updates on its cost allocation methodology in its annual Accounting Manual; and that it currently provides its cost drivers to ComReg in full and specifies any changes from the previous year.

117. The USP further submits that ComReg should not place requirements on cost drivers which would remove the USP's flexibility as to which methodologies to use. The USP, giving the example of many cost drivers that are linked to mail volumes and that may thus require regular adjustments, submits that having to provide a full description of cost drivers in the Accounting Manual could have the adverse effect of preventing, rather than encouraging, improvements to be made year on year.

118. The USP submits that commentary and information should only be required for material changes and that this would be consistent with the equivalent requirements on Royal Mail and Eircom. The USP states that, in terms of precedent, it is not aware of any jurisdictions in which the incumbent provides a full description of cost drivers in the Accounting Manual as proposed by ComReg.

119. Notwithstanding the above, the USP suggests that year on year methodology changes associated with material cost drivers could be discussed with ComReg in advance of publication of its annual Regulatory Accounts.

ComReg's Position

120. Consultation 15/135 set out that ComReg simply seeks details from the USP as to what each cost driver is and how it is set. This information is important because cost allocation is fundamental to any cost accounting system and the USP must itself rely on this information when it uses its cost drivers to allocate costs. Understanding how such costs are allocated is fundamental to proper regulatory oversight, including monitoring of compliance with price regulation. Understanding how costs are allocated is particularly necessary for a sector such as post in which many costs are common - i.e. many costs cannot be directly assigned to individual services.

121. An example of cost allocation being critical is in the setting of retail prices for universal postal services. Such prices must be orientated towards the costs of providing universal postal services and because such services are not provided in a competitive market, a USP could use revenues from its universal postal services to subsidise its non-universal postal services. This could be done by allocating an excess amount of costs, in particular common costs, to the universal postal services - i.e. a USP could allocate more of its costs to its universal postal services than were actually incurred in the provision of those services. Such actions would be contrary to the tariff requirement that prices for universal postal services must be cost-orientated. They could also undermine the affordability of universal postal services and/or distort competition in markets for non-universal postal services.

122. To prevent such outcomes as above, and in order to fulfil its statutory remit, ComReg must know precisely how the USP allocates its costs. Moreover, the USP should, at all times, possess up-to-date information on its cost drivers and it is then simply a matter of including same in the Accounting Manual, a copy of which is then given to ComReg. ComReg does not consider that a requirement to provide such available information could be disproportionate or unduly onerous on the USP. The amount of work involved, and any costs incurred, should be relatively minimal, again noting that provision of such information is fundamental to proper regulatory oversight.

123. In the second instance, if the USP should change a cost driver methodology then the USP must inform ComReg of the nature of, and the reason for, the change, in detail and to include explaining why any prior-year adjustment to the Regulatory Accounts has, or has not, been made. This should ensure that ComReg is made fully aware of and understands the impact of any change by the USP to a cost driver methodology. Absent such information, how could ComReg accurately interpret the Regulatory Accounts? Again, this is simply a matter of more detailed reporting of information that should be used by the USP and should be readily available to the USP.

124. Also, in response to the USP's proposal that it would offer detail on material changes to cost drivers only, ComReg would note (i) that it would be difficult, in such instances, to set a definitive threshold as to what constitutes "materiality", and (ii) that it is likely that the USP would only change a cost driver methodology if it was to have material effect.

125. Therefore, ComReg's position remains that the USP, in the Accounting Manual, shall include full details as to how cost drivers are set and on any change in the methodology for setting cost drivers, to include full details as to the nature of, and reason for, any such changes and the reasons why any prior-year adjustment to the Regulatory Accounts has, or has not, been made.

4.2.2.2 Costs for each universal postal service price

126. Under section 3.2 of the 2006 Accounting Direction, the USP is required to set out a detailed estimate of the costs of providing the service for each price point[37]. At present, the USP's Regulatory Accounts cannot provide this detailed estimate because the USP's costs are split into two weight steps - below 50 grams and above 50 grams[38]. However, the USP's prices commence at 100 grams and vary across numerous price bands, for different weight steps[39] (for example, a letter has one price for any weight up to 100 grams, whereas packets and parcels have different prices depending on weight, that is, a packet weighting 250 grams is priced lower than a packet weighing 500 grams). This is a problem as the USP splits the prices of its universal postal services across multiple weight steps above 100 grams but its costing system can only split its costs above and below 50 grams.

[37] As required also by Article 12 of the Postal Services Directive: "prices shall be cost-oriented..."

[38] The 50 gram weight break is based on the previous "reserved area", which, up until the 2011 Act, An Post held a monopoly over letters weighing up to 50 grams. This no longer applies as the postal market is now fully liberalised following the implementation of the 2011 Act.

[39] See An Post guide to its postal prices at https://www.anpost.ie/AnPost/Downloads/Anpost/Postal_Rates_Guide_An_Post.pdf

127. Section 28(1)(b) of the 2011 Act requires the USP to ensure that its tariffs for each postal service or part of a postal service are cost-oriented. This transposes Article 12 of the Postal Services Directive, which requires that universal postal service prices are cost-oriented and incentivise the provision of an efficient universal postal service.

128. The USP has options by which to operate in accordance with section 28(1). The USP may improve its capability to split its costs by weight step or it may reduce its number of price bands by weight step for its universal postal services.

129. In Consultation 15/135, ComReg noted that the updated Accounting Direction should, pursuant to sections 28(1) and 31(3)(b) of the 2011 Act, continue to require the USP:

- to provide the associated cost for each price of a universal postal service;
- to provide a detailed explanation in its Accounting Manual of how costs are allocated to services with different tariffs; and
- to provide a detailed explanation in its Accounting Manual of where the weight factors used in the allocation process do not align with the various tariff price points.

Views of Respondents

130. The USP submits:

- that it is not practical for it to provide a cost estimate for the tariff for each universal postal service;
- that this issue has previously been discussed by the USP and ComReg, as in ComReg Document 02/15, section 4.2.7 of which states that *"it is the format of the item rather than the weight that determines the cost";*
- that the model which it uses to produce its Regulatory Accounts does not currently allow for this level of disaggregation and that extensive re-design and modification of the model would be required to introduce this level of granularity;
- that there would be a significant cost to such re-design and modification of the model, estimated as approximately €0.25m for one off system changes, plus additional annual FTE costs of €✂k (the USP adds that such a granular disaggregation of data would inevitably lead to a need to rely on high-level, and to some extent subjective, allocation rules, which would increase the complexity of the model without increasing the accuracy of the cost allocation); and

- that this requirement is inconsistent with the current price cap which is defined at the level of a basket of services rather than at individual tariff level and, since the price cap is based on cost estimates, these estimates should be derived at the level of the defined baskets; hence, it is unclear to the USP as to why this level of disaggregation would be required for ComReg to ensure the USP's compliance with the price control.

131. The USP proposes that estimates of its costs per tariff point may be provided to ComReg, where requested, as AFI rather than being included in the Regulatory Accounts.

ComReg's Position

132. Section 28 of the 2011 Act requires the USP to orient the price of each universal postal service to the cost of providing that service. This means that the price of each universal postal service must take account of, and reflect the costs of, providing that service. This is a long-established statutory requirement originating in Article 12 of the Postal Services Directive, enacted in 1997.

133. The regulatory measure is to require the USP to demonstrate its compliance with the statutory requirement by setting out the associated cost for each price in its Regulatory Accounts and to explain, in its Accounting Manual, how it allocates costs to services with different tariffs. This information is necessary to ensure that the USP is orienting costs to prices, for each universal postal service. Absent this information, there is simply no way of ensuring that the USP is meeting this statutory requirement.

134. The cost of producing the information at issue is thus, in essence, a cost of having to comply with a statutory requirement imposed by the legislature and not a cost of having to comply with a regulatory measure imposed by ComReg.

135. Further, if the USP is cost-orienting its prices as required then the information which ComReg seeks to have included in the Regulatory Accounts and Accounting Manual should be readily to hand, because without such information the USP would simply have no means by which to ensure that its prices are cost-oriented. The information at issue should therefore be a natural result of the cost-orientation requirement being met. As a correlation, the lack of such information is a concern because it can only mean that the USP is not taking the necessary measures by which to ensure that its prices are cost-oriented, in accordance with section 28(1)(b) of the 2011 Act.

136. If this is an issue for the USP due to its current pricing structure then it has two options, as noted in Consultation 15/135. The USP must:

(1) improve its capability to split its costs by weight step, or

(2) reduce its number of price bands by weight step for its universal postal services. As the USP agrees that it is the format rather than the weight that drives cost, it is open to the USP to significantly reduce the number of price bands by weight steps, within each format.

137. The requirements in relation to detailed explanations on cost allocation and weight factors is simply a matter of the USP explaining, in clear terms, how it calculates and allocates its costs. This information should be readily available to the USP and, for the reasons set out above, ComReg requires this information in order to understand how the USP calculates and allocates its costs.

4.2.2.3 Inter-company[40] and inter-segments[41] transactions

138. In Consultation 15/135, ComReg, pursuant to section 31(3)(g) of the 2011 Act, proposed that the current requirements under the 2006 Accounting Direction with regard to inter-company and inter-segment charges should be carried over. In addition to the existing requirements, ComReg further proposed that the USP should also include in the Regulatory Accounts the source of inter-company and inter-segment revenue, in a matrix form, in order to show how charges flow between the USP's various operating segments.

139. Furthermore, and given their critical importance, ComReg proposed that the nature and detail of all inter-company and inter-segment charges should form part of the scope of the audit conducted by the Regulatory Auditor. In particular, the Regulatory Auditor should consider whether transfer charges can be set with reference to market or regulated prices for comparable services (a requirement from the 2006 Accounting Direction to be carried over). ComReg expressed its view that this should give ongoing assurance that transfer charges are set at an appropriate level and that the universal postal service is not being charged excessively.

Views of Respondents

140. The USP notes that details regarding inter-segment revenues, transfer charges and methodology are currently reported in the Accounting Manual and that inter-segment cost allocations are currently included in the Regulatory Accounts, and that both are covered by the current audit. The USP claims that it is unclear what ComReg considers to be the "nature and detail" of transfer charges given the detail already included within the accounts and covered under the current audit scope.

[40] Between An Post and its other companies where applicable
[41] Between segments within An Post, for example, between its Mails and Retail divisions

141. The USP agrees to modifying the manner in which it reports on its inter-segment revenues and inter-segment costs, so as to be consistent with the matrix form proposed by ComReg. However, the USP submits that the breakdown of inter-segment revenues and costs within the Mails business segment, as proposed by ComReg, would be too intrusive and not particularly insightful. The USP further submits that the inter-segment matrices should not be included in the published Summary Regulatory Accounts because they will show internal transactions between the universal postal service and non-universal postal service products, and the overall charges in relation to the USP's retail operations which information, according to the USP, is commercially sensitive.

ComReg's Position

142. The 2017 Accounting Direction carries over the current requirements under the 2006 Accounting Direction with regard to inter-company and inter-segment charges. In addition, there is a new requirement for the USP to set out the source of inter-company and inter-segment revenue in a matrix form. This will show how the USP's charges flow between its various companies and operating segments.

143. ComReg welcomes the USP's commitment to provide clear information on the charges made to the universal postal services by other segments/companies, as this information is important to ensure that the USP's internal payments and charges are set at an appropriate level to facilitate accurate cost allocation, to demonstrate non-discrimination, and to provide greater transparency regarding trends in intersegment payments and charges. This is supported by section 31(1) of the 2011 Act. ComReg, having considered the USP's submission, has also decided that the matrix will remain confidential to the USP and ComReg and shall not be included in the non-confidential, published version of the Summary Regulatory Accounts.

144. With regard to the USP's statement that it does not understand what the "nature and detail" of transfer charges means, ComReg refers to the example given in paragraph 123 of Consultation 15/135. In addition, this matter was discussed with the USP during the pre-consultation process.

145. ComReg notes the USP's acknowledgement that inter-company and inter-segment transactions are covered by the current audit and ComReg sets out its position on the scope of the audit in section 4.4.1, below.

4.3 Regulatory Reporting

4.3.1 Reporting balance sheet at regular intervals

146. ComReg is concerned about the effect which An Post's deteriorating cash position could have on its ability to provide a universal postal service which meets the reasonable need of all postal service users, including as to its quality and affordability. For this reason, and pursuant to section 31(3)(g) of the 2011 Act, ComReg proposed to require the USP to provide a quarterly report on its company balance sheet, within four weeks of each quarter's end. ComReg further proposed that this reporting requirement would cease when, or if, the Company cash at bank and in hand returns to a sufficient level (€100m) so as to ensure that provision of the universal postal service is sustainable.

147. ComReg expressed its view in Consultation 15/135 that the quarterly provision of such information should not place an unduly onerous or costly burden on the USP, as the information already exists and is readily available.

Views of Respondents

148. The USP submits that:

- the proposed requirement is unnecessary and impractical and that it is not correct to say that, without such quarterly information, ComReg would not know of An Post's cash position until the Regulatory Accounts had been presented, after the end of each financial year; as An Post submits that regular review meetings take place including at CEO and Commissioner level (the most recent of which was February 2016) and while cash balances may not be discussed at such meetings, they are discussed where necessary and a discussion on the cash balance could be included in all future meetings if ComReg considers it necessary;

- the current extent of reporting on key metrics, including the cash position, meets best practice for corporate governance for an organisation of its size and complexity, and its Board is satisfied with the current reporting and has no plans to change this;

- its financial position is not appropriately summarised by its cash position alone and its ability to provide the universal postal service is not singularly measurable by its quarterly cash balance;

- ComReg has not set out how it would use such information;

- the €100m figure seems arbitrary and unjustified and the universal postal service can be provided when the company's cash is significantly less than €100m and that that any threshold set by ComReg would be arbitrary;

- many public utility and USPs have no free cash & extended debt and that many of the most profitable and better run mail and other logistic operators do not have free cash on their balance sheet and would have a finance structure with a mix of debt (the USP references the US Postal Service has been suffering losses, prompting a reduction in number of days of delivery and the introduction of delivery to community mailboxes);

- the €100m threshold may negatively impact on its ability to invest, especially in the current context of low interest rates, and that its investments would be stifled by a requirement of having to keep liquidity at all times and would make it more dependent on external funding for its investments; and

- the proposal is not consistent with international precedent in other jurisdictions and that ComReg has failed to provide any evidence of the benchmarks and analysis which it used to derive the proposed €100m threshold.

ComReg's Position

149. ComReg has the core statutory function to ensure the availability of a universal postal service for all which meets the reasonable need of all postal service users, including as to its quality and affordability. In this regard, ComReg considers that An Post's cash position is a relevant metric which should be kept under review because any deterioration in that cash position could seriously impact on An Post's ability to provide the universal postal service or, at the very least, it is a strong indicator that the USP may be unable to continue to provide the universal postal service. Knowing the cash position may therefore provide an early warning as to whether the universal postal service is in jeopardy. For this reason, ComReg conveyed its concern about the USP's cash position to the Regulatory Auditor during 2016.[42] ComReg therefore considers that quarterly provision of the balance sheet, which includes cash balance, is necessary and that such information is readily available and can be provided easily and at minimal cost. The information requirement is thus considered to be justified and proportionate.

[42] In bi-lateral meeting and in correspondences dated 29 January 2016, 16 February 2016, and 26 April 2016

150. To date, ComReg has not obtained cash balance information through its bi-lateral meetings with the USP. Though ComReg welcomes the USP's stated commitment to providing such information at future meetings, ComReg must observe that if the information can be provided at meetings (which mainly occur on an infrequent ad hoc basis rather at fixed intervals) then it can be provided just as easily in writing on a fixed quarterly basis. It is better that such key information, which already exists and is readily available, should be provided in writing at fixed intervals rather than through infrequent meetings.

151. In response to the USP's claim that it may have to withhold investments in order to keep its liquidity above the proposed €100m threshold, in order to avoid having to provide quarterly reports on its cash balance, ComReg is surprised that the USP would consider such extreme action to avoid an information requirement which is relatively minimal. ComReg further considers the €100m threshold to be appropriate as it roughly equates to just over one month's cash requirement.

152. Since Consultation 15/135, the USP has adopted International Financial Reporting Standards ("IFRS"). Under IFRS, the USP can include amounts held in trust in its "cash at bank" and "cash in hand" figures. At year-end 2015, An Post's company cash balance was about €36m, excluding about €314m held in trust. For the quarterly reporting requirement at issue, ComReg considers that Irish GAAP reporting would be more appropriate, given that the USP cannot use monies which it holds in trust.

153. Therefore, ComReg's position is that, for any period of time during which An Post Company's cash balance is less than €100m, the USP will report in confidence its balance sheet, including its cash balance, to ComReg on a quarterly basis and the cash balance for the purposes of this requirement means cash that the USP may use and excludes monies held in trust.

4.3.2 Capital expenditure

154. In Consultation 15/135, ComReg proposed that the USP, pursuant to section 31(3)(g) of the 2011 Act, shall be required to provide detailed commentary on its capital expenditure ("capex") in its Regulatory Accounts. ComReg made this proposal because of concern over the USP's deteriorating cash balance and the risk that the USP could underspend on capex that is essential for provision of the universal postal service. Additionally, he USP has an allowance for capex under the price cap control. Having more detailed information on capex would provide increased transparency and should provide greater assurance to ComReg in relation to the sustained provision of the universal postal service.

Views of Respondents

155. The USP disagrees with the proposal, stating that it agrees with the need to provide a capital employed statement on an annual basis, and that it will continue to do so, but that it would be practically difficult for it to split its capex between its universal and non-universal postal services.

156. The USP also expresses its opinion that providing detailed commentary on its capex in the published version of the Summary Regulatory Accounts would:

- risk damaging the USP commercially;
- add significant costs; and
- increase the timelines for production of the Regulatory Accounts.

157. The USP further submits that it does not appear that detailed information on capex is provided by postal operators in other jurisdictions and that ComReg has not clearly explained the perceived benefit of this proposal.

ComReg's Position

158. The USP's cash figure has significantly decreased since 2008 and there is a concern that, as a consequence, the USP could underspend on capex that is essential for provision of the universal postal service. ComReg therefore requires the USP to provide commentary on USO capex where this information is readily available. Having more detailed information on the USP's capex should provide a greater degree of regulatory oversight to ComReg in relation to the performance of its core function - to ensure the availability of an affordable universal postal service that meets the reasonable needs of postal service users. In particular, ComReg is of the view that having to provide detailed commentary on capex in the Regulatory Accounts:

- should not add significant cost because this information should be readily available to the USP, for example, from the business case used to approve capex (however, ComReg acknowledges that there may, in some cases, be difficulties in deciding how to split capex between USO and non-USO and in such instances the USP must provide a detailed explanation where such information is not readily available); and
- should not increase the timelines for the production of the Regulatory Accounts because the information should be readily available.

159. Regarding the confidentiality of information relating to capex on non-universal postal services, ComReg has decided that such information will only be included in the Regulatory Accounts, which are confidential to ComReg.

160. Commentary on capex shall include, but shall not be limited to, explaining investment additions and disposals to the universal service in the applicable period. This will enable ComReg to monitor capex spending on the universal postal service, in particular trends over time.

4.3.3 Payroll costs

161. In Consultation 15/135, ComReg proposed that the USP, pursuant to section 31(3)(g) of the 2011 Act, shall be required to provide information on its payroll and average staff numbers (FTE equivalent) by business segment and, for the mails business segment, that it shall split such information between the universal and non-universal postal services. ComReg expressed its view that this requirement would improve the transparency of the USP's pay-related costs, which account for the vast majority of its costs in providing the universal postal service. ComReg also noted that the USP already records this information.

Views of Respondents

162. The USP disagrees with ComReg's proposed requirement and submits that:

- ComReg has not explained the benefits of such a requirement;
- the changes required to the USP's costing system, to enable such reporting, could be very costly;
- the USP would be required to disclose commercially sensitive information;
- the level of detail proposed by ComReg is not in line with that provided by operators in other jurisdictions and that ComReg does not require such level of detail of Eircom or RTE/2RN;
- ComReg must justify why the provision of such information would be beneficial to ComReg in discharging its regulatory duties; and
- the payroll cost note per the Statutory Accounts can be repeated in the Regulatory Accounts.

ComReg's Position

163. Payroll accounts for the largest portion of the USP's total expenditure and of the cost of the universal postal service. It is therefore necessary for ComReg to have sufficient information by which to understand this major cost segment. ComReg's core function is to ensure the provision of an affordable universal postal service for all and effective exercise of this function necessitates that ComReg has clear regulatory oversight of the sole USP, which includes having clear oversight of the USP's revenues and costs. This is particularly important given the USP's current loss-making position and that payroll is a very significant cost of the USO.

164. Oversight in relation to USO payroll expenditure is important in the context of s.28 of the 2011 Act, which requires that prices be cost-oriented. Again, given that payroll expenditure is such a significant cost to the USP, it is important that ComReg has detailed information on this cost category to ensure that the cost-orientation principle is adhered to by the USP.

165. It is not clear why the USP submits that it would be very costly for it to implement this requirement. The USP already records this information and so it is readily available, nor has the USP provided any evidence to support its submission that it would be costly to provide this information.

166. In relation to the USP's submission that the information at issue is confidential, ComReg's position is that the information need only be provided in the Regulatory Accounts, which are confidential to ComReg. The information will not be published in the non-confidential Summary Regulatory Accounts.

4.3.4 Accounts commentary

167. ComReg proposed in Consultation 15/135 that the existing requirement under the 2006 Accounting Direction, in relation to the USP having to provide commentary on the Regulatory Accounts, should remain in place. ComReg also proposed that the accessibility of the Regulatory Accounts could be improved by including charts and trends, similar to those included by An Post in its Annual Report.

Views of Respondents

168. The USP submits that:

- having to include detailed commentary and graphic content in the Regulatory Accounts would be an unnecessary and unjustified cost;
- such a requirement would greatly exceed what ComReg requires of Eircom or RTE/2RN;
- the Regulatory Accounts are based on, and reconciled to, the Statutory Accounts and therefore trends and commentary from the Annual Report are of equal relevance to the Regulatory Accounts (the USP compares the proposal to Royal Mail's Regulatory Accounts as evidence of what it considers to be the disproportionate level of narrative proposed);

- the current level of detail in the Regulatory Accounts already exceeds the requirements of the 2011 Act and international standards (the USP references Royal Mail commentary as an international precedent and proposes that provision of 'Additional Financial Information' when requested by ComReg is appropriate to fulfil the requirements of the 2011 Act); and

- while it will continue to provide commentary that may improve readers' interpretation of the Regulatory Accounts, this should not be a mandated under the Accounting Direction.

ComReg's Position

169. It is important that the USP provide sufficient commentary on the Regulatory Accounts. ComReg requires this commentary in order to truly understand each set of Regulatory Accounts and its implications, particularly as regarding the USP's ability to continue to provide a universal postal service that meets the reasonable needs of postal service users.

170. Further, ComReg merely requires the USP to provide information which should, for the most part, already be available. ComReg is essentially requiring the USP to include, in its Regulatory Accounts, charts and trends of the type which it already includes in its Annual Reports. These charts and trends will be based on information which is readily available to the USP. This means that the USP, for the most part, should not have to create information for the purposes of meeting the requirement.

171. ComReg therefore does not consider that this requirement would create an unjustified or disproportionate cost, while also noting that the USP has not provided any evidence in support of such a submission, and ComReg has thus decided:

(i). that the existing requirement under the 2006 Accounting Direction, in relation to the USP having to provide commentary on the Regulated Accounts, will be carried over in the 2017 Accounting Direction; and

(ii). that the accessibility of the Regulatory Accounts will be improved by requiring the USP to include charts and trends therein, similar to those which it currently includes in its Annual Reports.

4.3.5 Other reporting requirements

172. In Consultation 15/135, ComReg proposed to carry over the existing requirement in the 2006 Accounting Direction in relation to the USP having to provide, upon request, such ad hoc reports as ComReg may require from time to time. ComReg also proposed that it may arrange for the Regulatory Auditor to conduct "Agreed Upon Procedures" in respect of any such ad hoc report.

Views of Respondents

173. The USP states that it currently provides ComReg with ad hoc documents on universal postal service availability, when required, and it does not agree that the ad hoc reports which it provides should be audited on an “Agreed Upon Procedures” basis.

174. The USP further states that both Eircom and RTE/2RN, who currently provide regulatory information of this nature to ComReg, do so under the heading of “Additional Financial Information” and that the auditing of this information is on an “as needed” basis and is the exception and not the norm.

ComReg’s Position

175. ComReg will continue to require the USP to provide, upon request, such ad hoc reports as ComReg may require from time to time. This maintains the current the requirement under the 2006 Accounting Direction, in the 2017 Accounting Direction. ComReg would request such an ad hoc report where the information sought was necessary for the proper exercise by ComReg of one or more of its statutory functions in relation the postal sector.

176. In respect of a possible review by an “Agreed Upon Procedures”, this would occur only if ComReg considers it necessary and ComReg agrees that it is not the norm. This was made clear in Consultation 15/135 and it is clear in the 2017 Accounting Direction.

4.3.6 Publication of the Accounting Manual

177. In Consultation 15/135, ComReg proposed to maintain the current situation under the 2006 Accounting Direction by not requiring that the USP must publish its Accounting Manual. However, ComReg did propose that the USP shall be required to include, in its Regulatory Accounts, details of the accounting principles which it applied in preparing its Regulatory Accounts, in sufficient detail as to clearly inform the reader as to how those accounting principles were applied.

Views of Respondents

178. The USP agrees that the Accounting Manual should not be published because of the amount of confidential and commercially sensitive information therein.

179. The USP also submits that this requirement is currently fulfilled, as the current Regulatory Accounts include a section dedicated to the regulatory accounting principles and the basis of preparation of the Regulatory Accounts.

ComReg's Position

180. ComReg will not require the publication of the Accounting Manual but the USP shall be required to include, in its Regulatory Accounts, details of the accounting principles which it applied in preparing its Regulatory Accounts, in sufficient detail as to clearly inform the reader as to how those accounting principles were applied.

4.4 Compliance requirements

4.4.1 Regulatory Auditor's verification of compliance with the requirements of the Accounting Direction

181. Section 3.1(j) of the 2006 Accounting Direction requires that a "competent body" (i.e. an auditor or other relevant expert) shall provide a report and opinion on the Regulatory Accounts and on the USP's compliance with the requirements of the 2006 Accounting Direction.

182. Section 31(3)(d) of the 2011 Act requires that a direction under section 31(1) shall provide for verification, by a statutory auditor or statutory audit firm, of compliance with internal cost accounting systems. ComReg thus proposed, in Consultation 15/135, to include details as to the manner in which a statutory auditor or statutory audit firm (that is, the Regulatory Auditor) shall verify compliance by the USP.

183. Consultation 15/135 proposed that the Accounting Direction should require that the scope of such an audit, conducted pursuant to section 31(3)(d) of the 2011 Act, should continue to be on a "present fairly" basis. Consultation 15/135 also proposed that the scope of such an audit should include commentary and verification of compliance by the USP with its internal cost accounting systems, in respect of the following:

- the Regulatory Accounts and the Accounting Manual;
- the revenue, costs, and volumes included in the Regulatory Accounts;
- the reconciliation between the Regulatory Accounts and statutory accounts;
- correctness of figures, including operational volumes and the reconciliation of revenue-derived volumes to operational volumes;
- methodologies used regarding amortisation, cost capitalisation, and cost allocation (including transfer charges / inter-segment charges);
- appropriateness of the usage of the cost drivers;

- nature and detail of all transfer charges / inter-segment charges;
- the frequency of updates used for cost allocation purposes;
- appropriateness of any changes in the cost allocation methodology; and
- whether the Accounting Manual continues to fairly present the USP's processes, procedures, and policies in preparing the Regulatory Accounts.

Views of Respondents

184. The USP expresses concern over the proposed level of the audit to be conducted under section 31(3)(d) of the 2011 Act and with the areas to be covered by the audit, as listed in Consultation 15/135 and above. The USP submits that:

- ComReg should have engaged with the professional accounting body, the CAI, and that clarifying the scope of the audit would be best achieved through discussions between the USP, ComReg and CAI and that this would allow ComReg to reach a feasible and efficient solution in the shortest time as ComReg could set the requirements in line with what the USP could feasibly provide;
- the audit should be conducted on a "properly prepared in accordance with" ("PPIAW") basis, rather than on the current "fairly presents" basis (the USP gives, as examples, RTE/2RN and Royal Mail's regulatory audits which it claims are conducted on a PPIAW basis);
- a "fairly presents" audit opinion requires that the auditor must not only certify that the reviewed accounts are compliant but also that the underlying methodologies, and their application, are consistent and reasonable; and
- a "fairly presents" audit opinion would be difficult for certain aspects of the proposed audit, such as reconciling operational-based and revenue-derived mail volumes, and the PPIAW standard is sufficient and proportionate as it would not be as burdensome as the "fairly presents" standard but would still provide ComReg with confidence in the Regulatory Accounts.

185. CAI submits that:

- "fairly presents" is a widely used term in the context of giving reasonable assurance and that suitable criteria are needed. CAI further submits that it is not clear as to what would constitute suitable criteria for many of the detailed matters which ComReg proposed to include in the audit (similarly, the USP asks that ComReg provide clarification on its audit requirements);

- ComReg appears to have mixed two very different concepts – "*fairly presents"* basis and "*commentary & verification"*;

- some parts of the proposed audit appear to come close to requiring the auditor to take responsibility for regulatory matters, such as "*appropriateness of usage of cost drivers*" and "*appropriateness of any changes in the cost allocation methodology*" – the CAI queries if this is appropriate;

- the criteria for determining eligibility for being appointed as Regulatory Auditor are unclear, including as to professional standards which the Regulatory Auditor would be expected to apply – the CAI submits that this could undermine the quality of the reporting provided to ComReg; and

- providing commentary is the responsibility of the entity's management (though the CAI does also state that an auditor may provide assurance as to whether such commentary properly reflects the underlying circumstances and whether the stated practices are in place).

186. PwC submits that:

- terms such as "review" and "verify", if used without any definition or explanation, could result in different interpretations and legal issues;

- it would be inappropriate for the independent auditor's report on the Regulatory Accounts to cover the commentary as proposed;

- certain aspects of the proposed audit (Accounting Manual, cost drivers, and operational volumes) are not possible under International Standards on Auditing ("ISAs"); and

- the proposed scope may not meet the pre-conditions for an audit under ISA 210[43], as certain parts appear best suited to other forms of assurance under ISAE 3000[44] or to an agreed upon set of procedures performed in accordance with ISRS 4400[45]. KPMG shares this view.

[43] International Standard on Auditing (ISA) 210 "Agreeing the Terms of Audit Engagements"
[44] International Standard on Assurance Engagements (ISAE) 3000 "Assurance Engagements Other Than Audits or Reviews of Historical Financial Information"
[45] International Standard on Related Services (ISRS) 4400 "Engagements to Perform Agreed Upon Procedures Regarding Financial Information"

187. KPMG submits that an audit of the Accounting Manual would be difficult and highly unusual. KPMG also notes terms such as "correctness of figures" and "appropriateness of usage" and, referring to the language in the accounting direction to Eircom, questions if such terms are acceptable and appropriate criteria for auditors to opine on.

188. KPMG and PwC both submit that the proposed scope of the audit is not possible and they suggest that ComReg needs to consult with the relevant accounting bodies in order to agree on a workable scope and suitable framework.

189. In addition to considering their written submissions, ComReg also met with representatives of CAI, KPMG, and PwC on 26 April 2016, in order to gain further understanding of their views. At that meeting, CAI acknowledged that it is not familiar with the in-depth requirements of ComReg and how the Accounting Direction addresses those requirements. The meeting focused on the appointment of the Regulatory Auditor and the scope of the audit. CAI stated that the scope of an audit requires objective criteria, that International Standards on Auditing relate to the audit of historical financial information prepared in accordance with a specific framework, and that International Standards on Assurance Engagements relate to the provision of assurance on other matters.

190. The USP, in its response, specifically asks that ComReg review the auditing requirements with experts in this area and that it use the precedence of the establishment of the tri-partite engagement and the "Duty of Care" dialogue when agreeing this highly technical area. The USP states that this previously involved ComReg, the USP, KPMG, and CAI. The USP further states that the existing audit engagement with KPMG, including a 'Duty of Care' to ComReg, was fully accepted by ComReg in January 2013.

ComReg's Position

191. ComReg notes the following:

i) The audit opinion is currently set out on a "fairly presents" basis.

ii) The audit opinion in respect of RTE/2RN is not a "PPIAW" audit opinion, as asserted by the USP. Its auditor's opinion is with regard to those regulatory accounts being "*fairly presented in accordance with the Primary Accounting Documentation … and comply with the requirements of the Decision Instrument*."

iii) With regard to criteria, scope and terminology for the "fairly presents" audit opinion, ComReg will set the scope of the audit so as to match the scope of the current audit, as set out in the existing tri-partite letter of engagement for the current "fairly presents" audit. Therefore, there should be no issue regarding the scope of the audit as the 2017 Accounting Direction will, in this regard, merely maintain the status quo. This should address the concerns expressed by CAI, PwC, and KPMG in their respective submissions and at their meeting with ComReg on 26 April 2016. This also formalises the arrangement noted in the 2006 Accounting Direction, which stated that the scope of the Regulatory Audit would be agreed in a tri-partite letter of engagement which provided for a "Duty of Care" to ComReg.

iv) With regard to auditing the Accounting Manual, ComReg notes that this was subject to a separate "review and recommend" engagement by the Regulatory Auditor in 2016, under a separate appointment by ComReg. ComReg may continue to utilise this approach for any future reviews of the Accounting Manual.

192. Therefore, the scope of the Regulatory Audit is as per the existing tri-partite letter of engagement from the Regulatory Auditor and is such as to maintain the current position and is as follows:

i) The report of the Regulatory Auditor will be addressed to the USP and ComReg and will state whether, in the Regulatory Auditor's opinion:

- the Regulatory Accounts present fairly the profits and losses attributable to the individual services in accordance with the Regulatory Accounting Principles and Basis of Preparation set out in the Regulatory Accounts and the assumptions contained in the USP's Accounting Manual and are properly prepared, in all material respects, in accordance with the Regulatory Accounting Principles; and

- the non-financial data relating to mail volume is in agreement with the output from the Revenue Derived Traffic methodology set out in the Regulatory Accounts.

ii) The Regulatory Auditor, in arriving at its opinion, will consider the following matters and report on any in respect of which it is not satisfied:

- whether appropriate accounting records have been kept by the USP and proper returns adequate for its audit have been received;

- whether the Regulatory Accounts are in agreement with the accounting records and returns retained for the purpose of preparing the Regulatory Accounts; and

- whether the Regulatory Auditor has obtained all of the information and explanations which it considers necessary for the purposes of its audit.

iii) The Regulatory Auditor’s responsibilities also include:

- Providing, in its report, a description of the An Post’s Directors' responsibilities for the Regulatory Accounts where the Regulatory Accounts or accompanying information do not include such a description; and

- Considering whether other information in documents containing the Regulatory Accounts is consistent with those Regulatory Accounts.

iv) The Regulatory Audit will be conducted in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board except that, as the nature, form and content of the Regulatory Accounts are determined by the Regulator, the Regulatory Auditor will not evaluate the overall adequacy of the presentation of the information, as would be required if it were to express an audit opinion under Auditing Standards.

v) The Regulatory Audit will include such tests of transactions and of the existence, ownership and valuation of assets and liabilities as the Regulatory Auditor consider necessary.

vi) The Regulatory Auditor will obtain an understanding of the accounting and internal financial control systems, to the extent necessary to assess such systems’ adequacy as a basis for preparing the Regulatory Accounts and to establish whether appropriate accounting records have been maintained by the USP.

vii) The Regulatory Audit will include assessing the significant estimates and judgements made by An Post’s Directors in the preparation of the Regulatory Accounts and whether the accounting policies are appropriate to the USP's circumstances, are consistently applied, and are adequately disclosed.

viii) The Regulatory Auditor will read the Financial Summary, Business Review ("Other Information") contained within the Regulatory Accounts, including any supplementary schedules on which it does not express an audit opinion, and will consider the implications for its report if it becomes aware of any apparent mis-statements or material inconsistencies with the Regulatory Accounts.

ix) The Regulatory Auditor will plan its work in such manner as to gain reasonable assurance that the audited information within the Regulatory Accounts is free from material error, regardless as to whether such error results from fraud, accident, negligence, or a deliberate misstatement of known facts.

4.4.2 Appointment of the Regulatory Auditor

193. In Consultation 15/135, ComReg proposed that the auditor of the Regulatory Accounts (the Regulatory Auditor) should be appointed under contract by ComReg and that the Regulatory Auditor should not be the same entity as audits An Post's statutory accounts (as appointed by An Post). ComReg made this proposal as Article 14(5) of the Postal Directive requires that compliance with the cost accounting systems should be verified by a competent body which is independent of the USP. Furthermore, a report for the European Commission by WiK (2009[46]) found that where an auditor is appointed and retained by the USP then its independence may be open to question. For this reason, WiK recommended that the NRA in each Member State (ComReg in Ireland) should ensure that the USP's cost accounting practices are verified at least annually, either by the NRA itself or by a competent body appointed by the NRA.

Views of Respondents

194. The USP, PwC, KPMG, and CAI all express concerns over ComReg's proposal view that appointment of the Regulatory Auditor would ensure independence and would be better aligned with best practice.

195. The USP:

- submits that the independence of an accredited auditor should not be questioned;
- notes that the Regulatory Auditor has a duty of care to both the USP and ComReg, as set out in the current tri-partite letter of engagement which was agreed between ComReg, CAI, the USP and KPMG; states that its auditor appointment is re-evaluated and re-tendered every 3-5 years in accordance with public procurement requirements and at arm's length;
- states that KPMG has been the only Statutory Auditor for An Post since the formation of An Post in 1983 and has been the only Regulatory Auditor, since 2007, following ComReg's 2006 Accounting Direction;
- submits that it is not customary or usual, in Ireland, for an auditor to be appointed to a semi-State body which operates on a commercial or quasi-commercial basis, by a third party or regulator, and that this type of procedure would more usually correspond with a public body; and

[46] 'The Role of Regulators in a More Competitive Postal Market' http://ec.europa.eu/internal_market/post/doc/studies/2009-wik_regulators.pdf

submits that the appointment of the auditor by the regulator as best practice is unfounded (though the USP does acknowledge that CERP described the appointment of the Regulatory Auditor by a NRA as best practice).

196. PwC:

- fundamentally disagrees with any suggestion that a Regulatory Auditor appointed by ComReg would in some way ensure a higher level of independence;
- cites the IFAC[47] Code and the national ethical requirements in Ireland that sets out detailed requirements for auditor’s independence;
- submits that the level of assurance is not impacted by whether the auditor is appointed by ComReg or by the USP; and
- submits that all audits performed under International Standards on Auditing (“ISA”) are performed under the same standards and that ISA 200 (UK & Ireland) establishes the independent auditor's overall responsibilities.

197. CAI:

- submits that it is factually incorrect that an auditor of statutory financial statements is not independent;
- observes that in other regulated sectors, the auditor appointed under company law is regarded as independent for regulatory reporting purposes;
- observes that other regulators also look to the statutory auditor to provide reports on regulatory accounts, including the Commission for Energy Regulation; and
- submits that there is perceived value in the same audit team reporting on regulatory information.

[47] International Federation of Accountants (IFAC) “*Code of Ethics*”

198. CAI and PwC both refer to the fact that statutory auditors have to adhere to strict ethical standards issued by the Financial Reporting Council ("FRC"). Both point out that statutory auditors are also required to maintain firm-wide policies and procedures to this end and apply this to all audit and assurance engagements. KPMG states that it, for example, complies with ISQC 1[48] which stipulates that the firm establishes policies and procedures to maintain independence.

199. The USP and PwC both submit that, as An Post is charged with governance of An Post and with preparation of the Regulatory Accounts, An Post is the appropriate body to appoint the auditor of those accounts. The USP and KPMG both submit that the company directors take responsibility for financial statements and therefore, it is reasonable to expect that such directors would want responsibility for selecting the the Regulatory Auditor. KPMG submits that it is not customary, nor is it the case in practice in Ireland or the UK, for an auditor to be appointed by persons other than the board of directors.

200. The USP further submits:

- that to exclude participation of the statutory auditor in the tender for the regulatory audit would be a breach of procurement law and would not be in line with what was stated by the European Court of Justice;
- that participation of the statutory auditor in the tender for the regulatory audit does not contradict any of the factors of economic and financial standing, technical and professional ability, suitability to pursue the professional activity, professional honesty, solvency and reliability;
- and that according to the Public Sector Directive, ComReg is obliged to ensure competition among tenderers is open, fair, transparent and inclusive.

201. KPMG has a similar view to the USP and submits that it is unprecedented for the statutory auditor to be prohibited from being appointed as regulatory auditor, either in Ireland, UK or across Europe. KPMG further understands that the roles are not separated elsewhere in Ireland. KPMG states that this issue was dealt with by ComReg in respect of the accounting direction on Eircom where the conclusion was that a separate regulatory auditor was not required. KPMG does offer that in situations where the NRA does appoint the regulatory auditor, for example in Poland, there is no such restriction placed on the auditor of the statutory financial statements.

[48] International Standard on Quality Control (ISQC) 1 "*Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements*"

202. The USP, PwC, and KPMG:

- disagree with ComReg's proposal that the statutory auditor and the Regulatory Auditor should not be the same entity;
- submit that this would add considerably in terms of cost and burden;
- submit that the Regulatory Auditor typically leverages from the financial information and general knowledge it obtains through the statutory audit; and
- submit that there would be a significant duplication of effort if the auditors were separated (in terms of the potential impact on cost of this proposal, the USP, as a working assumption, considers adding 50% to the cost of the current Regulatory Audit to be a conservative estimate, if separation of the Regulatory Audit was to occur).

203. KPMG also submits that, in terms of timing, it is probable that there could be a significant delay in sign-off of the Regulatory Accounts due to the additional efforts required. KPMG understands that in Poland, where the NRA does appoint the Regulatory Auditor, the additional timeline is significant due to the need for the statutory financial statements to be completed before the commencement of the regulatory accounts audit. KPMG submits that interaction between the statutory auditor and regulatory auditor would need to be considered because there could be unforeseen difficulties. CAI's view is similar to KPMG in that it also submits that additional cost and time would be incurred due to a lack of direct knowledge by a separate regulatory auditor, giving rise, in CAI's view, to a risk that inconsistencies in reporting would not be detected.

ComReg's Position

204. For the avoidance of doubt, and as set out in Consultation 15/135, the proposal relates solely to the Regulatory Auditor and not to the statutory auditor. The statutory auditor is and will remain appointed by An Post to audit An Post's statutory accounts. Furthermore, the Directors of An Post remain solely responsible for the preparation and audit of those statutory accounts.

205. The Regulatory Accounts[49] are an additional set of accounts intended to meet the information requirements of ComReg and are not substitutes for the statutory accounts which An Post must prepare under the Companies Acts. Given that the Regulatory Auditor would be tasked to review the USP's adherence in its Regulatory Accounts to the requirements set out in ComReg's accounting direction, it is reasonable and logical that ComReg could appoint the Regulatory Auditor. ComReg already appoints and retains the auditor in a related regulatory context in the postal sector, in that ComReg appoints and retains the auditor of the USP's Real Mail Study (RMS) which informs cost allocation (amongst other things).

206. A recent issue highlights the importance of the Regulatory Accounts for ComReg and the potential benefit to ComReg in appointing the Regulatory Auditor. In 2015, the USP, which up until then had reported its financial results, for both statutory accounts and Regulatory Accounts, under Irish Generally Accepted Accounting Principles ("GAAP"), switched its financial reporting system to International Financial Reporting Standards ("IFRS"). This was done in order to be compliant with new financial reporting guidelines.

207. This new reporting presentation in the statutory accounts resulted in the USP presenting the current year 2015 numbers under IFRS and restating the 2014 comparative numbers under IFRS. An explanatory note to the accounts reconciled the 2014 GAAP numbers to those numbers as restated under IFRS. However, unlike the statutory accounts, the 2015 Regulatory Accounts did not restate the 2014 comparative numbers. This resulted in two sets of numbers (2015 versus 2014) prepared under different reporting bases, thus rendering any year-on-year analysis between the two sets of numbers as meaningless.

208. Note 8 to the 2015 Regulatory Accounts reconciles the 2014 Balance Sheet numbers under Irish GAAP to IFRS, but this is for the Group Balance Sheet, not the Mails segment Balance Sheet which is applicable for the Regulatory Accounts, again meaning that this reconciliation note was meaningless in the context of the Regulatory Accounts. ComReg was not notified about this prior year comparative presentation issue of the 2015 Regulatory Accounts at any point during the Regulatory Audit. This indicates how the Regulatory Accounts, which are prepared for the purposes of the Regulator, may not necessarily meet the information requirements of the Regulator.

[49] For information, An Post's Summary Regulatory Accounts (Regulatory Accounts with limited redactions for confidential information) can be found at http://www.anpostmedia.com/Media/An_Post_2015_Regulatory_Accounts%20_Summary%202015.pdf

209. Having considered the respondents' views, ComReg's has decided to maintain the current position in that the USP will continue to appoint the Regulatory Auditor. However, ComReg considers that it would be beneficial to improve its engagement with the Regulatory Auditor pursuant to the tri-partite letter of engagement. This will be done in order to improve the sharing of information between the Regulatory Auditor and ComReg, particularly prior to the presentation of the final Regulatory Accounts. ComReg will explore this further with the Regulatory Auditor.

210. There may, consequently, be instances where ComReg will require further engagement with the Regulatory Auditor, which may include the Regulatory Auditor having to provide certain additional services. Under the letter of engagement, ComReg can request the Regulatory Auditor to report on specific factors or individual areas of compliance. Any such engagement will be addressed through an "Agreed Upon Procedures" audit. Such procedures will be specified in a separate letter of engagement and the Regulatory Auditor will provides its Agreed Upon Procedures report to ComReg, separate to its opinion on the Regulatory Accounts.

211. In addition to an Agreed Upon Procedures report, there may be circumstances where ComReg may require a separate expert opinion. For example, in 2016, ComReg appointed the Regulatory Auditor to review the USP's Accounting Manual for compliance against the 2006 Accounting Direction. If ComReg should require a separate expert opinion report from the Regulatory Auditor then this will also be agreed in a separate engagement letter. ComReg also reserves the right to appoint a competent body, other than the Regulatory Auditor, to provide a separate expert opinion. This is consistent with ComReg's Accounting Direction to Eircom[50] and the 2006 Accounting Direction.

4.4.3 ComReg's approval of the USP's Accounting Manual

212. In Consultation 15/135, ComReg proposed that it would be more efficient if the USP was only required to notify ComReg of any changes to the Accounting Manual and if it was not required to obtain ComReg's approval for each annual edition of the Accounting Manual. To ensure that the Accounting Manual correctly sets out the procedures and policies for preparing the Regulatory Accounts, ComReg proposed that the Regulatory Auditor would assess any such changes and would report to ComReg as to whether the Accounting Manual continues to fairly present the USP's processes, procedures, and policies in preparing the Regulatory Accounts.

[50] Para 3.370 ComReg Document No. 10/67

Views of Respondents

213. In its response, the USP agrees with this proposal and states that the original requirement of needing pre-approval of the Accounting Manual did not appear to be consistent with international precedent.

214. However, the USP wishes to limit this requirement to material changes only. The USP contends that the proposal could prove unworkable and could delay the existing working arrangements. The USP explains that some of the changes to the Accounting Manual merely mirror insignificant changes to the internal accounting system of the USP. The USP further explains that these changes do not have material impacts on the Accounting Manual, but may be necessary due to changes to the internal process or system.

ComReg's Position

215. ComReg remains of the view that the USP is not required to obtain ComReg's approval for each annual edition of the Accounting Manual. ComReg remains of the view that the USP should only be required to notify ComReg of any changes to the Accounting Manual. If, as the USP claim, most of these changes are immaterial/insignificant, there should not be much work involved in this.

216. To ensure that the Accounting Manual correctly sets out the procedures and policies for preparing the Regulatory Accounts, ComReg reserves the right, when required, to either appoint a competent body to review or to appoint the Regulatory Auditor to provide a separate expert opinion. This is possible under the current tripartite letter of engagement. For example, in 2016, ComReg appointed the Regulatory Auditor to review the USP's Accounting Manual for compliance against the 2006 Accounting Direction.

4.4.4 Statement of compliance

217. ComReg proposed that the Accounting Direction shall maintain the requirement that the Directors of the USP furnish a signed statement, acknowledging their responsibilities for the preparation of the Accounting Manual and the Regulatory Accounts and confirming that said documents comply with section 31 of the 2011 Act and with the Accounting Direction.

Views of Respondents

218. The USP agrees with this requirement and states that this is the current situation.

219. However, the USP submits that this requirement could introduce added complexity and practical difficulties if the Regulatory Auditor is appointed by ComReg, because the USP's Directors require full knowledge of the regulatory audit if they are to take responsibility for it. The USP submits that if the Regulatory Auditor was appointed by ComReg, and if ComReg was thus the auditor's main contact, then the USP's Directors would not automatically have the knowledge and the confidence to take full responsibility of the audit. The USP also asks why the duty of care is considered insufficient for ComReg in relation to the functioning of the audit, but is regarded as being sufficient for the USP Directors to take full responsibility for it. The USP further submits that the existing tri-partite engagement process was agreed and put in place in 2012 after detailed discussions and engagement between the parties and the CAI. The USP's submits that it is not clear as to why ComReg now considers that the tri-partite engagement process is somewhat deficient, and requires change.

ComReg's Position

220. ComReg does not agree that the USP's Directors are responsible for the regulatory audit, as that responsibility lies solely with the Regulatory Auditor. The USP Directors have responsibilities for preparing the Accounting Manual and Regulatory Accounts. The USP has not explained why, if the Regulatory Auditor was appointed by ComReg, that this requirement could introduce added complexity and practical difficulties with regard to the continued provision of the Directors' statement. The USP's Directors could gain some comfort from the USP's internal finance function and internal audit function and from its statutory audit (appointed by the USP) and from the Regulatory Auditor's contractual duty of care to the USP. Furthermore, the USP Directors could separately engage any expert assurance they may require in order to provide the Directors' statement.

221. The above issues are now moot as ComReg has decided that the USP will continue to appoint the Regulatory Auditor. However, ComReg would note that the Regulatory Accounts are primarily for its information and, assuming that the USP's above submission is correct, it can only follow that ComReg currently cannot have full knowledge of the Regulatory Audit because ComReg does not appoint the Regulatory Auditor. This supports ComReg's view that information sharing by the Regulatory Auditor is necessary and could be improved. ComReg will explore this further with the Regulatory Auditor.

222. ComReg's position is that the Accounting Direction shall, pursuant to section 31(3)(f) of the 2011 Act, maintain the requirement that the Directors of the USP furnish a signed statement, acknowledging their responsibilities for the preparation of the Accounting Manual and the Regulatory Accounts and confirming that said documents comply with section 31 of the 2011 Act and with the Accounting Direction.

4.5 Timetables

Timetable to comply with Direction

223. In the Consultation, ComReg was of the preliminary view that the USP should be able to implement the proposals for the Accounting Direction within a reasonable timeframe because:

- many of the proposed requirements already exist under the 2006 Accounting Direction, and
- where any proposed information requirements are additional to the existing information requirements under the 2006 Accounting Direction, the USP already has much of the information at issue in its possession.

Views of Respondents

224. The USP submits that ComReg has not appropriately considered the numerous changes to the USP's systems and procedures that would be necessary if the accounting recommendations proposed in Consultation 15/135 were implemented.

ComReg's Position

225. The 2017 Accounting Direction is primarily a carrying forward of existing requirements under the 2006 Accounting Direction. There are only minimal additional information requirements and, in respect of those requirements, the USP should have the additional information to hand. Therefore, most of the requirements should already be implemented while the few remaining should be relatively straight forward to implement. Furthermore, no evidence has been provided in support of the claim that numerous changes to the USP's systems and procedures would be required; the USP made a general statement to this effect but without specific detail

226. As the 2017 Accounting Direction comes into effect in January 2017, ComReg considers that this should not pose any issue with regard to the USP implementing the 2017 Accounting Direction for its Regulatory Accounts for the financial year ending 31 December 2017. The USP should also be able to submit its timed programme for complying with the 2017 Accounting Direction by 1 July 2017, for ComReg's review and approval.

Timetable to provide Regulatory Accounts

ComReg's Position

227. ComReg is maintaining the requirement that the USP:

- provides its Regulatory Accounts and Accounting Manual to ComReg, and
- publishes its Summary Regulatory Accounts[51] on its website

within 19 weeks of the end of the USP's financial year.

228. The USP currently provides the Regulatory Accounts and Accounting Manual within 13-14 weeks of its financial year so maintaining this deadline of within 19 weeks should not be an issue for the USP.

4.6 Format of the Regulatory Accounts

4.6.1 Confidential and Public Versions of Regulatory Accounts

229. As required by section 31(3)(e) of the 2011 Act, the USP publishes its Summary Regulatory Accounts[52], which are an extract of the Regulatory Accounts, redacting information which the USP considers to be confidential / commercially sensitive. Currently, this redacted information consists of detail on the split of costs by Revenue Collection, Collection, Outward Sorting, Transport, and Inward Sorting.

230. Therefore, the Summary Regulatory Accounts that the USP currently publishes do not contain many redactions and are much the same as the Regulatory Accounts which are submitted in confidence to ComReg.

231. ComReg, in Consultation 15/135, proposed a set of:

i) Regulatory Accounts (proposed template at Document No. 15/135b) which are produced and submitted to ComReg; and

ii) Summary Regulatory Accounts (proposed template at Document No. 15/135c), which is the public version of the Regulatory Accounts with redactions for information that is deemed to be confidential/commercially sensitive and therefore cannot be published.

232. ComReg proposed that the existing publication by the USP of its Summary Regulatory Accounts should continue and the proposed Summary Regulatory Accounts at Document No. 15/135c reflected this.

[51] As required by section 31(3)(e) of the 2011 Act

[52] http://www.anpostmedia.com/Media/An_Post_2015_Regulatory_Accounts%20_Summary%202015.pdf

233. In Consultation 15/135, ComReg noted that data is more likely to be commercially sensitive where the USP faces competition or prospective competition. Universal postal services do not face effective competition or likely prospective effective competition.

234. ComReg's preliminary view in relation to the confidentiality of the additional information requirements was as follows:

Additional information	Preliminary view in Consultation 15/135
Commentary and additional KPI in "1 Financial Summary and Business Review"	Public as does not contain confidential information
Commentary on universal postal service volumes in "3 Universal Service Performance"	Public as does not contain confidential information
Split on International Inbound profit/(loss) between intra-Community and Rest of World	Public as does not contain confidential information; improves information for section 29 of 2011 Act
Split on intra-segment revenue and cost, universal postal service and non-universal postal service	Public as does not contain confidential information
Per unit Revenue, Cost and Profit(Loss) for each universal postal service	Public as does not contain confidential information; improves information for section 28(1) of 2011 Act
Split non-universal postal service parcels from "Other"	Confidential as relates to non-universal postal service Parcels
International Inbound by intra-Community and Rest of World	Public as does not contain confidential information
Estimated cost of providing universal postal service by price point	Confidential
Average FTE and Payroll costs by business segment, universal postal service, non-universal postal service	Public as does not contain confidential information
Reconciliation of operational volumes at format level by Mail Centre and DSU	Public as does not contain confidential information

Additional information	Preliminary view in Consultation 15/135
Quarterly balance sheet, if cash at bank and in hand is less than €100m	Confidential for quarterly submission to ComReg within four weeks of quarter end. Annual balance sheet and quarterly balance sheets that pre-date the Annual balance sheet to be published in the Summary Regulatory Accounts as the quarterly balance sheet would no longer be confidential.

Views of Respondents

235. The USP submits that:

- the current level of detail included within the Regulatory Accounts is in excess of the requirements of the 2011 Act;
- the format of the Regulatory Accounts should be established by the USP in discussion with ComReg, to ensure that the information required by ComReg is included in a format that would minimise the USP's cost of compliance;
- the level of regulatory accounting information provided by the USP is greater than Royal Mail. The USP considers that the Royal Mail Regulatory Accounts is limited to two services i.e. aggregated Universal Postal Service and Other Operations. The USP therefore maintains that this, along with supplementary information supplied to Ofcom (postal regulator in the UK), is sufficient for that regulator to carry out its regulatory duties;
- there is no clear legal basis for an Accounting Direction to require compliance by the USP with a certain written format;
- ComReg must justify the need for the information it would like to make publicly available, by demonstrating the expected benefits from publication.
- mandating the disclosure of sensitive information, such as service-level information, would provide the USP's competitors with commercially sensitive information which would disadvantage the USP.

- that the USP's activity in markets for non-universal postal services should be regarded as that of any other operator in such markets and, in this regard, that publication of information on these services is not matched by other postal service providers having to make equal disclosure and that requiring the USP to do so would distort competition, by creating information asymmetries; and

- in light of recent developments whereby three new postal service providers[53] have been authorised since the price cap control taking effect, ComReg's conclusion on likely barriers to entry and competition are not accurate. In the letter market segment, the USP submits that companies such as Lettershop, CityPOST, and DX increasingly pose competitive constraints. In the packets/parcel market segment, the USP notes previous ComReg research which showed competition levels in the market have increased which have been growing at a rate of about 7% per annum between 2011 and 2013[54]. Currently, there are 9 companies with at least 5% to 10% value market share operating in the Irish market. In 2013, the USP was estimated to have between 20% and 30% of value share in the parcel and packets sector[55]. The USP claims that this increased competition has resulted in some of the data currently included in the published Summary Regulatory Accounts to become commercially sensitive. In particular, the USP believes that data on revenues, profits, costs and volumes in the parcel and packets business segments should not be published as these segments are now increasingly competitive and that "… competition in the parcels and packets services market is already strong." Furthermore, the USP believes that competition in the parcel and packets sector is expected to increase further due to the expansion of the delivery market, especially through demand for low-cost delivery services.

Confidentiality:

236. With regard to providing information that the USP claims is confidential, the USP submits that the following material is confidential and would be damaging to the USP if set out in public:

i) *Per unit Revenue, Cost and Profit (Loss) for each universal postal service*:

[53] RR Donnelley Document Solutions (Ireland) Ltd, Sooner Than Later Solutions Ltd. and CityPOST Ltd
[54] ComReg Document No. 15/47
[55] Ibid.

The USP submits that providing this information on a non-confidential basis would give its competitors an insight into the operational process at the USP; this would also advantage competitors in designing offers whose quality-price mix is not easily replicable by the USP. The USP submits that this would be damaging to the USP and its ability to compete, particularly in tender processes.

ii) *Average FTE and Payroll costs by business segment: universal postal service & non-universal postal service:*

The USP submits that disclosing this information may put it at further disadvantage by providing insight into the technology intensity of the USP's services and gives competitors an unprecedented insight into its costs.

iii) *Non-universal postal service products breakdown:*

The USP submits that as the market for non-universal postal service products is competitive, information on non-universal postal service products should be limited and provided only at the aggregate level.

iv) *Detailed Profit and Loss Account for Mails business segment and for each universal service, to be provided by category for universal postal service and non-universal postal service Mail services. Separate accounts should be created for domestic, international inbound intra-EU, and international inbound to the rest of the world operations:*

The USP submits that ComReg has not sufficiently demonstrated the benefits of publishing this information. The USP further submits that disclosing information such as revenues and volumes for national, international and EU segments of the market separately would, in its view, damage the USP commercially. The USP submits that providing detailed commentary on capital expenditure in the published version of the Summary Regulatory Accounts would disclose information on the USP's commercial strategy.

v) *Inter-company and inter-segment matrices:*

The USP submits that this would provide sensitive commercial information with regard to the cost of staff providing services, many of which are not providing the regulated universal postal services; for example, that the internal transactions between the universal postal service and non-universal postal service products and the overall charges in relation to the USP's retail operations should not be included in the public Summary Regulatory Accounts.

vi) Treatment of parcels:

The USP submits that this requirement is already fulfilled, as data at parcel level is already included in the Regulatory Accounts.

Format of the Regulatory Accounts:

237. With regard to the format of the Regulatory Accounts, the USP makes the following points:

i) The USP is opposed to the financial liquidity measures included in KPIs and believes this is outside the norm. The USP contends that gathering a complete understanding of the liquidity position of a company requires the analysis of a number of metrics. The USP provides no further information on the composition of these particular metrics.

ii) The USP accepts the addition of an annual figure of net assets including pension liability to the financial review.

iii) The USP accepts the high level summary of the universal postal service performance but believes the summary of international inbound universal postal service performance split by intra EU/Rest of World should be moved to an appendix and included in the confidential version only. In support of its position, the USP contends that Royal Mail, the UK USP, is not required to produce a similar split to its regulator, Ofcom.

iv) The USP agrees with including a profit/(loss) account for each business segment.

v) The USP is opposed to the per unit revenue, cost & profit/(loss) for each universal postal service, and that this goes beyond the level of data furnished by Royal Mail, the UK USP.

vi) The USP is opposed to a Balance Sheet for each segment with the Mail segment further split between universal postal service & non-universal postal service and is of the view that the split is unnecessarily invasive. The USP submits that this split would require a significant number of assumptions concerning the use of various assets where these assets are used by both the universal postal service and non-universal postal services which, according to the USP, would be difficult to execute and validate.

vii) The USP submits that detailed profit/(loss) accounts for Mails should not be included in the public version of the Summary Regulatory Accounts and instead proposes that a summarised version of the profit/(loss) account for all geographies broken down by universal postal service is included only in the confidential Regulatory Accounts.

viii) The USP submits that a detailed profit/(loss) account for each universal postal service at the service level should not be included in the public version of the Summary Regulatory Account as it contends that such information would only serve to “crowd” the Summary Regulatory Accounts.

ix) The USP is opposed to providing the estimated cost of universal postal service by price point.

x) The USP agrees with inclusion in the Regulatory Accounts of the reconciliation of turnover, costs and profit/(loss) in the Statutory Accounts to the Regulatory Accounts.

xi) The USP agrees with inclusion in the notes to the Regulatory Accounts of information on fixed assets, debtors, creditors and capital employed.

xii) The USP is opposed to including in the Regulatory Accounts detailed accounts of staff and payroll costs, split by cost type & area of employment.

xiii) The USP is opposed to including in the Regulatory Accounts a reconciliation of revenue-derived & operational-derived volumes at format level.

xiv) The USP is opposed to including in the Regulatory Accounts a reconciliation of MC and DSU volumes.

xv) The USP is opposed to quarterly confidential reporting of cash balance when the balance falls below €100m and subsequent inclusion of such in the published Summary Regulatory Accounts.

238. The USP contends that excluding the negative impact linked to the disclosure of commercially sensitive information, implementation of the proposed requirements would result in an annual cost of €4.9m and at least €250,000 in one-off changes (e.g. changes to the systems to accommodate the new reporting process).

ComReg’s Position

239. Section 31(3)(d) of the 2011 Act requires the publication of the Regulatory Accounts and any other information relating to the requirements of section 31 and the Accounting Direction as ComReg considers appropriate. The nature and format of the Regulatory Accounts are determined by the requirements of ComReg. This is acknowledged by the Regulatory Auditor in its tri-partite letter of engagement.

240. The Regulatory Accounts are currently published with minimal redactions. The USP has not presented any robust evidence that this has had a detrimental commercial impact on the USP. Furthermore, the Regulatory Accounts mainly set out the financial performance of the universal postal services, which services do not face effective competition or likely prospective competition. Though the USP points to increased competition in the letters segment (from Lettershop, DX, and CityPOST) the USP accounts for the vast majority of mail volume in this sector. The USP submits that competition in the parcels and packets services market is already strong. However, this increased competition is largely in the B2C segment of packets/parcels, which is largely based on commercial negotiation by large mailers and is therefore outside the universal postal service. The packets and parcels services within the universal postal service are far more basic, typically single piece and typically presented at post office counters for sending. Further, if there is effective competition in the packets and parcel segment of the universal postal services then those services should no longer be universal postal services. ComReg will consider the USP's responses when, in due course, ComReg re-assesses the current specification of the universal postal service[56], as part of a public consultation. If ComReg should remove any postal services from the universal postal services, ComReg would also remove those services from the public Summary Regulatory Accounts.

241. The following is ComReg's response to the USP's specific points:

Claimed cost of the proposals made in Consultation 15/135:

242. The USP claims that it would cost c.€4.9m annual for the proposals made by ComReg in Consultation 15/135. In response, ComReg notes that:

(i). the USP's claimed costs are not supported by evidence, with the USP having simply included a small table of high-level cost estimates;

(ii). most of the claimed costs relate to the cost of volume reporting at Operations: DSU/DSO, which seems to relate to proposals regarding the proposed quarterly reconciliation of operational volumes between MC and DSU/DSO - this is not required by the 2017 Accounting Direction and so this claimed cost does not apply;

(iii). the annual costs also relate to reconciliation by service but this is not required by the 2017 Accounting Direction and so this claimed cost does not apply.

243. The USP's claims that it would incur one-off additional costs of €0.25m, for the following:

[56] ComReg Decision D08/12 dated 26 July 2012

- reporting process for measuring operational volumes;
- costs for each price point; and
- format of Regulatory Accounts

244. In response, ComReg must again note that the USP has not provided any evidence in support of its claims, while also noting the following:

- any additional costs to the USP for the reporting process for measuring operational-based volumes should be minimal, as ComReg's expert on volume reporting[57] has noted that the USP already uses operational-based volumes for its internal reporting;
- having to estimate the costs for each price point is a statutory requirement under s.28 of the 2011 Act and so no additional burden is being imposed; and
- the format of the future Regulatory Accounts will, for the most part, match the existing format, so there should be minimal additional cost.

Confidentiality

245. In relation to confidentiality, section 31(3)(e) of the 2011 Act is clear. The Accounting Direction shall provide for:

"*the publication of such accounts and other information relating to requirements under this section and such direction, as the Commission considers appropriate, subject to the protection of any information which the Commission considers confidential (within the meaning of section 24 of the Principal Act).*"

246. Section 24 of the 2002 Act defines confidential information as including "*information that is expressed by the Commission to be confidential either as regards particular information or as regards information of a particular class or description*."

247. ComReg sets out below the categories of information which it considers confidential. Such information will be published only in the Regulatory Accounts (confidential to ComReg) and not in the Summary Regulatory Accounts (extract made public).

[57] See ComReg Document No. 17/06d

Per unit revenue, cost and profit (loss) for each universal postal service

248. The USP already publishes this information in its Summary Regulatory Accounts without issue. The USP faces limited competition in the provision of postal services and no effective competition in the provision of universal postal services. Therefore, ComReg's position is that the USP shall provide per unit revenue, cost, and profit/(loss) for each universal postal service in its Summary Regulatory Accounts. This is the requirement as under the 2006 Accounting Direction.

Average FTE and Payroll cost by business segment, universal postal service, non-universal postal service

249. Payroll accounts for most of the cost of providing the universal postal service. ComReg requires this information to be able to discharge its functions under the 2011 Act. Following the USP's claim that this information is confidential, ComReg's position is that this information should be provided only in the Regulatory Accounts (confidential to ComReg).

Non-universal postal service products breakdown

250. The USP submits that as the market for non-universal postal service products is competitive, information on non-universal postal service products should be limited and provided at aggregated level. In response, ComReg notes that the USP currently provides this information to ComReg in the Regulatory Accounts (confidential to ComReg). The Summary Regulatory Accounts (not confidential) do not contain a breakdown of the non-universal postal service products. ComReg's position is that the status quo should be maintained and the USP has not presented any evidence that this has caused any issue to date. Furthermore, this position is supported by section 31(1) of the 2011 Act.

Detailed profit and loss accounts for Mails business segment and for each universal postal service, to be provided by category for universal postal service and non-universal postal service mail services. Separate accounts should be created for domestic, international inbound intra-EU, and international inbound to rest of world.

251. The USP currently provides most of this information in the Summary Regulatory Accounts (not confidential) as the universal postal service does not face effective competition. The additional information that ComReg seeks on International Inbound universal postal service, namely reporting intra-EU separately, is required to support s.29 of the 2011 Act. ComReg has concerns with regard to the losses incurred by the USP in the provision of International Inbound universal postal service[58].

Inter-company and inter-segment matrices

252. Section 31(1) of the 2011 Act requires the USP to keep in its internal accounting system separate accounts for each service it provides:

- which is part of the universal postal service
- which is not part of the universal postal service

253. There are charges made by the USP between the above segments; for example, the Retail segment charges the Mails segment for the use of its post office counters to provide postal services. Currently, there is a lack of full transparency as to how these inter-segment charges are calculated and applied by the USP. This lack of full transparency raises concerns, in particular with regard to ensuring that the universal postal service is allocated its fair share of costs. Therefore, there is a need for the matrices to provide ComReg with transparency on these charges.

254. Having considered the USP's concerns on confidentiality, the full detail of the inter-company and inter-segment matrices will only be in the Regulatory Accounts (confidential to ComReg) and will not be required to be published in the Summary Regulatory Accounts.

[58] See ComReg Document No. 16/53 ‘An Post’s losses on international inbound mail in the universal postal service’ dated 24 June 2016

Treatment of parcels

255. The current Regulatory Accounts do not split out non-universal postal service parcel; it is currently aggregated with "Other". ComReg requires this information and, contrary to the USP's submission, this requirement is not already fulfilled. The USP has the detail of non-universal postal service parcels and it is simply a matter of improved reporting to ComReg so that this detail is separately disclosed and not aggregated with "Other". For the avoidance of doubt, this information will be confidential to ComReg in the Regulatory Accounts. The Summary Regulatory Accounts (not confidential) do not and will not contain a break out of the USP's non-universal postal services.

Format of the Regulatory Accounts

256. In response to the USP's comments on the format of the Regulatory Accounts, ComReg notes the following:

Financial liquidity measures in KPI

257. The financial metrics are simply a matter of more comprehensive reporting of information already available from the Regulatory Accounts. ComReg's position is that this information should be provided.

Net assets including pension liability

258. ComReg acknowledges that the USP accepts the provision to provide this additional information. ComReg's position is that this information should be provided.

Universal postal service performance split by geography

259. This relates to International Inbound universal postal service. ComReg has expressed concerns with regard to the ongoing losses in International Inbound universal postal service[58]. The split by geography (intra-EU, Rest of World) is required to determine which terminal dues agreements are causing the loss. This is of particular importance as s.29 of the 2011 Act requires the universal postal service to cover the cost of processing and delivering incoming cross-border mail from other EU Member States. Therefore, ComReg's position is that this information is required and, as it relates to the universal postal service, which does not face effective competition, that it is not confidential information and therefore it should be published in the Summary Regulatory Accounts.

Profit/(loss) account for each business segment

260. ComReg acknowledges the USP's agreement on this. This simply maintains the status quo, as the USP currently provides this information. ComReg's position is that this requirement should be maintained.

Balance Sheet for Mails business split further between universal postal service and non-universal postal service

261. In the first instance, ComReg has not proposed the splitting of the Mail business between universal postal service and non-universal postal service and its position remains unchanged on this. With regard to a Balance Sheet for each segment, no change is proposed. ComReg is maintaining the status quo; the USP currently produces a Balance Sheet for Mails, Other and excluded items, and consolidation adjustments. Also, the USP's opposition to the split of the Balance Sheet by segment is at odds with its acceptance of a split reporting for the profit/(loss) account. ComReg's position is that the USP shall continue to provide a Balance Sheet split, which is to maintain the status quo as per the 2006 Accounting Direction.

Profit/(loss) reporting detail

262. The USP currently publishes detailed profit/loss accounts for the universal postal service, which does not face effective competition while the USP is the only designated provider of the universal postal service. Universal postal services are subject to the tariff requirements set out in section 28 of the 2011 Act - that universal postal service prices must be cost-oriented, transparent, and affordable. These tariff requirements, in addition to other relevant requirements of the 2011 Act, support the need for clear and detailed information on the provision of the universal postal service to be provided publicly. The USP currently provides this information without issue but suggests, in its response, that this obligation ought to be removed, though it offers no rationale or evidence in support of such a measure. ComReg's position is that this information requirement should remain, which is to maintain the status quo as per the 2006 Accounting Direction.

Estimated cost of providing the universal postal service by price point

263. This is a statutory requirement under section 28 of the 2011 Act. ComReg's position is that the required information would remain confidential to ComReg and would not be published in the Summary Regulatory Accounts.

Reconciliation of turnover, costs, and profit/(loss) in the Statutory Accounts to the Regulatory Accounts

264. ComReg acknowledges the USP’s agreement with the inclusion and notes that this reconciliation is currently provided by the USP in the Regulatory Accounts. ComReg's position is that this information requirement should remain, which is to maintain the status quo as per the 2006 Accounting Direction.

Notes to the Regulatory Accounts

265. ComReg acknowledges the USP's agreement with the requirement to include, in the notes of the Regulatory Accounts, information on fixed assets, debtors, creditors, and capital employed. ComReg notes that this information on the Balance Sheet is currently provided by the USP in the Regulatory Accounts. ComReg's position is that this information requirement should remain, which is to maintain the status quo as per the 2006 Accounting Direction.

FTE data and payroll costs

266. Payroll accounts for the majority of the cost of providing the universal postal service. ComReg requires this information to be able to discharge its functions under the 2011 Act. Following the USP's claim that this information is confidential, ComReg's position is that this information should be provided only in the Regulatory Accounts, which are confidential to ComReg and are not published.

Reconciliation of revenue-derived and operational-based volumes

267. The USP currently provides this reconciliation in both the Regulatory Accounts and in the published Summary Regulatory Accounts. Volume information is of critical importance to ensuring the provision of the universal postal service. ComReg's position is that the USP should continue to provide this reconciliation. However, it is not necessary for it to be included in the Summary Regulatory Accounts. However, the USP currently publishes the reconciliation in its Summary Regulatory Accounts and the USP is free to continue to publish the reconciliation in the Summary Regulatory Accounts if it wishes to do so.

Reconciliation of Mail Centre and DSU volumes

268. Following ComReg's decision with regard to the reconciliation of operational and revenue-derived volumes, this information is no longer required.

Reporting of balance sheet, including cash balance

269. ComReg has concerns regarding the USP's ability to provide the universal postal service given its liquidity position. The USP's company cash at bank and in hand has steadily fallen by c. €300m over the past 7 years. ComReg has made its concerns known to the Regulatory Auditor[42].

270. ComReg's position remains that this is critical information. The USP has offered to provide this information verbally at bi-lateral meetings between the USP and ComReg, when such meetings occur. The issue is whether this information should be provided in writing at regular fixed intervals rather that at meetings which occur irregularly. ComReg's position is that the information should be provided in writing at regular quarterly intervals.

271. Since the consultation, the USP has adopted International Financial Reporting Standards ("IFRS"). Under IFRS, the USP can include within its cash at bank and in hand figure amounts held in trust. For the reporting requirement here, ComReg disagrees with that approach as amounts held in trust are not available for the USP's use. ComReg considers, in this instance, the reporting of cash under Irish GAAP is more appropriate. Therefore, ComReg's position is that the USP will report its quarterly balance sheet when its company cash balance, which is solely cash available to the USP to use (that is, excluding amounts held in trust), falls below €100m. At year-end 2015, the USP's company cash balance was c.€36m when excluding amounts held in trust of c.€314m. The quarterly reporting will be confidential to ComReg.

Claimed additional cost of implementing Accounting Direction

272. With its response, the USP provided its high level assessment of the potential additional costs of implementing the proposals in Consultation 15/135 – a €4.9m annual recurring cost and €0.25m one off costs. This high level assessment is confidential to ComReg.

273. In response, ComReg notes the following:

- The USP's high level assessment is simply a small table of claimed costs and no supporting evidence is provided.
- The USP states that most of the estimated total costs figure relates to reconciliation *by service*, which the USP acknowledges is not required by ComReg. Therefore, it appears that most of the estimated costs relate to a measure which ComReg is not taking.
- With regard to the reconciliation of operational-based and revenue-derived volumes, ComReg's decision is to maintain the status quo. ComReg has also decided that the reconciliation shall be conducted by format, which is a less onerous requirement than having to reconcile by service as required under the 2006 Accounting Direction. The report by PLCWW[59] has identified a method by which the USP can utilise existing information available to it for the purposes of the reconciliation. This means that any additional cost for the reconciliation should be minimal.
- There will be no requirement to reconcile operational-based mail volumes as between DSU and MC, thus removing any significant cost that the USP might otherwise have incurred.

[59] ComReg Document No. 17/06d

- With regard to estimating the costs for each price point, this is a statutory requirement under s.28 of the 2011 Act with which the USP must comply.
- With regard to the format of the Regulatory Accounts, for the most part the format of the Regulatory Accounts matches the existing format and therefore any additional cost should be minimal.

274. In summary, the following is ComReg's position with regard to confidentiality:

Additional information	ComReg's position
Commentary on universal postal service and additional KPI in "1 Financial Summary and Business Review"	Public as does not contain confidential information
Commentary on universal postal service volumes in "3 Universal Service Performance"	Public as does not contain confidential information
Split on International Inbound profit/(loss) between intra-Community and Rest of World	Public as does not contain confidential information; improves information for section 29 of 2011 Act
Split on intra-segment revenue and cost, universal postal service and non-universal postal service	Confidential to ComReg.
Per unit Revenue, Cost and Profit(Loss) for each universal postal service	Public as does not contain confidential information; improves information for section 28(1) of 2011 Act
Split non-universal postal service parcels from "Other"	Confidential to ComReg as relates to non-universal postal service Parcels
Universal postal service International Inbound by intra-Community and Rest of World	Public as does not contain confidential information
Estimated cost of providing universal postal service by price point	Confidential to ComReg.
Average FTE and Payroll costs by business segment, universal postal service, non-universal postal service	Confidential to ComReg.
Quarterly balance sheet, if cash at bank and in hand is less than €100m, excluding amounts held in trust.	Confidential to ComReg.

4.7 Regulatory Impact Assessment

275. ComReg conducted a draft Regulatory Impact Assessment in order to assess the options before it and to seek the views of respondents on same by asking:

Q. 3 Do you have any views on this draft Regulatory Impact Assessment and are there other factors ComReg should consider in completing its Regulatory Impact Assessment? Please explain your response and provide details of any factors that should be considered by ComReg.

276. In Consultation 15/135, ComReg considered that it had two main options:

Option 1 – maintain the status quo by giving a direction to the USP under section 31(1) of the 2011 Act which would maintain the same set of requirements as are currently contained in the 2006 Accounting Direction.

Option 2 – alter the status quo by giving a direction to the USP under section 31(1) of the 2011 Act which would largely maintain the same set of requirements as are currently contained in the 2006 Accounting Direction, while also imposing certain new requirements (which are set out, below, as individual sub-options within Option 2).

- **Option 2a:** Require the USP to provide greater commentary on the existing reconciliation between its revenue-derived mail volumes and its operational-based mail volumes, at the format[60] level.
- **Option 2b:** Require the USP to reconcile, by format, between its operational mail volumes recorded at the DSU and Mail Centre level.
- **Option 2c:** Require that the USP's revenue derived and operational based mail volume reconciliations be audited by the Regulatory Auditor.
- **Option 2d:** Require the USP to review its average container fill assumptions quarterly rather than annually.
- **Option 2e:** Require the USP's Accounting Manual to provide detailed information on the process of identifying avoidable, variable, and fixed costs, including worked examples.
- **Option 2f:** Require the USP's Accounting Manual to:
    - provide full details of the USP's annual review of its cost drivers.

[60] By letter, large envelope, packet, parcel

  - detail where there has been a year-on-year change in the methodology of cost driver(s), and that the nature and reason of that change is fully detailed by the USP.

- **Option 2g:** Require the USP to include in the Regulatory Accounts the source of inter-company and inter-segment revenue, in a matrix form, in order to show how charges flow between various operating segments.

- **Option 2h:** Require that the nature and detail of all inter-segment changes be audited by the Regulatory Auditor.

- **Option 2i:** Require the USP to report its balance sheet (including cash at bank and in hand) to ComReg on a quarterly basis.

- **Option 2j:** Require the USP to include detailed commentary on its capital expenditure.

- **Option 2k:** Require the USP to report on its payroll costs and average staff numbers (FTE equivalent) for each business segment, and to split between the universal postal service and non-universal postal service within the Mails segment.

- **Option 2l:** Require that the auditor of the Regulatory Accounts (the Regulatory Auditor) be appointed by ComReg.

- **Option 2m:** Specify that the USP shall only be required to notify ComReg of any changes to the Accounting Manual and shall no longer be required to seek approval from ComReg for those changes.

277. In Consultation 15/135, ComReg noted that it was of the preliminary view that Option 2 is the best option and that all of the sub-options within Option 2 should be taken.

Views of Respondents

278. The USP submits that:

- ComReg has failed to quantify or adequately justify why it believes the additional costs of these requirements would be outweighed by the perceived benefits. The USP estimates the costs of implementing these changes are likely to be between €2.5m and €5m per annum.

- the draft RIA to be inadequate, especially when compared to the RIAs that ComReg conducted in respect of other regulatory proposals, for example in the telecommunication sector for Eircom and RTE/2RN. According to the USP, both those RIAs are more detailed than the draft RIA in Consultation 15/135.

- regulatory reporting requirements should follow not just the applicable legal principles but also the principles outlined by the Irish Government 2004 White Paper on Better Regulation:

    - Necessity
    - Effectiveness
    - Proportionality
    - Transparency
    - Consistency

- ComReg does not use an appropriate level of detail when discussing the cost of compliance to the USP. According to the USP, statements such as "This option should not be onerous" should be evidence based.

279. The USPs' comments on Option 2 in the draft Regulatory Impact Assessment are as follows:

- **Option 2a:** The USP submits that ComReg has failed to identify whether the cost of carrying out the reconciliation is significant or not. The USP is of the view that the differences between revenue based and operational volumes ultimately derive from the underlying assumptions of the two methodologies and therefore it is not possible to undertake a quantitative reconciliation. According to the USP, the qualitative "*reconciliation*" currently provided by the USP provides all the possible clarity on the differences between the two sets of volumes, given the information currently collected by the USP.

- **Option 2b:** The USP claims that undertaking more detailed reporting of operational volumes at the Mail Centre and Delivery Service Unit level would require changes to its reporting systems. The USP does not believe that the benefits to ComReg would be commensurate to the costs imposed on the USP.

- **Option 2c:** The USP submits that a reconciliation is not possible.

- **Option 2d:** The USP does not believe this would result in a material improvement in the non-machine counts. According to the USP, non-machine counts are by nature more time consuming than machine counts. The USP claims that the relative workload required to improve these is significant.

- **Option 2e:** The USP submits that it already provides a sufficient level of detail when identifying different types of costs. The USP claims that providing further detail on this would not be proportional to the benefits obtained from this information. The USP states that it already has a solution in place to agree access prices with other providers which is working effectively, as shown by a number of agreements. Therefore, the USP contends that the additional costs to the USP in meeting this option are not proportionate.

- **Option 2f:** The USP claims that it is unclear what additional information ComReg is recommending be provided.

- **Option 2g:** The USP contends that ComReg should specify a materiality requirement for this option.

- **Option 2h:** According to the USP, this already forms part of the audit. The USP claims that ComReg has been unclear as to what is required as part of the audit and the expected increase in cost suggests that the "*nature and detail"* of the transfer charges requires more than just continuing the requirement as stated by ComReg.

- **Option 2i:** The USP claims that ComReg is already aware of the USP's cash position at intervals throughout the year so this additional requirement is not proportionate as there will not be a significant additional benefit to ComReg. According to the USP, it is also not clear how ComReg can use this limited information.

- **Option 2j:** The USP claims that providing a detailed commentary on the USP's capex may put it at a competitive disadvantage as competitors will have sight of the investments it is making that could affect non-universal postal services.

- **Option 2k:** The USP claims that this option creates competition concerns for the USP as it involves commercially sensitive information.

- **Option 2l:** According to the USP, having ComReg appoint the Regulatory Auditor would increase the costs of the audit, due to the lost efficiencies of the dual appointment of Regulatory Auditor and statutory auditor by the USP. The USP states that the Regulatory Auditor already has a duty of care to ComReg under the current tri-partite arrangement. The USP submits that ComReg has not correctly accounted for the financial impact on the USP. The USP states that the cost of regulation is covered by the postal levy which will result in the USP continuing to pay for the audit, regardless of who appoints the Regulatory Auditor. The USP further submits that the duplication of effort, both on the part of the auditors and of the USP, has not been fully acknowledged by ComReg.

PwC supports the USP on this view.

- **Option 2m:** The USP agrees that this change would improve the production of the Regulatory Accounts. However, the USP states that the extra assurance burden is likely to increase the cost of the audit.

- The USP believes that ComReg has not considered the impact of providing a cost estimate for each price of a universal postal service. The USP claims that it will need to make significant changes in order to meet this requirement. However, the USP notes that this was not discussed in the draft RIA, thus, according to the USP, biasing the overall assessment.

ComReg’s Position

280. ComReg only requests information that is necessary to fulfil its statutory and regulatory duties with respect to its function in connection with the regulation of the universal postal service.

281. ComReg’s response to the specific points raised are as follows:

- **Option 2a:** The reconciliation between Revenue-derived and Operational-based volumes is currently required by the 2006 Accounting Direction. The 2006 Accounting Direction requires this reconciliation at a service level (e.g. stamped letter, meter letter, stamped packet etc.). The 2017 Accounting Direction reduces the requirement of this comparison to a less onerous level, namely at a format level (e.g. letters, large envelope/flat, packets, parcel) and to only require reconciliation to 5% by format. The USP currently provides the reconciliation by format, in the both the confidential version of the Regulatory Accounts provided to ComReg and in the public Summary Regulatory Accounts, which means that there would be no additional cost to the USP in continuing to provide this reconciliation. The USP has not provided any supporting evidence as to why continuing this reconciliation would result in significant additional cost. The supporting report by PLCWW[61] has noted that the USP can use existing information to perform this reconciliation at no/minimal cost to the USP.

- **Option 2b:** As detailed earlier, the Accounting Direction will not include this option requiring the USP to reconcile, by format, between its operational mail volumes recorded at the DSU and Mail Centre level and therefore this option is no longer required for the RIA.

- **Option 2c:** As detailed earlier, the Accounting Direction will not include this option requiring the volume reconciliation to be audited by the Regulatory Auditor and therefore this option is no longer required for the RIA.

- **Option 2d:** As detailed earlier, the Accounting Direction will not include this option and therefore this option is no longer required for the RIA.

- **Option 2e:** This is an existing requirement from the 2006 Accounting Direction. ComReg's position maintains the status quo. This requirement is simply a matter of documenting an existing process, so that it is clear to all how the USP identifies avoidable, variable, and fixed costs and demonstrates worked examples of how those costs are calculated. This is of particular importance so that both the USP and ComReg can exercise their functions as required by section 33 and section 35 of the 2011 Act. Therefore, it is important that such information is readily available and that it is clear from the outset how the USP identifies such costs. This information is particularly important in order to resolve any s.33 disputes. The USP has not provided any evidence to support its claim of additional cost with this option.

- **Option 2f:** In response, ComReg’s opinion is that the Consultation is clear. ComReg is seeking detail on all cost drivers used to allocate costs and for

[61] ComReg Document No. 17/06d

this to be clearly documented in the Accounting Manual. The detail would explain what each cost driver is and how it is set. Cost allocation is fundamental to any cost accounting system. This is particularly the case for the postal sector, which has a large share of common costs - i.e. costs that cannot be directly assigned to a particular service. For example, the cost allocation process is critical in determining prices for universal postal services as prices for universal postal services are required to be orientated towards costs. Given that universal postal services are not provided in a competitive market, a universal service provider may have the incentive to use revenues from universal postal services to cross subsidise non-universal postal services by allocating excess costs to universal postal services. The consequence of that would be to undermine the affordability of universal postal services and to potentially thwart competition in non-universal postal services. Such an outcome would be undesirable and runs contrary to ComReg's statutory objective of promoting the availability of a universal postal service and facilitating the promotion of competition in the market.

Given that the USP has this information to hand, it is simply a matter of reporting the detail to ComReg so that ComReg has full transparency and a common understanding on the cost drivers used by the USP. Therefore, ComReg's position is that the USP reports in its Accounting Manual the full details of its cost drivers. In the second instance, where there is a methodology change in a cost driver, ComReg requires that the nature and reason of that change is fully detailed by the USP, including the reasons as to why any prior-year adjustment to the Regulatory Accounts has or has not been made. This ensures that ComReg is fully aware and understands the impact of any change made by the USP to the methodology of a cost driver. Put simply, this is just a matter of more detailed reporting as the information is readily available to the USP given that the USP would have required such information to assess whether to make a methodology change to the cost driver or not.

- **Option 2g:** ComReg is of the opinion that it would not be appropriate to include a materiality threshold as the matrix would not balance and reconcile back to the Regulatory Accounts. It is important that ComReg has clear information on all the transactions to and from the universal postal services. Given that universal postal services are not provided in a competitive market, a USP may have the incentive to use revenues from universal postal services to cross subsidise non-universal postal services by allocating excess costs to universal postal services. The consequence of that would be to undermine the affordability of universal postal services and to potentially thwart competition in non-universal postal services. Such an outcome would be contrary to ComReg's statutory objective of promoting the availability of a universal postal service and facilitating the promotion of competition in the market. This is supported by section 31(1) of the 2011 Act.

- **Option 2h:** ComReg notes the USP's acknowledgement that this already forms part of the audit. In response to the USP's claim that ComReg has been unclear as to what is required to audit the "*nature and detail"* of the transfer charges, ComReg refers to para 123 of Consultation 15/135 which provides an example. In addition, this was discussed and explained to the USP during the pre-consultation process.

- **Option 2i:** In response to the USP claims that, as ComReg is already aware of the USP's cash position at intervals throughout the year, this additional reporting requirement is not proportionate, ComReg notes that it currently does not receive this information from the USP in bi-lateral meetings (even when these occur). ComReg has previously sought this information and ComReg welcomes the USP's commitment to provide this necessary information at future bi-lateral meetings when and if these occur. However, ComReg will still require the information to be reported quarterly (subject to the threshold of €100m – excluding amounts held in trust) as ComReg remains very concerned in relation to the deteriorating cash position of the USP. Given this and the potential for a very significant negative impact on the continued provision of the universal postal service by the USP, ComReg is of the view that it is appropriate that it receives the information sought in writing and this information is readily available to the USP. Therefore, providing the USP's Company balance sheet (which includes its cash at bank and in hand) on quarterly basis would not place an unduly onerous or costly burden on the USP. It is simply a matter of reporting in confidence to ComReg. The USP has agreed to provide such information in bi-lateral meetings (when these occur) and so it appears that the USP has no principled objections.

- **Option 2j:** ComReg considers increased transparency around universal postal service capex spend very important given that the USP's cash figure has significantly decreased since 2008. There is a concern that the USP could underspend on capital expenditure that is essential for provision of the universal postal service. Having greater details of this expenditure provides increased transparency and should provide greater assurance to ComReg in relation to the sustained provision of the universal postal service.

  Following consideration regarding the confidentiality of non-universal postal service capital expenditure, ComReg's position is that the commentary on capital expenditure will only be included in the Regulatory Accounts (confidential to ComReg) and will not be included in the Summary Regulatory Accounts.

- **Option 2k:** In response to the USP's claims that this option creates competition concerns for the USP as it involves commercially sensitive information, ComReg position is that FTE data and payroll cost information is only required for the Regulatory Accounts (confidential to ComReg). This information is important to ComReg as pay-related costs comprise the majority of the cost in providing the universal postal service.

- **Option 2l:** Having considered the views of respondents, ComReg's position is to maintain the status quo and continue the appointment of the Regulatory Auditor by the USP. Consequently, this option will no longer apply and is no longer assessed in the RIA.

- **Option 2m:** ComReg acknowledges the USP's agreement that the USP shall only be required to notify ComReg of any changes to the Accounting Manual and shall no longer be required to seek approval from ComReg for those changes. With regard to the audit scope, this is now revised to match the existing letter of engagement with the Regulatory Auditor.

- In response to the USP's contention that ComReg has not considered the impact of providing an estimate of the costs of providing each universal postal service at each price point, ComReg notes that this is a statutory requirement pursuant to s.28 of the 2011 Act. Therefore, this was not discussed as a sub-option within Option 2 as it is a statutory requirement already in effect.

282. Following consideration of the responses on the Draft Regulatory Impact Assessment set out in the Consultation, in the next chapter, ComReg has set out the Regulatory Impact Assessment for the 2017 Accounting Direction.

5 Regulatory Impact Assessment

283. The Regulatory Impact Assessment Guidelines [62] (Document No. 07/56a), made in accordance with a Ministerial Policy Direction[63], state that the Commission for Communications Regulation ("ComReg") will conduct a Regulatory Impact Assessment ("RIA") in any process that may result in the imposition of a regulatory obligation, or the amendment of an existing obligation to a significant degree, or which may otherwise significantly impact on any relevant market or any stakeholders or consumers.

284. Pursuant to section 31(1) of the Communications Regulation (Postal Services) Act 2011 ("2011 Act"), ComReg is directing the USP to keep, in its internal accounting system, of separate accounts for each service it provides – (a) which is part of the universal postal service, and (b) which is not part of the universal postal service. The 2017 Accounting Direction is being made following a public consultation[64] on ComReg's information requirements and on the basis that the condition in section 31(2)(c) of the 2011 Act is met – i.e. that ComReg is satisfied that competition in the market for postal services is not fully effective. Section 31(3) of the 2011 Act provides that a direction give under section 31(1) shall provide for:

(a) rules relating to the identification of costs,

(b) rules relating to the allocation of costs,

(c) rules relating to the use of internal cost accounting systems for the purposes of the matters referred to in paragraphs (a) and (b),

(d) the verification by a statutory auditor or statutory audit firm of compliance with internal cost accounting systems,

(e) the publication of such accounts and other information relating to requirements under this section and such direction, as ComReg considers appropriate, subject to the protection of any information which ComReg considers confidential (within the meaning of section 24 of the 2002 Act),

(f) the publication of a statement relating to compliance with this section and such direction, and

(g) such other matters relating to the requirements of this section and such direction, as ComReg considers appropriate.

[62] Which have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009
[63] Ministerial Policy Direction made by Dermot Ahern T.D. Minister for Communications, Marine and Natural Resources on 21 February, 2003
[64] Consultation 15/135 dated 21 December 2015

285. It is apparent, from the above provisions, that ComReg has discretion as to whether to give a direction under section 31(1) of the 2011 Act but that if ComReg should decide that giving such a direction is required then, under section 31(3), the direction must provide for the various issues contained in paragraph (a)-(g) therein, as listed above.

286. ComReg would note that most of the obligations contained in the 2017 Accounting Direction are already existing obligations under the 2006 Accounting Direction. Therefore, most of the obligations in the 2017 Accounting Direction are not new obligations, in terms of their purpose and effect, but are merely existing obligations that are being carried over into the 2017 Accounting Direction issued under current statutory provisions, the 2011 Act. ComReg considers it unnecessary to conduct a RIA in respect of such obligations which already exist and are being carried over. A RIA is only being conducted in respect of those obligations which constitute new obligations when compared to the 2006 Accounting Direction. This RIA will thus assess the obligations of the 2017 Accounting Direction which are additional to those contained in the 2006 Accounting Direction.

5.1 Steps involved

287. ComReg's RIA follows five steps:

Step 1: describe the policy issue and identify the objectives

Step 2: identify and describe the regulatory options

Step 3: determine the impacts on stakeholders

Step 4: determine the impacts on competition

Step 5: assess the impacts and choose the best option

Step 1: Describe the policy issue and identify the objectives

288. The USP is currently subject to the 2006 Accounting Direction[65].

[65] ComReg Document No. 06/63

289. ComReg is satisfied that the condition in section 31(2)(c) of the 2011 Act is met such that ComReg may give a direction to the USP under section 31(1) of the 2011 Act. Such a direction provides for the keeping by the USP, in its internal accounting systems, of separate accounts for each service it provides – (a) which is part of the universal postal service, and (b) which is not part of the universal postal service. In addition, section 31(3) provides that such a direction shall provide for the various issues contained in paragraph (a)-(g) therein, as are listed in paragraph 284 above. The policy is thus to give effect to the provisions in section 31 of the 2011 Act and the key objective is to give a direction to the USP which shall provide for the various issues contained in sections 31(3)(a)-(g) of the 2011 Act.

Step 2: Identify and describe the regulatory options

290. The 2017 Accounting Direction for the most part provides for a continuation of the 2006 Accounting Direction. However, it is ComReg's view that the 2011 Act imposes various duties on ComReg and the USP which necessitate that certain additional requirements be set out in the Accounting Direction given under section 31(1) of the 2011 Act. ComReg thus considers that it has two main options:

Option 1 – maintain the status quo by giving a direction to the USP under section 31(1) of the 2011 Act which would maintain the same set of requirements as are currently contained in the 2006 Accounting Direction.

Option 2 – alter the status quo by giving a direction to the USP under section 31(1) of the 2011 Act which would maintain the same set of requirements as are currently contained in the 2006 Accounting Direction, while also introducing certain new requirements (which are set out, below, as individual sub-options within Option 2).

Option 1: Maintain the status quo

291. Option 1 would result in the current requirements contained in the 2006 Accounting Direction being maintained. The only real change would be that the requirements would no longer be given effect under the old statutory framework but would be brought into effect under the current statutory framework, the 2011 Act, in place since August 2011.

Option 2: Include additional information requirements

292. Option 2 would result in an Accounting Direction that maintains the requirements contained in the 2006 Accounting Direction, removes some other superfluous requirements but adds some further information requirements[66], in order that ComReg and the USP can discharge their respective obligations and duties under the 2011 Act. The additional information requirements are as follows:

[66] Each additional requirement is examined as a separate option under Option 2 in this RIA.

- **Option 2a:** Require the USP to provide: (i) a comparison by format between its revenue-derived and operational-based mail volumes, and (ii) an explanation of the difference between such comparable sets of mail volume figures, where the difference exceeds 5% by format, and a reconciliation of any such figures to at most 5%, by format[67]. ComReg also reserves the right to appoint a competent body to review the reconciliation and volume recording.

- **Option 2b:** Require the USP to report in the Accounting Manual the process for measuring operational volumes and their accuracy. For machine counts, this would be details on the process for validating machine counts and the degree of accuracy to which machines are tested. For manual counts, this would be details as to how the USP conducts daily operational volume counts of every flat/packet/parcel at DSUs.

- **Option 2c:** Require the USP's Accounting Manual to provide detailed information on the process of identifying avoidable, variable, and fixed costs, including worked examples.

- **Option 2d:** Require the USP's Accounting Manual to:

    - provide full details of the USP's annual review of its cost drivers.

    - detail where there has been a year-on-year change in the methodology of cost driver(s), and that the nature and reason of that change is fully detailed by the USP.

- **Option 2e:** Require the USP to include in the Regulatory Accounts the source of inter-company and inter-segment revenue, in a matrix form, in order to show how charges flow between companies and operating segments.

- **Option 2f:** Require the USP to report in confidence its balance sheet (including cash at bank and in hand) to ComReg on a quarterly basis when cash at bank and in hand is less than €100m (excluding amounts held in trust).

- **Option 2g:** Require the USP to include in the Regulatory Accounts detailed commentary on its capital expenditure.

- **Option 2h:** Require the USP to report on its payroll costs and average staff numbers (FTE equivalent) for each business segment (Mails USO, Mails non-USO, Retail, Subsidiaries & Other).

[67] By letter, large envelope, packet, parcel

- **Option 2i:** Specify that the USP shall only be required to notify ComReg of any changes to the Accounting Manual and shall no longer be required to seek approval from ComReg for those changes.

Steps 3, 4 and 5: Determine and assess the impacts on stakeholders and competition and choose the best option

293. Option 1 would result in no additional significant impact on the USP. However, ComReg is of the view that Option 1 would not meet the information requirements of ComReg pursuant to section 31 of the 2011 Act, so that it could fulfil its statutory functions and objectives, and that it would result in ComReg and the USP not being able to fully discharge their respective obligations and duties under the 2011 Act.

294. Each sub-option under Option 2 is assessed individually below and ComReg has also considered the overall impact of these various sub-options under Option 2 as against maintaining the status quo under Option 1.

- **Option 2a:** The USP already provides a comparison at format level in its Regulatory Accounts even though the 2006 Accounting Direction requires a reconciliation to a lower level, namely by service. The option here is, where the difference in revenue-derived versus operational-based volumes by format is greater than 5%, to require the USP to provide reconciliation and commentary to a 5% difference, by format. ComReg commissioned PLCWW as an independent expert to review the existing processes in place at the USP for recording operational volumes and to provide advice on the reconciliation of the USP's operational-based and revenue-derived volumes. The report by PLCWW[68] has noted that it is entirely possible to produce more accurate operational volume data at the USP through the use of existing systems, thereby avoiding significant additional cost. This can be achieved by the USP amalgamating count data from mail centres and DSUs. The majority of letter volumes are machine counted at mail centres so this existing data could be used as the operational-based volumes for the letters format. A walk count of every flat, packet and parcel takes place at DSUs and this could be used as the operational-based volumes for the flats, packets, and parcels formats. Therefore no new systems, processes or resources are needed to achieve more accurate operational volume data and so minimal to no additional cost should be incurred in implementing more accurate operational volume count data.

[68] ComReg Document No. 17/06d

Given ComReg's function to ensure the provision of a universal postal service, it is essential that the USP is able to accurately determine its mail volumes to ensure that the universal postal service remains sustainable and at an affordable price for the benefit of all postal service users. This requirement would also ensure that the volume information in the Regulatory Accounts is robust.

Understanding volumes and volume trends are of critical importance, given that the USP has incurred and is facing significant volume declines which could jeopardise the provision of the universal postal service. Therefore, improved reporting and understanding of volume declines, should lead to more accurate volume decline forecasting and provide earlier warnings of significant volume declines.

Furthermore, as the USP itself notes, revenue-derived volumes are estimates, while operational volumes are the actual counted volumes traversing its postal network. Operational volumes are largely machine counted, and are used in managing the operational performance of the business. For example staffing levels (which are the main cost in the provision of postal services) are based on operational mail counts / flows. Therefore, operational mail volumes are an important input in assessing and controlling the costs of a postal business. Furthermore, operational volume counts provide an early warning on volume declines and are important and useful information for comparison and checking against the revenue derived volume estimates.

ComReg remains of the view that assurance over volume counts would be of benefit to both ComReg and the USP, given the significant volume declines in the universal postal service. Therefore, where ComReg considers it appropriate (for example, where the volume % difference by format exceeds 5%), it may appoint a competent body to review the USP's revenue-derived and operational-based mail volume recording and reconciliation.

- **Option 2b:** This is the provision of information in the Accounting Manual to enable and support ComReg's understanding of the volume reconciliation set out in Option 2a. The USP has this information; it is simply a matter of detailing these processes in the Accounting Manual, which should involve no to minimal additional cost. This information is important because:
    - Almost all letters are counted by sorting machines; and
    - PLCWW's report has recommended that the DSU counts for flats, packets, and parcels should be the primary operational volume measure for flats, packets, and parcels to compare against the revenue-derived figures for these particular formats.

- **Option 2c:** This is an existing requirement from the 2006 Accounting Direction. ComReg's position maintains the status quo regarding the provision of detailed information on the process to identify avoidable, fixed and variable costs. However, the new requirement is to provide worked examples of each cost category, which is simply a matter of more detailed reporting. This should ensure that it is clear to all how the USP identifies and calculates avoidable, variable, and fixed costs.

  This is of particular importance for both the USP and ComReg because:
  - ComReg needs to be able to exercise its functions required by section 33 and section 35 of the 2011 Act;
  - It is important at the outset that such information is readily available and that it is clear how the USP identifies such costs; and
  - If any section 33 disputes arise, it will be important to have this information readily available.

  For example, section 33 of the 2011 Act requires ComReg, in certain circumstances, to resolve disputes, should they arise, between the USP and those seeking access to its network. Calculating access prices would involve ComReg having to consider the USP's avoidable costs - for example, the costs that the USP would avoid if it granted another postal service provider access to its network. Further, any evaluation of the net cost of the universal postal service would require estimating those costs that would be avoided if the USP was not subject to the universal postal service obligation. There may be additional costs to the USP in developing reporting processes to identify fixed, variable, avoidable costs, but such costs are necessary in order for the USP to comply with its various statutory and regulatory obligations.

- **Option 2d:** The requirement to provide full details of the USP's annual review of its cost drivers will improve transparency in relation to how the cost drivers are set and reviewed. It should create no or minimal additional costs to the USP, as the requirement relates to the USP giving more detailed reporting on tasks that it already carries out. This is very important as the cost drivers set by the USP are used to allocate cost. Fundamental to any cost accounting system is cost allocation. This is particularly the case for a sector such as post, which has a large share of common costs - i.e. costs that cannot be directly assigned to a particular service. For example, the cost allocation process is critical in determining prices for universal postal services as prices for universal postal services are required to be orientated towards costs. Given that universal postal services are not provided in a competitive market, a USP may have the incentive to use revenues from universal postal services to cross subsidise non-universal postal services by allocating excess costs to universal postal services. The consequence of that would be to undermine the affordability of universal postal services and to potentially thwart competition in non-universal postal services. Such an outcome would not be consistent with ComReg's statutory objective of promoting the availability of a universal postal service and facilitating the promotion of competition in the market.

  With regard to the requirement to detail where there has been a year-on-year change in the methodology of cost drivers, ComReg notes that the USP already has this information to hand; it is simply a matter of reporting the detail in the Accounting Manual so that ComReg has full transparency on cost driver methodology used by the USP.

  Therefore, ComReg's position is that the USP reports in its Accounting Manual the full details of its cost drivers. In the second instance, where there is a methodology change in a cost driver, ComReg requires that the nature and reason of that change is fully detailed by the USP, including the reasons as to why any prior-year adjustment to the Regulatory Accounts has or has not been made. This ensures that ComReg is fully aware and understands the impact of any change made by the USP to the methodology of a cost driver. This is simply a matter of more detailed reporting as the information is readily available to the USP.

- **Option 2e:** This will provide greater transparency as to the trends and direction of the USP's inter-company and inter-segment revenue and should create no or minimal additional costs for the USP as the requirement relates to the USP giving more detailed reporting on information that is already available to it.

This will provide for greater ongoing assurance that transfer prices are set at an appropriate level which is important for ensuring accurate cost allocation, in particular that the universal postal service is not allocated excessive cost. This will provide greater assurance and confidence in relation to the USP's transfer charges, particularly given certain obligations placed on the USP, such as, for example, having to ensure that there is no cross subsidisation. The consequence of that would be to undermine the affordability of universal postal services and to potentially thwart competition in non-universal postal services. Such an outcome would be contrary to ComReg's statutory objective of promoting the availability of a universal postal service and facilitating the promotion of competition in the market.

- **Option 2f**: Given the significant decline in the USP Company cash position, this option will improve the information provided to ComReg with regard to the USP Company cash and financial position. This will ensure that ComReg is kept more up to date on the USP’s cash position, as this concerns the current and future sustainability of the universal postal service provision.

  ComReg welcomes the USP’s commitment to provide this necessary information at future bi-lateral meetings where and if these occur. However, ComReg will still require the information to be reported quarterly (subject to the threshold of €100m excluding amounts held in trust) as ComReg remains very concerned in relation to the deteriorating cash position of the USP. Given this and the potential for a very significant negative impact on the continued provision of the universal postal service by the USP, ComReg is of the view that it is appropriate that it receives the information sought. The information at issue already exists and is readily available. Therefore, providing the USP Company balance sheet (which includes its cash at bank and in hand) on a quarterly basis would not place an unduly onerous or costly burden on the USP. The USP has agreed to provide such information in bi-lateral meetings (when these occur) so it has no objections in principle, the option here simply ensures that information is provided in writing at regular intervals.

- **Option 2g:** Details of the USP’s capital expenditure will provide greater assurance to ComReg in relation to the USP’s performance, especially if there is a concern that the USP could under spend on necessary capital expenditure with regard to the universal postal service. There should be minimal additional cost to the USP in providing this information, as it is just a matter of more detailed reporting. This information is important to ComReg as the USP's cash figure has significantly decreased since 2008, there is a concern that the USP could underspend on capital expenditure that is essential for provision of the universal postal service. Having more details of this expenditure provides increased transparency and should provide greater assurance to ComReg in relation to the sustained provision of the universal postal service.

- **Option 2h**: The information is important to ComReg as payroll costs account for the majority of the cost of the universal postal service. The USP already records this required information and therefore there should be no additional cost in providing such information. The USP has not provided any evidence to support any claim of cost associated with providing this information.
- **Option 2i**: This recognises that the Accounting Manual is for the USP to prepare and maintain.

Consideration of the 6 principles of Better Regulation:

295. ComReg has considered the 2017 Accounting Direction in light of the six principles of Better Regulation[69]:

296. It is **necessary** to conduct a review of the regulatory accounting requirements at this time as the 2011 Act is now in effect. The 2006 Accounting Direction was made under a previous, and now removed, legislative basis. The 2011 Act has introduced new requirements on both ComReg and the USP which were not in effect at the time of the 2006 Accounting Direction.

297. ComReg is required by the 2011 Act to ensure the provision of the universal postal service at an affordable price for the benefit of all postal service users. The Regulatory Accounts are of critical importance to ComReg in the discharge of its functions and objectives in the postal sector. This is particularly true in light of the financial and liquidity challenges facing An Post as the USP, largely due to the significant decline in mail volumes in recent years and An Post's concurrent deteriorating cash position and high cash outflow rate.

298. An Post is the sole designated provider of the universal postal service and, therefore, its financial challenges go to the heart of the universal postal service. ComReg considers that a critical element, in addressing these challenges, is having sufficiently detailed accounting information. Without such information, ComReg can have no proper understanding as to what is happening within the USP, in terms of how volumes, revenues and costs are being allocated to the various mail streams, both within and outside of the universal postal service.

[69] 'RIA Guidelines: How to conduct a Regulatory Impact Analysis', October 2005, www.betterregulation.ie (disbanded in July 2011)

299. ComReg also requires the information that the Accounting Direction provides for oversight over tariffs in accordance with s.28 of the 2011 Act which requires that prices shall be cost-oriented and transparent. Therefore, actual cost and volume information is necessary and critical for both ComReg and the USP for the above reasons – ensuring the provision of a sustainable universal postal service, ensuring transparent, non-discriminatory and cost-oriented tariffs. Consequently, the 2017 Accounting Direction enables the USP to provide such information to ComReg.

300. ComReg considers that it has been **effective** in its review. The Accounting Direction meets the requirements under section 31(3) of the 2011 Act. ComReg is of the review that the Accounting Direction will ensure, as required by section 31 of the 2011 act, that the USP is compliant with its universal postal service accounting obligations.

301. ComReg is of the view that it has been **proportionate** in its review. For the most part, the 2017 Accounting Direction simply carries forward requirements of the 2006 Accounting Direction. The 2017 Accounting Direction also removes requirements in the 2006 Accounting Direction that are no longer needed. Where the 2017 Accounting Direction includes additional requirements on the USP, these are with regard to:

- Improved volume reporting
- More transparent reporting on certain aspects of preparing the Regulatory Accounts.

302. These additional requirements are to meet ComReg's requirements for necessary information to ensure the provision of a universal postal service and other statutory requirements under the 2011 Act.

303. It is likely that there will be some initial increase in the regulatory burden for the USP in the short term as it addresses these additional requirements. With regard to the USP's claimed costs associated with the Accounting Direction, ComReg notes the following:

- ComReg notes that the USP's high level assessment is simply a small table of claimed costs with high level numbers and no supporting evidence, resulting in an estimated claim of €4.9m recurring annual cost and €0.25m one off costs. The majority of the claimed recurring annual costs of €4.9m are in Operations DSU/DSO and, based on the limited information provided by the USP, presumably are associated with a reconciliation of volumes by service and with the proposed MC to DSU/DSO volume reconciliation. The 2017 Accounting Direction does not require these, therefore, most of the cost claimed by the USP would not apply.

- The USP's response also claims the reporting of:
    - Inter-company and inter-segment transactions
    - Payroll costs
    - Non-confidential Summary Regulatory Accounts

  will have a "competitive impact" but this is not fully specified or supported by evidence provided by the USP. In response, ComReg notes that it has separately assessed each of these in the Response to Consultation and further notes that the universal postal service does not face effective competition.

304. The claimed one off costs, according to the USP are for the following:

- Reporting process for measuring operational volumes
- Costs for each universal postal service price point
- Format of Regulatory Accounts

305. In response, ComReg notes the following:

- With regard to reporting operational volumes, given the USP uses operational volumes for its own internal reporting, the additional cost for the proposed reporting process should be minimal, which is supported by the report by PLCWW[70]. ComReg further notes that the USP has not provided any supporting evidence for its claimed cost.

- With regard to estimating the costs for each universal postal service price point, ComReg notes that this is a statutory requirement under s.28 of the 2011 Act.

- With regard to the format of the Regulatory Accounts, ComReg notes that, for the most part, the format of the Regulatory Accounts matches the existing format[71] and therefore there should be minimal additional cost. ComReg again notes that the USP has not supported any evidence for its claimed cost.

- The USP states that the majority of cost relates to reconciliation by service, which the USP acknowledges is not being required by ComReg. Therefore,

[70] ComReg Document No. 17/06d
[71] For ease of reference, changes to the existing format of the Regulatory Accounts are highlighted in yellow at ComReg Document No. 17/06a.

it appears that most of the claimed cost relates to a measure ComReg is not seeking.

306. Notwithstanding the above, ComReg is of the view that in the medium to long term the benefits of the Accounting Direction will outweigh any costs. This will be through, inter alia, the following:

- Greater transparency in certain parts of the data, in particular, volumes, which are a critical input to the price cap control; and
- A greater understanding of the regulatory accounting process.

307. ComReg considers that the review has been **transparent** and that ComReg has been **accountable** in its review. ComReg, through public Consultation 15/135, has outlined where it considers additional requirements to the 2006 Accounting Direction are necessary. This consultation was public and ComReg considered all submissions made in response to this consultation and also engaged with some respondents to the Consultation. In the public consultation, ComReg also outlined where requirements in the 2006 Accounting Direction are no longer needed, for example the requirement for ComReg to approve the Accounting Manual. ComReg's 2017 Accounting Direction is supported by independent expert advice which has been published alongside this Response to Consultation and Direction.

308. ComReg is also of the view that it has been **consistent** in its approach. The review has focused solely on the universal postal service accounting obligations of the USP. For the most part, the 2017 Accounting Direction simply carries forward the existing requirements of the 2006 Accounting Direction.

The Best Option:

309. For the reasons set out above, ComReg considers that Option 2 is the best option and that all of the sub-options within Option 2 should be taken. Option 2 is proportionate and will ensure that the 2017 Accounting Direction meets ComReg's requirements pursuant to section 31 of the 2011 Act and that both ComReg and the USP can discharge its respective obligations under the 2011 Act and ComReg Decisions/Regulations. Furthermore, ComReg considers that most of the sub-options under Option 2 can be implemented with no or minimal additional cost to the USP as it would appear that the various items of additional information that would be required are already being produced by the USP. Where an option under Option 2 would likely result in an additional cost, ComReg is of the view that the resultant benefits of improved reporting of information required by ComReg outweigh any additional cost.

6 Satisfaction that competition in the market for postal services is not fully effective

310. In Decision D13/13, published in September 2013, ComReg formed the opinion that universal postal services (as specified in *the Communications Regulation (Universal Postal Service) Regulations 2012*) form one market in which there is no effective competition. That market was therefore subject to price control pursuant to section 30(2) of the 2011 Act, save for certain services therein which do not require price control.

311. For the purposes of the 2017 Accounting Direction, issued pursuant to section 31(2)(c) of the 2011 Act, ComReg considered whether it is remains of the opinion that competition in the market for universal postal services is not fully effective. For the reasons set out below, which are consistent with D13/13, ComReg is satisfied that the universal postal services (as specified in the *Communications Regulation (Universal Postal Service) Regulations 2012*) continue to form one market in which there is no effective competition. In making this finding, ComReg considered the report by Frontier Economics dated 18 November 2016[72] which, amongst other things, found that the current specification of the universal postal service is broadly appropriate. This report by Frontier Economics was based on research conducted by Amarach Research on the needs of postal service users, split by Large Mailers, Small and Medium Enterprises, receivers of post.

[72] ComReg Document No. 16/107

Universal postal services

Minimum obligations under section 16 of the 2011 Act	Further specification of the universal postal services under SI 280 of 2012[73]
Clearance, sorting, transport of postal items up to 2kg.	SI 280 of 2012 specifies formats of items with minimum dimensions and maximum weight: Letters up to 100g, Flat up to 500g, Packets up to 2kg, and Parcel up to 20kg
Clearance, sorting, transport of postal parcels at least up to 10kg (if not specified: 20kg).	Clearance, sorting, transport of postal parcels at least up to 20kg
-	SI 280 of 2012 requires the provision of specific products under the universal postal service: ▪ PO Box ▪ Redirection ▪ Poste Restante ▪ MailMinder ▪ Business Reply ▪ Freepost
-	SI 280 of 2012 requires the provision of a domestic service for items deposited in bulk: ▪ For "Delivery only" – which refers to a D+1 service ▪ For "Deferred Delivery" – which refers to a D+n service. SI 280 of 2012 requires the provision of an international service for items deposited in bulk.
Sorting, transport and distribution of postal parcels from other member states up to 20kg.	-
A registered service and an insured service.	-
A single piece service provided free of charge for the transmission of "postal packets for the blind".	-

312. The universal postal services were specified by ComReg in July 2012, following public consultation and by enactment of the *Communications Regulation (Universal Postal Service) Regulations* (SI 280 of 2012) pursuant to section 16(9) of the 2011 Act, which states as follows: "*For the purposes of ensuring that the universal postal service develops in response to the technical, economic and social environment and to the reasonable needs of postal service users, the Commission shall, following a public consultation process, make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service.*"

73 http://www.irishstatutebook.ie/eli/2012/si/280/made/en/pdf

313. In decision document D08/12[74], ComReg noted that the universal postal service consists of a basic but high quality service for the delivery of "postal packets" deposited at “access points” to “addressees” at their homes or premises. It is worth noting that the posting of letters accounts for most of universal postal service volumes, for example, domestically, 9 of 10 items sent by universal postal services are letters. A basic parcel service was included in the universal postal service though ComReg noted that many postal service users demand something more than this basic service and that such demand is met by the competitive market[75]. ComReg’s decision to include a basic parcel service in the universal postal service was supported by the USP which stated that “*there is no need to mandate the provision of anything other than a basic parcel service*”.[76]

314. A universal postal service which does face effective competition should cease to be a universal postal service. This would ensure consistent application of the 2011 Act in relation to the universal postal service, which is intended to be a *de minimis* specification of services which do not face effective competition.

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	**Equivalent USP postal service**
A single piece service involving the clearance, sorting, transport and distribution of letters	Standard Post (Stamp), Letters Standard Post (Label), Letters Standard Post (Meter), Letters
A single piece service involving the clearance, sorting, transport and distribution of large envelopes	Standard Post (Stamp), Flats Standard Post (Label), Flats Standard Post (Meter), Flats
A single piece service involving the clearance, sorting, transport and distribution of packets	Standard Post (Stamp), Packets Standard Post (Label), Packets Standard Post (Meter), Packets
A single piece service for the clearance, sorting, transport and distribution of parcels	Standard Post (Stamp), Parcel Standard Post (Label), Parcel Standard Post (Meter), Parcel

[74] ComReg Document No. 12/81
[75] As evidenced by research commissioned by ComReg and published in 2015. See ComReg Document No. 15/47 ‘The packets and parcels sector in Ireland’ dated May 2015
[76] At page 17 of the USP submission @ ComReg Document No. 12/81s

Standard Post – Stamp and Label (Letters, Flats, Packets, Parcel)

315. Standard post paid for by stamp and label is familiar to most postal service users. Stamps can be bought at post offices and other outlets, while labels[77] are only available over post office counters. The exact value of the stamps required for a postal packet depends on the weight, format, and destination[78] of the packet. Stamp customers mainly comprise SMEs and residential customers and their service requirements are generally characterised by low volumes per customer mailing. This is supported by the recent research conducted by Amarach Research for Frontier Economics[79].

Postal competition

316. The USP currently faces minimal competition from other postal providers for mail sent using stamps and labels. It is also likely that there are significant barriers to entering the residential segment of the market. However, the USP does face competition in the packets and parcels segment, as evidenced by the research by Frontier Economics[80]. However, this appears to be mainly in the B2C segment which is generally outside the universal postal service, as most B2C is commercially negotiated. Packets and parcels which fall within the universal postal service are typically single piece C2C, typically presented for onward delivery at the USP's post office counter. There is limited competition for this single piece service, which is why a "last resort" single piece packet and parcel is included in the universal postal service.

Non-postal competition

317. There is no evidence to suggest that non-postal competition has acted as a constraint on the USP's pricing of its Standard Post-Stamp service, despite substantial price differentials between this service and electronic substitutes such as email.

Conclusion: Standard Post – Stamp and Label

318. The USP continues to face minimal (postal and non-postal) competition for its Standard Post – Stamp and Label Letter and Flats services, for which it has near 100% market share for Letters, such that the service should continue to form part of the universal postal service. ComReg remains satisfied that there is no effective competition in Packets and Parcels paid for by Stamp and Label but reserves the right to further consider, from time to time, whether this segment should remain a universal postal service.

[77] As labels are in essence another form of stamp, in the following the use of the term "stamp" also refers to labels

[78] In the case of International Outbound

[79] ComReg Document No. 16/107 dated 18 November 2016

[80] Document No. 15/47

Standard Post – Meter (Letters, Flats, Packets, Parcels)

319. Standard Post – Meter requires a customer to purchase or lease a franking (meter) machine. The machine can be credited by telephone or modem and mail is then franked by the customer. Generally, meter mail must be posted at a designated mail centre or acceptance office, in the pouches or bags provided by the USP, though in some larger urban areas meter mail can be posted into special meter post boxes. Delivery targets for Standard Post – Meter are the same as for Standard Post – Stamp and Label.

Postal competition

320. The USP currently faces minimal competition from other postal providers in relation to its Standard Post – Meter service, which targets a relatively narrow segment of the market mainly consisting of SMEs, with some larger businesses. The USP does face competition in the packets and parcels segment, as evidenced by the research by Frontier Economics[81], though this appears to be mainly in the B2C segment which is generally outside the universal postal service as most B2C is commercially negotiated. Packets and parcel in the universal postal service are typically single piece. There is limited competition for this single piece service which is why a "last resort" single piece packet and parcel is included in the universal postal service.

Non-postal competition

321. There is no evidence to suggest that non-postal competition has acted as a constraint on the USP's pricing of its Standard Post–Meter service, despite substantial price differentials between this service and electronic substitutes such as email.

Conclusion: Standard Post - Meter

322. The USP continues to face minimal (postal and non-postal) competition for its Standard Post – Meter Letter and Flats services such that the service should continue to form part of the universal postal service. ComReg remains satisfied that there is no effective competition in Packets and Parcels paid for by Meter but reserves the right to further consider, from time to time, whether this segment should remain a universal postal service.

[81] ComReg Document No. 15/47

Certificate of posting universal postal services

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
Certificates of posting universal postal services	Available free of charge with all Standard Post postal services on request when the postal packet is deposited at a post office

323. A customer can obtain a certificate of posting as proof that a postal packet was posted. This service is mainly aimed at residential customers and is available free of charge on request when a postal packet item is deposited at a post office. S.I. 280 of 2012 requires the USP to provide such a service though it does not require that the service be provided free of charge (though the USP currently does provide it free of charge).

Postal competition and non-postal competition

324. The USP is considered to be the only postal service provider that can provide certificates of posting for single piece postal packets, to all postal service users in the State.

Conclusion: Certificate of posting

325. The USP continues to face minimal (postal and non-postal) competition for its Certificate of posting service, such that the service should continue to form part of the universal postal service.

Registered Post: Proof of delivery and Insurance

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
A registered items ("proof of delivery") service	The USP currently only offers a combined registered and insured service – Registered Post National. The USP will shortly offer separate services as required by the 2011 Act.
An insured items service	See above

326. The USP's Registered Post service offers a "proof of delivery facility" for the sender and insurance can be added with compensation limits of €1,500 or €2,000. Postal packets are handled with priority and the sender receives a proof of posting and a tracking number which allows one to monitor the delivery of the postal packet. The recipient of a postal packet is required to sign for collection and the sender can view this signature online.

327. The USP currently offers a combined "proof of delivery" and insurance service. However, the 2011 Act and S.I. 280 of 2012 both require the USP to introduce two separate services. The USP will shortly offer separate services as required by the legislation.

Postal competition and non-postal competition

328. Competition for Registered Post services appears to be limited with the only competition coming from express and courier services. However, Registered Post is a minimum, standard postal service which includes a proof of delivery feature. Express and courier services differ from Registered Post in terms of speed of delivery, which means that these services are not directly substitutable for Registered Post.

329. Non-postal competition does not appear to affect Registered Post which, by its nature, is only used if a customer requires proof of postage and delivery. Therefore, this is specifically a postal service with no non-postal substitute.

Conclusion: Proof of delivery and insurance

330. The USP continues to face minimal postal and non-postal competition for its Registered Post service, such that the service should continue to form part of the universal postal service.

Postal services to blind and partially sighted

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
A single piece service provided free of charge to the postal service user for the transmission of postal packets for the blind	Articles for the Blind

331. As required by the 2011 Act, the USP offers a free of charge service for the delivery of domestic and international single-piece postal packets to blind and partially sighted persons. There is a weight restriction of 7kgs and a restriction on what can be sent; e.g. domestic packets can only contain literature and articles adapted for the blind.

Conclusion: Postal services to blind and partially sighted

332. The USP continues to face minimal postal and non-postal competition for its postal service for blind and partially sighted persons, noting in particular that the 2011 Act and S.I. 280 of 2012 specify that this service must be provided free of charge.

Universal Postal Service Bulk Mail – "Deferred Delivery" and "Delivery Only"

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
A service for the clearance, transport and distribution of "postal packets deposited in bulk" for "deferred delivery"	Ceadúnas Discount 6 (Deferred processing presentation before noon 85%+ autosort)
A service for the clearance, transport and distribution of "postal packets deposited in bulk" for "delivery only"	Ceadúnas Discount 9 (PreSort (151 Sorts) before 5:30pm)

333. S.I. 280 of 2012 specifies that the universal postal service includes two bulk mail services, as in the above table, as a "last resort" to meet the reasonable needs of those postal service users who are unable or unwilling to negotiate terms and conditions that suit their particular requirements.

334. "Delivery only" is the USP's Bulk Mail 9 service, with mail accepted at all delivery offices for D+1 delivery. "Deferred delivery" is the USP's Bulk Mail 6 service, with mail accepted at all delivery offices for a D+2 delivery and a lower threshold of 200 items for meter customers.

Postal competition

335. In specifying a "de minimis" set of universal postal services, which meet the reasonable needs of postal service users while also minimising the regulatory burden, ComReg considered whether to include all bulk mail variants. ComReg concluded that including an extensive range might deprive customers of the ability to negotiate terms and conditions that suit their particular requirements. At the same time, excluding all bulk mail services from the universal postal service would carry the risk of some users not having sufficient bargaining power to secure the provision of the type of postal services that they require. ComReg thus specified that two bulk mail services be included in the universal postal service - a "deferred delivery" equivalent to Discount 6 and a "delivery only" equivalent to Discount 9, as in the table above.

336. The USP's other bulk mail services are not universal postal services though they are postal services "within the scope of the universal postal service". Given the similarities between the various categories of bulk mail services and their price differentials, there appears to be potential for certain bulk mail services to be competing services. For example, the Discount 11 non-universal postal service has, since mid-2014, been offered at a price lower than the Discount 6 universal postal service, resulting in significant mail volumes moving from Discount 6 to Discount 11 – i.e. customers of a universal postal service opted to switch to what they perceive to be an equivalent, but cheaper, non-universal postal service.

337. Though there may be some limited competition in the business customer segment of the market, from rival postal service providers, it appears that such rival services target a very narrow part of the business customer market.

Non-postal competition

338. There is no evidence to suggest that non-postal competition constrains the USP's pricing of its bulk mail universal postal services. There are very substantial price differentials between the bulk mail services and possible electronic substitutes, such as email, and there is insufficient evidence to suggest that this will change. However, over time, there may be more competition provided by electronic substitutes, for many reasons in any such "business case" such as ease of use, integrated billing and cost savings/efficiencies.

Conclusion: "Delivery only" and "Deferred delivery" domestic bulk mail

339. The USP currently faces some postal competition coming from the USP's non-universal bulk mail services (i.e. a significant volumes has moved from Discount 6 (USO) to Discount 11(non-USO). Notwithstanding this, and considering the findings of the Frontier Report on postal service users[82] which found evidence that suggests that certain bulk services should remain in the universal postal service for the meantime, ComReg currently remains satisfied in relation to the assessment of non-effective competition for "Delivery only" and "Deferred delivery" domestic bulk mail, though reserving the right to consider further from time to time, whether this segment should remain a universal postal service.

International Bulk Mail Service

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
A service for the clearance, transport and distribution of foreign postal packets deposited in bulk pre-sorted by country of destination	International Bulk Mail Service (IBMS)

340. The International Bulk Mail Service (IBMS) is a universal postal service intended for customers that wish to send to send large volumes of mail to foreign destinations and it includes the option of priority or non-priority delivery.

[82] Document No, 16/107 dated 18 November 2016 which, among other things, surveyed the users of bulk mail products

Postal competition

341. Some IBMS customers should be able to avail of equivalent services offered by other postal service providers. However, no provider of an equivalent service appears to have a significant market share relative to that of the USP.

342. A further option for some IBMS customers may be to use bulk mail services offered by international providers. However, mail volumes would have to be significant for this to be cost effective. It is therefore concluded that this would not be a sufficient constraint on the USP's pricing of any variants of IBMS.

Non-postal competition

343. There is no evidence to suggest that non-postal competition has constrained the USP's pricing of its IBMS. There are very substantial price differentials between the IBMS and possible electronic substitutes, such as email, and there is insufficient evidence to suggest that this will change.

Conclusion: IBMS

344. The USP's IBMS currently continues to face minimal competition from postal and non-postal alternatives, such that it ought to remain a universal postal service. Staff will continue to keep this under review with the other bulk mail reserves the right to consider further with a more detailed assessment in the medium term as to whether it remains a universal postal service.

Special facilities

Communications Regulation (Universal Postal Service) Regulations in SI 280 of 2012	Equivalent The USP postal service
The following special facilities for the delivery of postal packets at the request of the addressee: • Private boxes and bags • Redirection • Poste restante • Mailminder • Business Reply • Freepost	PO Box Redirection (Residential and Business) Poste Restante Mailminder Business Reply Freepost

PO Box

345. The USP offers lockable PO Boxes that may be rented by residential or business customers. Postal packets can be delivered to these PO Boxes instead of to regular addresses. Customers can then either collect their mail from their PO Boxes or they may have it forwarded to their homes or offices.

Postal competition and non-postal competition

346. ComReg is not aware of any provider of a similar or substitutable service in Ireland. There also cannot be a non-postal substitute for this service, given its physical nature.

Conclusion – PO Box

347. The USP's PO Box service continues to face minimal competition from postal and non-postal alternatives, such that it ought to remain a universal postal service.

Poste Restante

348. The Poste Restante service allows customers to have their mail addressed to any specified post office in the State, where it will be held for collection by the addressee for three months. The address on a Poste Restante postal packet should include the name of the recipient, the address of the post office, and the description "Poste Restante". S.I. 280 of 2012 also specifies that Poste Restante must be provided free of charge.

Conclusion – Poste Restante

349. The USP's Poste Restante service continues to face minimal competition from postal and non-postal alternatives, such that it ought to remain a universal postal service.

Residential and Business Redirection

350. The Redirection service is intended for residential or business customers who are moving home or business and it allows them to arrange to have their mail forwarded to any other national or international address, for three months, or six months, or one year.

Postal competition and non-postal competition

351. Only the USP can offer a Redirection service, as mail is redirected at the level of the delivery sorting office or delivery sorting unit and only the USP can intercept mail at this point and redirect it to the customer's chosen address.

352. There are also no non-postal alternatives that are available for this service.

Conclusion – Residential and Business Redirection

353. The USP's Residential and Business Redirection service continues to face minimal competition from postal and non-postal alternatives, such that it ought to remain a universal postal service.

Mailminder

354. The Mailminder service provides for suspending delivery of mail to an address for up to 12 weeks, with all mail delivered at the end of the suspension period. This service can cover multiple addresses and is intended for customers who will be away from their properties for extended periods of time.

Postal competition and non-postal competition

355. As with the Redirection services, only the USP can offer a Mailminder service due to the need to intercept mail at the delivery sorting office or delivery sorting unit level. Also, again there are no non-postal alternatives to this service.

Conclusion – Mailminder

356. The USP's Mailminder service continues to face minimal competition from postal and non-postal alternatives, such that it ought to remain a universal postal service.

Business Reply and Freepost

357. The Business Reply service can be used by businesses to maximise customer response, e.g. to speed up bill payments or collect information. An approved pre-paid, pre-printed envelope, card or label is supplied to customers and enables them to respond to the business (the sender) at no cost. The sender will pay the postage for all responses which it receives.

358. The Freepost service is similar to the Business Reply service, the difference being that it offers businesses a Freepost address which customers can respond to. This allows customers to respond free-of-charge without having to first receive a pre-paid envelope, card or label. The sender will pay for all post which it receives through this Freepost address.

Postal competition and non-postal competition

359. Provision of a response service such as Business Reply or Freepost requires national collection from, and delivery to, rural and urban areas. In addition, mail volumes sent via these services may not be significant and there will be a degree of uncertainty attached as the actual mail volumes will depend on how many households choose to send a response to the business.

360. It would be difficult for any postal service provider other than the USP to develop the required national network to ensure national collection. It is therefore highly unlikely that other postal service providers will provide an equivalent response service in future.

361. The use of non-postal alternatives by responding customers, for example the use of electronic business response forms, will depend largely on preference rather than price. It is likely that businesses will use business reply as part of a suite of options that customers can use to respond depending on their preference.

Conclusion – Business Reply and Freepost

362. The USP's Business Reply and Freepost response services continue to face minimal competition from postal and non-postal alternatives, such that they ought to remain a universal postal service.

Conclusion

363. ComReg, for the reasons set out in Decision D13/13 and herein, remains of the opinion that the universal postal services specified in the Communications Regulation (Universal Postal Service) Regulations 2012 (S.I. 280 of 2012) form one market and that there is no effective competition in that market, such that such services ought to remain as universal postal services. ComReg reserves the right to consider further, from time to time, whether any universal postal service should continue to be specified as such or whether it ought to be removed from the specification, due to there being effective competition in the market for the provision of that service.

7 Accounting Direction

Direction on the accounting obligations of the universal postal service provider

1. STATUTORY FUNCTIONS AND POWERS

1.1 This Direction (hereinafter referred to as "the **Direction**") is hereby made by the Commission for Communications Regulation ("ComReg") for the purpose of directing the universal postal service provider to provide separate accounts in its internal accounting system for each service it provides which is (a) part of the universal postal service, and (b) which is not part of the universal postal service, pursuant to section 31 of the Communications Regulation (Postal Services) Act 2011 and is made:

i. Having regard to ComReg's functions and objectives set out in sections 10 and 12 of the Communications Regulation Act of 2002 (as amended);

ii. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 15/135; and

iii. Having regard to the analysis and reasoning set out in ComReg Document No. 17/06 (Decision 02/17); which shall, where appropriate, be construed together with this Direction.

2. DEFINITIONS

2.1 In this Direction, unless the context otherwise suggests, the following terms shall have the following meanings:

"2011 Act" means the Communications Regulation (Postal Services) Act 2011;

"Accounting Manual" has the meaning as per section 5 of this Direction;

"Agreed Upon Procedures" means an engagement carried out by the Regulatory Auditor in accordance with the International Standard on Related Services 4400 'Engagements to perform Agreed Upon Procedures Regarding Financial Information' (as may be amended from time to time) and does not constitute an examination made in accordance with generally accepted auditing standards;

“An Post Company” has the meaning as per An Post’s Statutory Accounts;

“Cash at bank and in hand” has the meaning as per An Post’s Statutory Accounts;

“ComReg” means the Commission for Communications Regulation;

“DSU” means any Delivery Service Unit / Delivery Service Office of the USP;

“Format” means by letter, large envelope, packet, parcel as defined by S.I. 280 of 2012;

“GAAP” means “Generally Accepted Accounting Principles” as applied in Ireland, unless otherwise specified;

“IFRS 8” means International Financial Reporting Standard 8 “Operating Segments” issued by the International Accounting Standards Board;

“Inter-company transaction” means transactions between the An Post Company and other companies within the An Post Group;

“Inter-segment transactions” means transactions within the An Post Company, for example, between its Mails and Retail divisions;

“Obligations on Universal Postal Service Providers” means the obligations and principles to be observed by Universal Postal Service Providers under the 2011 Act and/or under any decision, determination or regulations made by, or direction given by, ComReg under the 2011 Act;

“Postal Directive” means Directive 97/67/EC of the European Parliament and of the Council, as amended;

“Regulatory Accounts” means the separate accounts kept by the USP in its internal accounting system for each service it provides which is (a) part of the universal postal service, and (b) not part of the universal postal service, in the format prescribed in ComReg Document No. 17/06a and meeting the requirements set by this Direction;

"Regulatory Auditor" means a statutory auditor or firm of statutory auditors appointed to conduct the Regulatory Audit in accordance with this Direction and with International Standards on Auditing (UK and Ireland);

"Regulatory Audit" means an audit conducted by the Regulatory Auditor in accordance with this Direction and with International Standards on Auditing and International Standards on Assurance Engagements;

"Service" means a "postal service" as defined by the 2011 Act;

"S.I. 280 of 2012" means the Communications Regulation (Universal Postal Service) Regulations 2012 and any future regulations, which may replace S.I. 280 of 2012, made pursuant to section 16(9) of the 2011 Act;

"Statutory Accounts" means the statutory accounts prepared by An Post in accordance with sections 32 and 33 of the Postal and Telecommunications Services Act 1983 and Article 15 of the Postal Directive;

"Summary Regulatory Accounts" means Regulatory Accounts published on the USP's website redacted for confidential and commercially sensitive information and set out in the format prescribed in ComReg Document No. 17/06b and meeting the requirements set by this Direction;

"Tariff Requirements" means the requirements set out in section 28 of the 2011 Act;

"Terminal Dues Requirements" means the requirements set out in section 29 of the 2011 Act;

"Transfer Charge" means charges for Inter-company transactions / Inter-segment transactions;

"Universal Postal Service" means the postal services set out in section 16 of the 2011 Act and SI 280 of 2012 and any future regulations, which may replace S.I. 280 of 2012, made pursuant to section 16(9) of the 2011 Act;

"Universal Postal Service Provider" means the "USP" or any other legal person designated by section 18 of the 2011 Act. An Post is the designated USP pursuant to section 17 of the 2011 Act.

All other terms used in this Direction have the same meaning as per the defined terms set out in section 6 of the 2011 Act.

3. FUNDAMENTAL REQUIREMENTS

3.1 The USP is required by this Direction to keep, in its internal accounting systems, separate accounts for each service it provides which is (a) part of the universal postal service, and (b) not part of the universal postal service and the USP is further required to ensure that said accounts meet the requirements set out below, which requirements are established under this Direction pursuant to section 31(3) of the 2011 Act. These separate accounts are together defined and referred to herein as the “Regulatory Accounts”.

3.2 The Regulatory Accounts shall contain sufficient detailed information so as to ensure that ComReg and/or the USP can use that information:

a) to assess whether the USP is complying with requirements under the 2011 Act, in particular with the Tariff Requirements under section 28 of the 2011 Act and the Terminal Dues Requirements under section 29 of the 2011 Act; and

b) to respond in a prompt manner to any request for information made by the European Commission pursuant to sections 31(4) and 31(5) of the 2011 Act.

4. REPORTING AND TRANSPARENCY

4.1 Regulatory Accounts

4.1.1 The Regulatory Accounts shall contain the information specified in the following paragraphs (a) – (n) incl.:

(a) The Regulatory Accounts shall contain a commentary on the USP’s financial performance that shall identify and explain:

(i) trends and expected significant future events relating to postal services and how these might impact on the continued provision of the universal postal service;

(ii) trends relating to revenue, by service;

(iii) trends relating to the mail volumes, by service;

(iv) significant year-on-year movements in the reported performance and balances, in particular the cash at bank and in hand balance;

(v) one-off or exceptional events in the year;

(vi) large adjustments made to produce the Regulatory Accounts; and

(vii) the impact of changes in accounting policies, methodologies and estimation techniques including the detail of any prior-year adjustments.

(b) The Regulatory Accounts shall contain a comprehensive explanation of the basis of preparation of the Regulatory Accounts, including an explanation of the key accounting policies adopted and applied by the USP. This shall include, *inter alia*, details of the USP's income recognition policy, depreciation policy, and capitalisation policy, and details of the USP's approaches to dealing with issues such as cost identification, cost allocation, prior year adjustments and changes in accounting policy.

(c) The Regulatory Accounts shall contain profit and loss accounts and balance sheets for each operating segment, as defined in IFRS 8 and as agreed by ComReg, and as prepared in accordance with IFRS 8. These profit and loss accounts and balance sheets shall show data for the USP's last complete financial year and for the financial year immediately prior to that. Where the figures are not comparable (because, for example, of some change in accounting policy or some other reason (as may be applicable)), the figures for the preceding financial year shall be adjusted with full details provided on this prior-year adjustment.

(d) The Regulatory Accounts shall be fully reconciled to the Statutory Accounts, identifying in detail all adjustments required to reconcile between the Regulatory Accounts and the Statutory Accounts.

(e) The Regulatory Accounts shall be presented in the formats and to the level of detail shown in the schedules as determined by ComReg and as set out in ComReg Document No. 17/06a and for the Summary Regulatory Accounts as set out in ComReg Document No. 17/06b.

(f) The Regulatory Accounts shall contain detailed commentary, where this information is available, on capital expenditure, including but not limited to investment additions and disposals, by the USP in the provision of the universal postal service.

(g) The Regulatory Accounts shall detail the balance sheet for each quarter of the financial year for the An Post Company, including details of amounts held in trust, if the cash at bank and in hand of the An Post Company should fall below €100 million (as would be reported under Irish GAAP, excluding amounts held in trust).

(h) The Regulatory Accounts shall contain payroll costs and average staff numbers (average FTE equivalent) for each business segment, and for the Mails business segment split between universal postal service and non-universal postal service.

(i) The Regulatory Accounts shall contain volume information that shows mail volume, by service, recorded from revenue data recorded at the point of sale. A supplementary schedule shall also be provided to provide: (i) a comparison by format between the revenue-derived and operational-based mail volumes, and (ii) an explanation of the difference between such comparable sets of mail volume figures, where the difference exceeds 5% by format, and a reconciliation of any such figures to at most 5%, by format. Where ComReg considers it appropriate, it may appoint a competent body to review the reconciliation and volume reporting.

(j) The Regulatory Accounts shall set out the revenue attributed to each service while distinguishing between (i) revenues which have been directly allocated to specific services, and (ii) revenues which have been allocated or apportioned on the basis of statistical sampling or other accounting allocator.

(k) The Regulatory Accounts shall contain details of expenditure by pipeline process, distinguishing between:

i. costs directly allocated to specific services,

ii. costs indirectly allocated to specific services,

iii. common costs allocated on the basis of the origin of the costs themselves, and

iv. common costs allocated on the basis of a general allocator.

(l) The Regulatory Accounts shall contain a written and signed statement from the Directors of An Post Company in which they acknowledge their responsibilities with regard to the preparation of the Regulatory Accounts and the Accounting Manual and confirm that they and An Post Company have, in their opinion, complied with:

(i) the 2011 Act, and in particular with section 31 thereof,

(ii) the requirements set down under this Direction.

(m) The Regulatory Accounts shall contain the audit report of the Regulatory Auditor.

(n) The Regulatory Accounts shall contain the results of the annual review of any statistical sampling process undertaken to identify revenue or mail volumes.

The USP shall prepare the Regulatory Accounts in accordance with the following principles:

4.1.2 Inter-company/inter-segment transactions

4.1.2.1 Revenues and costs shall initially be directly assigned by the USP to its operating segments in accordance with the principles set out in IFRS 8. Fixed assets (buildings, vehicles, sorting equipment, etc.) shall be shown in the balance sheet of the "prime user", with use by other operating segments charged for on an arm's length basis.

4.1.2.2 Inter-company transactions and inter-segment transactions shall be calculated on an arm's length basis and in a transparent and non-discriminatory manner, with the proviso that this Transfer Charge shall equal the price the USP would or does charge to any third party user for a similar transaction.

4.1.2.3 The Regulatory Accounts shall clearly identify the source of each inter-company / inter-segment revenue and shall set the sources out in a matrix form, in order to show how charges flow between the USP's various operating segments.

4.1.3 Mail Volume and Revenue Identification

4.1.3.1 Within the operating segments as defined by IFRS 8, mail volumes and revenue shall be allocated to each service in the following manner:

(a) Mail volumes and revenues which can be directly assigned to particular services shall be so assigned.

(b) Mail volumes, by service, shall be recorded separately, from (i) revenue data recorded at the point of sale; and (ii) operational data recorded in the outward phase of the postal pipeline.

(c) Revenue, by service, shall be recorded at the point of sale.

(d) Any mail volumes and revenues recorded at the point of sale which cannot be directly assigned to specific services shall be apportioned to services on the basis of statistical sampling accurate to +/-1% at the 95% Confidence Level.

4.1.3.2 ComReg may, where it considers it appropriate (for example, where the difference between the revenue-derived volumes and operational counted volumes reconciliation at format level, exceeds 5% by format), appoint a competent body to review the USP's mail volume recording and reconciliation.

4.1.4 Cost Allocation and Apportionment Principles

4.1.4.1 The Regulatory Accounts shall, within the operating segments as defined by IFRS 8, allocate costs to each service (i) which is part of the universal postal service and (ii) which is not part of the universal postal service, in the following manner:

(a) a cost which can be directly allocated to a particular service shall be so allocated; and

(b) a common cost which cannot be directly allocated to a particular service shall be allocated as follows:

(i) whenever possible, the common cost shall be allocated by direct analysis of its origin;

(ii) when direct analysis of the common cost's origin is not possible, a common cost shall be allocated on the basis of an indirect linkage to another cost category or group of cost categories for which a direct allocation is possible; the indirect linkage shall be based on comparable cost structures;

(iii) when neither of the methods in (i) or (ii) will work, the common cost shall be allocated on the basis of a general allocator computed by using the ratio of all expenses directly or indirectly allocated, on the one hand, to each of the universal postal services and, on the other hand, to the other services; and

(iv) common costs, which are necessary for the provision of both the universal postal services and non-universal postal services, shall be allocated appropriately; the same cost drivers must be applied to both universal postal services and non-universal postal services.

4.1.4.2 Costs shall, at a minimum, be allocated to each service in such manner as to ensure that the following activities can be calculated:

(a) Revenue Collection;

(b) Collection;

(c) Outward sorting;

(d) Transport;

(e) Inward sorting; and

(f) Preparation and Delivery.

4.1.4.3 The accounts shall also distinguish between: directly allocated costs and indirectly allocated costs.

4.2 Cost-orientation for each respective price of the universal postal service

4.2.1 In accordance with section 28(1)(b) of the 2011 Act and Article 12 of the Postal Directive, the Regulatory Accounts shall demonstrate how the price of each respective universal postal service is cost-oriented.

4.3 Ad hoc reporting

4.3.1 The USP shall prepare and provide such *ad hoc* reports as may be required by ComReg, from time to time, and any such report may be subject to an Agreed Upon Procedures.

4.4 Balance sheet reporting at regular intervals

4.4.1 If the An Post Company cash at bank and in hand is below €100 million (as would be reported under Irish GAAP, excluding amounts held in trust), the USP shall report in writing the An Post Company balance sheet at quarter end to ComReg within four weeks of the end of each quarter (i.e. within four weeks of the end of March, June, September, and December).

5. ACCOUNTING MANUAL

5.1 The Accounting Manual shall set out the processes and policies used to prepare the Regulatory Accounts, to include the processes used to calculate the mail volumes and revenues, by service (being the revenue-derived and operational-based mail volumes and revenues, machine counted and manual counted).

5.2. The USP shall:

a) review the Accounting Manual annually;

b) make the Accounting Manual available for either a separate expert opinion review by the Regulatory Auditor or a review by a competent body appointed by ComReg, as and when required by ComReg; and

c) inform ComReg in writing of any changes to the Accounting Manual.

5.3 The Accounting Manual shall contain a schedule showing how each cost category shall be treated.

5.4 The Accounting Manual shall provide a sufficiently detailed overview of:

a) the USP's businesses and services, explaining the main activities and functions performed by the USP to deliver postal services to postal service users, and clearly indicating which businesses and services are regulated;

b) the USP's management structure;

c) how the underlying financial transactions which support the USP's business activities and functions are recorded in its financial ledgers and how transactions are grouped to provide the starting costs, revenues, assets and liabilities used within the internal costing systems to allocate costs;

d) the USP's accounting systems, in terms of the underlying costing principles and the conceptual flow of costs and revenues from source financial systems to the separated businesses;

e) what the Regulatory Accounts comprise and the regulatory accounting process (including the basis of preparation for the Regulatory Accounts);

f) any year-on-year changes to the Regulatory Accounts and/or to cost allocations, together with an assessment of the impact of these changes;

g) how the Regulatory Accounts differ from the Statutory Accounts;

h) the internal safeguards incorporated to ensure that the cost allocation system is free from material error; and

i) how operational-based mail volumes are calculated (this shall include details of how machine counts are validated and the degree of accuracy to which machines are tested. For manual counts, this shall include details of the counts of flats, packets, and parcels conducted at DSUs.

5.5 Cost allocation and apportionment rules

5.5.1 The Accounting Manual shall set out how the cost of the various aspects of providing services shall be identified.

5.5.2 The Accounting Manual shall set out how the cost of the various aspects of providing services are apportioned between services. Costs shall be apportioned between the various services that use each aspect of the network on the basis of cost drivers which reflect the different impact of each postal packet on the cost of the activity.

5.5.3 The Accounting Manual shall set out:

a) the processes by which the USP shall distinguish between costs which can be directly assigned to particular services, or indirectly assigned, or assigned as a common cost;

b) the processes by which the USP identifies avoidable, variable, and fixed costs, including detailed worked examples;

c) how equivalent volume drivers, if used, shall be derived;

d) how costs shall be allocated to services with different weight, format, and payment characteristics;

e) how costs shall be allocated to services with different tariffs;

f) a detailed explanation where weight factors used in the allocation process do not align with the various tariff price points; and

g) how cost drivers are reviewed, updated and verified, in particular the nature of, and reason for any year-on-year change in the methodology of cost driver(s), including the reasons why any prior-year adjustment to the Regulatory Accounts has, or has not been, made.

6. REVIEW AND CONFIRMATION OF COMPLIANCE

6.1 The USP shall provide its Accounting Manual and Regulatory Accounts to ComReg within 19 weeks of the end of its financial year. The USP shall provide the Regulatory Accounts in *Excel* format to enable analysis by ComReg. At the same time as providing its Accounting Manual and Regulatory Accounts to ComReg, the USP shall publish its Summary Regulatory Accounts on its website.

6.2 The USP shall engage a Regulatory Auditor to audit the Regulatory Accounts and to verify compliance with this Direction.

6.3 The report of the Regulatory Auditor will be addressed to the USP and ComReg and will state whether, in the Regulatory Auditor's opinion:

a) the Regulatory Accounts present fairly the profits and losses attributable to the individual products and services in accordance with the Regulatory Accounting Principles and Basis of Preparation set out in the Regulatory Accounts and the assumptions contained in the USP's Accounting Manual and are properly prepared, in all material respects, in accordance with the Regulatory Accounting Principles; and

b) whether the non-financial data relating to mail volume is in agreement with the output from the revenue-derived volume set out in the Regulatory Accounts.

6.4 The Regulatory Auditor, in arriving at its opinion, will consider the following matters, and report on any in respect of which it is not satisfied:

a) whether appropriate accounting records have been kept by the USP and proper returns adequate for its audit have been received;

b) whether the Regulatory Accounts are in agreement with the accounting records and returns retained for the purpose of preparing the Regulatory Accounts; and

c) whether the Regulatory Auditor has obtained all the information and explanations which it considers necessary for the purposes of its audit.

6.5 The Regulatory Auditor's responsibilities also include:

a) providing in its report a description of the USP's Directors' responsibilities for the Regulatory Accounts where the Regulatory Accounts or accompanying information do not include such a description; and

b) considering whether other information in documents containing the Regulatory Accounts is consistent with those Regulatory Accounts.

6.6 The Regulatory Audit shall be conducted in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board except that, as the nature, form and content of the Regulatory Accounts are determined by ComReg, the Regulatory Auditor will not evaluate the overall adequacy of the presentation of the information, which would be required if it were to express an audit opinion under Auditing Standards.

6.7 The Regulatory Audit will include tests of transactions and of the existence, ownership and valuation of assets and liabilities as the Regulatory Auditor considers necessary.

6.8 The Regulatory Auditor will obtain an understanding of the accounting and internal financial control systems to the extent necessary to assess their adequacy as a basis for the preparation of the Regulatory Accounts and to establish whether appropriate accounting records have been maintained by the USP.

6.9 The regulatory audit includes assessing the significant estimates and judgements made by the USP's Directors in the preparation of the Regulatory Accounts and whether the accounting policies are appropriate to the USP's circumstances, are consistently applied, and are adequately disclosed.

6.10 The Regulatory Auditor will read the Financial Summary, Business Review ("Other Information") contained within the Regulatory Accounts, including any supplementary schedules on which it does not express an audit opinion, and will consider the implications for its report if it becomes aware of any apparent mis-statements or material inconsistencies with the Regulatory Accounts.

6.11 The Regulatory Auditor will plan its work in such manner as to gain reasonable assurance that the audited information within the Regulatory Accounts is free from material error, regardless as to whether such error results from fraud, accident, negligence, or a deliberate misstatement of known facts.

7. STATUTORY POWERS NOT AFFECTED

7.1 Nothing in this Direction 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 Direction) from time to time.

8. TIMETABLE

8.1 This Direction will apply for the Regulatory Accounts ending 31 December 2017 and thereafter.

8.2 The USP is further required under this Direction to submit its timed programme for compliance with this Direction to ComReg, for ComReg's review and approval, by 1 July 2017.

9. MAINTENANCE OF OBLIGATIONS

9.1 If any section, clause or provision or portion thereof contained in this Direction is 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 section, clause or provision or portion thereof shall, to the extent required, be severed from this Direction and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Direction, and shall not in any way affect the validity or enforcement of this Direction or other Directions / Decision Instruments.

10. EFFECTIVE DATE AND DURATION

10.1 This Direction is effective from 20 January 2017, and shall remain in full force unless otherwise amended by ComReg.

Mr Kevin O'Brien

Commission for Communications Regulation

Dated 20 January 2017