



Commission for
Communications Regulation

Update on the review and assessment of An Post's application for changes to the charges for postal services within the scope of the universal postal service

Information Notice

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Date: 09/10/2012

Introduction

1. ComReg's action plan notes that ComReg in Quarter 4, 2012 is to consult on An Post's application to change the charges of certain of its postal services within the scope of universal postal service.
2. The purpose of this Information Notice is, in the interests of transparency, to provide an update to all interested parties as to the status of ComReg's review of An Post's application.

Background

3. As a result of the Communications Regulation (Postal Services) Act 2011 ("2011 Act"), ComReg's functions now include ensuring the provision of a universal postal service that meets the reasonable needs of postal service users.
4. In relation to pricing, pending the making of a possible price cap decision under section 30(2) of the 2011 Act, section 30(12) of the 2011 Act provides that no change can be made by An Post to any charge for postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams without the prior consent in writing of ComReg. Furthermore, under section 28(1) of the 2011 Act, the tariffs for each postal service or part of a postal service provided by a universal postal service provider in the provision of a universal postal service shall be:
 - Affordable and be such that all postal service users may avail of the services provided. (The promotion of 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 is also set as an objective for ComReg under section 12(1)(c)(i) of the Communications Regulation Act 2002).
 - Cost-oriented, that is the prices shall take account of, and reflect the costs of, providing the postal service or part of the postal service concerned.
 - Transparent, and
 - Non-discriminatory.

5. On 3 February 2012, An Post made an application to ComReg for changes to the charges for certain postal services within the scope of the universal postal service. The application by An Post¹ was based, to a fair degree, on the listing of universal postal services under ComReg Document No. 05/85² pending the making of the Regulations by ComReg under section 16(9) of the 2011 Act.
6. On 1 May 2012, An Post changed the charges for certain postal services within that scope of the universal postal service that weigh more than 50 grams. These changes did not require the prior approval of ComReg and are now in effect. However, ComReg can review these charges to ensure that they comply with the tariff requirements under section 28 of the 2011 Act.
7. Furthermore, since the making of An Post's application, on 26 July 2012, ComReg specified the universal postal services to be provided by An Post as the current designated universal service provider in the Communication Regulation (Universal Postal Service) Regulations 2012 (SI 280 of 2012)³. Also, An Post, having considered the guidance provided by ComReg in Document No. 12/81a⁴, has notified ComReg as to what postal services it provides are within the scope of universal postal service as required by section 38 of the 2011 Act.

Review and assessment to date

8. Since the application was made by An Post, ComReg, together with its expert consultants, Frontier Economics, has been engaged with An Post to obtain all the information required from An Post in order to be in a position to review and assess An Post's application. ComReg can only form a decision as to its consent or not to a proposed change in price where it has been provided with all relevant and necessarily information, the collation of which, with An Post's assistance, has taken some time.
9. Frontier Economics has conducted a review and assessment of the An Post application and has reported to ComReg on that review. This report was shared with An Post.

¹ An Post included in its application a proposed price for a proposed bulk mail product to be called Downstream Access. Such a bulk mail product was not required by ComReg in its working definition of universal postal services (ComReg Document No. 05/85).

² 'The Universal Postal Service: A working definition' dated 15 November 2005

³ At http://www.comreg.ie/_fileupload/publications/SI_280_of_2012.pdf

⁴ 'Guidelines concerning "postal services within the scope of the universal postal service"' dated 26 July 2012

An Post to make an amended application

10. Having considered the report by Frontier Economics, An Post has reverted to ComReg and advised that it will submit an amended application. According to An Post, this amended application will include:
 - a. a revised volume and profit/loss forecast to 2014; and
 - b. the products that are now within the scope of universal postal service as set out in An Post's notification to ComReg and for the products that are now universal postal services as set by ComReg in its Communication Regulation (Universal Postal Service) Regulations 2012 (SI 280 of 2012).
11. ComReg agrees there is merit in An Post submitting an amended application to ComReg that addresses the points made by Frontier Economics in its report and which reflects the scope of universal postal service now in effect.
12. However, ComReg also believes, in the interests of transparency, that pending this amended application by An Post, a version of the Frontier Economics report, which has been appropriately redacted for confidential and commercially sensitive information⁵, should be published so that all interested parties are informed as to the review and assessment of An Post's application of 3 February 2012. Consequently, a redacted version of the Frontier Economics report⁶ is published alongside this Information Notice for information purposes only.

Next steps

13. ComReg will prioritise the review and assessment of the amended application to be made by An Post. ComReg will make a decision on this having regard to all relevant information (including any further information gathered by public consultation) and following all relevant procedures. In this respect, ComReg's assessment and review will also include a public consultation⁷ which, among other things, will include the following aspects of the amended application made by An Post:

⁵ This has been carried out in accordance with ComReg's guidelines on the treatment of confidential information. For further information please see ComReg Document 05/24 at www.comreg.ie.

⁶ Available at 12/109a

⁷ An Post's application will be published alongside the public consultation subject to redactions required confidentiality / commercial sensitivity in line with ComReg's guidelines on the treatment of confidential information set out in ComReg document 05/24

- a. ComReg's prior consent or not to any proposed changes to the charges for postal services within the scope of the universal postal service relating to postal packets weighing less than 50 grams pursuant to section 30(12) of the 2011 Act.

This consent or not will be based on the requirements of the 2011 Act and will include an assessment to ensure that the application minimises the risk of having a detrimental effect on An Post's ability to provide the universal postal service in the longer term (e.g. by encouraging further electronic substitution). The review will also involve an assessment of An Post's application against the tariff requirements of the 2011 Act and Article 12 of the Postal Services Directive as follows:

- i. The affordability of prices:

ComReg will through the public consultation welcome the views of interested parties, especially small and medium enterprises which are significant users of the post, as to the affordability of any proposals made by An Post to increase its charges. In addition, ComReg will consider other relevant evidence including an assessment of any surveys conducted by An Post of its postal service users in relation to proposed increased in charges.

- ii. Prices must be cost-oriented:

ComReg will assess this based on the detailed report to be provided by An Post as required by section 3.2 of the Accounting Direction⁸ which requires "*(a) detailed report must be prepared by An Post ... setting out for each price point a detailed estimate of the costs of providing the service.*"

- iii. Transparency:

ComReg will ensure that the new prices are clear and, where discounts apply, it will be the net prices that will be reviewed by ComReg. It is also the net price that will clearly and unambiguously be conveyed to the postal service user at all times as it is this price that is paid by the postal service user at the time of posting.

⁸ ComReg Document 06/63 ' Regulation of Universal Postal Services – Accounting Separation & Costing Methodology: Accounting Direction to An Post' dated 8 December 2006

iv. Non-discrimination:

ComReg will ensure that there is no pricing discrimination by An Post against any group of postal users. In particular, ComReg will ensure that any discounts are supported by the cost avoided for that discount alone.

- b. Whether the changes already made on 1 May 2012 (and any further changes proposed by An Post in the amended application) to postal services or a part of the postal service provided by An Post, as the current universal postal service provider, in the provision of a universal postal service comply with the tariff requirements pursuant to section 28 of the 2011 Act. Where ComReg forms the opinion that An Post is failing, or has failed, to comply with the tariff requirements specified in section 28 of the 2011 Act, ComReg may give a direction to An Post to ensure compliance with the requirement(s) concerned, in accordance with section 28(5) of the 2011 Act.