



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Proposed Postal Strategy Statement 2022 - 2024

Response to Consultation

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Commission for Communications Regulation

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Additional Information

Proposed Postal Strategy Statement 2022 -2024	21/100
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Chapter 1

1 Introduction

- 1.1 Following a Call for Inputs which received 9 responses, ComReg set and published a proposed Postal Strategy Statement 2022 – 2024 for public consultation¹. There was one response to that public consultation from An Post². An Post makes supplementary comments to those it submitted in response to the Call for Inputs.
- 1.2 Within this document, ComReg has summarised the supplementary comments raised by An Post and set out its assessment of the supplementary comments expressed but does not seek to respond to each individual point.
- 1.3 In concluding the consultation and its final Postal Strategy Statement, which is published in tandem with this document, ComReg has had regard to:
 - its statutory functions and objectives;
 - the submissions to the Call for Inputs and the public consultation;
 - other relevant information.
- 1.4 Following consideration of certain views expressed in response to the public consultation and other considerations³, some adjustments have been made in finalising the Postal Strategy Statement 2022 - 2024.

¹ <https://www.comreg.ie/media/2021/10/ComReg-21100.pdf>

² 21/122s

³ Reports by the European Commission on the application of the Postal Services Directive, dated 8 November 2021 - https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11965-Postal-services-evaluation-report_en

Chapter 2

2 Summary and assessment of supplementary comments of An Post

2.1 An Post's supplementary comment 1. Review of the Postal Services Directive

- 2.1 An Post notes that on 8 November 2021, the European Commission adopted the report on the application of the Postal Services Directive. An Post notes that the European Commission has highlighted the value of maintaining a high quality and reliable universal service, albeit with potentially greater flexibility at the national level than before. An Post assumes ComReg's final strategy statement will be reflective of the objective of the Commission in terms of the development of postal regulation over the coming years.
- 2.2 According to An Post, it is particularly notable that the European Commission highlights the cost of postal regulation in Ireland and that it represents 0.4% of turnover of universal services, relative to just 0.1% for Royal Mail. An Post notes that this cost is also three times the per capita cost of the equivalent UK cost. An Post therefore urges ComReg to consider how this cost can be reduced.

ComReg assessment of An Post's supplementary comment 1

- 2.3 Regarding An Post's comment on the report adopted by the European Commission on the application of the Postal Services Directive on 8 November 2021, the proposed Postal Strategy Statement acknowledged the assessment by the European Commission of the Postal Services Directive. Now that the European Commission has published its report, some edits are made to the final Postal Strategy Statement to reflect the report of the European Commission on the application of the Postal Services Directive.
- 2.4 Regarding An Post's comment on the cost of postal regulation, ComReg notes the full text of the European Commission is as follows (p.105):

"All universal service providers also incur administrative costs as they have to comply with the Directive. Such costs relate notably to reporting on the performance of universal service provision, maintaining separate accounts for universal and non-universal services, applying for authorisations to provide universal postal services, calculating net cost (for those that do such calculation) and reporting to national regulatory authorities (in some Member States), and requesting approval for tariff increases subject to price regulation.

Only two universal service providers have undertaken the effort to produce cost figures for costs of regulation, namely An Post (Ireland) and Royal Mail (United Kingdom). To estimate the administrative costs of universal service providers, we use information about An Post and Royal Mail as examples, see Table 15 below.

Table 15 Costs of regulation (universal service providers)

Country	Operator	Year	Cost (million EUR)	percent of turnover of universal services	EUR per capita
Ireland	An Post	2016	1.8	0.4 percent	0.38
United Kingdom	Royal Mail	2016/2017	8.7	0.1 percent	0.13

Source: ComReg (2017), Submissions in response to consultation on Draft Postal Strategy Statement, p. 16, as reported by WIK, p. 197.

Using the relationship between universal service provider costs of regulation provided by Royal Mail and An Post on the one hand and the national regulatory authority budgets in these countries on the other hand, it is possible to estimate the administrative costs of other Member State universal service providers stemming from postal regulation. The administrative costs range from below EUR 1 Mio for small Member States to over EUR 12 Million for the German universal service provider.”⁴

2.5 The above shows the cost of regulation in Ireland at c.€2m versus c.€9m in the UK at 2016/17⁵. The above was not a benchmark by the European Commission but simply a mechanism by the European Commission to estimate the administrative cost of regulation across Europe using public information available from Ireland and the UK as examples.

2.6 Regarding the costs of postal regulation:

- ComReg is required to meet the full legislative requirements as set out in the Postal Act⁶, which transposes the Postal Services Directive. All European regulators, regardless of the size of the national postal sector, must meet those minimum requirements of the Postal Services Directive.

⁴ COMMISSION STAFF WORKING DOCUMENT EVALUATION of Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service amended by Directives 2002/39/EC and 2008/6/EC (Postal Services Directive) accompanying the REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

⁵ ComReg’s levy to cover the cost of postal regulation was c.€2.1m at year end 30 June 2020

⁶ Communications Regulation (Postal Services) Act 2011, as amended.

- ComReg operates in an efficient manner and the level of expenditure is kept to a minimum and subject to public procurement processes, where required.
- ComReg has a budgetary control process which is audited by both the Comptroller and Auditor General and by ComReg’s own internal auditors.

2.2 An Post’s supplementary comment 2. Public Consultation on the Universal Service

- 2.7 An Post agrees that a consultation on the universal postal service should consider what other changes to the universal postal service are required to meet the reasonable needs of postal service users . An Post considers that any change to the USO service should reflect evolving postal user needs and the changing technical, economic and social environment in order to secure the long-term sustainability of the USO. An Post states that the prohibition on “value added features” under Statutory Instrument 280/2012 should be removed in order to enable modern user needs to be more easily met by allowing for example tracking and delivery notification features to be added to a next day USO product.
- 2.8 An Post also notes that the design of the postal network, while always reflective of overall universal service obligations, is fundamentally an operational matter for An Post.

ComReg assessment of An Post’s supplementary comment 2

- 2.9 Consideration of any changes to the universal postal service require a public consultation and ComReg notes An Post’s agreement to that public consultation. ComReg plans to conduct a public consultation, and this is reflected at para 5.17 (Goal 1) of the Postal Strategy Statement.

2.3 An Post's supplementary comment 3. USP Designation

- 2.10 With reference to ComReg's consideration of the universal postal service provider designation ahead of the expiry of An Post's designation at end-August 2023, An Post urges ComReg to consider the State's obligations to fulfil mandatory UPU obligations to deliver a universal postal service into the future. According to An Post's submission, An Post is best placed to provide this.
- 2.11 Regarding cost of measuring quality of service, An Post states: "*In particular, and as noted by the European Commission findings, for universal service providers, the administrative costs of measuring quality (transit time for postal items) is substantial and should be reduced as far as possible.*".

ComReg assessment of An Post's supplementary comment 3

- 2.12 With reference to ComReg's consideration of the universal postal service provider designation, the process for this is established by ComReg's Postal Universal Service Provider Designation Procedures⁷.
- 2.13 With reference to the cost of measuring quality of service, it is unclear what part of the European Commission report An Post's statement "*In particular, and as noted by the European Commission findings, for universal service providers, the administrative costs of measuring quality (transit time for postal items) is substantial and should be reduced as far as possible*" is based on.
- 2.14 The European Commission acknowledges⁸ that there is a suggestion that "*developments suggest that minimum requirements regarding the product/service scope, five-day delivery and quality of service in the Directive are not fully aligned with current market expectations and demand and pose challenges for the designated providers. The evaluation therefore underlines that there may be a case for reassessing what products, services and related features need to be included in the universal service obligation and how they should be regulated. This would include reassessing the level of flexibility needed by Member States to adapt their national regulation of universal services to domestic circumstances*".

⁷ https://www.comreg.ie/media/dlm_uploads/2019/06/ComReg-1964a.pdf

⁸ At p. 5 of REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the application of the Postal Services Directive (Directive 97/67/EC as amended by Directive 2002/39/EC and 2008/6/EC)

- 2.15 However, the following extracts from the European Commission⁴, indicate that the European Commission is of the view that the Directive did improve quality of service and recognises the need for independent monitoring of the quality of service. The European Commission notes that domestic high quality of service is needed to ensure high quality cross border mail, the target for this cross-border mail has been set by the European Parliament and Council. The European Commission also questions whether Regulators need more effective sanction powers to address lack of quality compliance by universal postal service providers:

Page 2:

“The Directive has been evaluated against its general objectives to guarantee the provision of affordable, high-quality universal postal service to all users, a well-functioning and competitive internal market and the harmonisation of principles of regulating postal services.”

Page 30:

“...the actions taken by universal service providers and Member States in response to decreasing letter volumes raise doubts regarding the effectiveness of the current high quality standards for intra Community cross-border mail. It seems that for quite some while, the fastest standard category has not been aligned to user needs and market context.”

“Regarding domestic letter mail, the Directive only requires Member States to set targets for the domestic transit time and to monitor, independently measure and publish transit time performance. This has contributed to improving significantly the transparency on the quality of service in national postal markets creating incentives for universal service operators to improve their quality of domestic services.”

Page 31:

“Although most national regulatory authorities publish monitoring results, not all of them are in a position to sanction the universal service providers if quality targets are not achieved. However, the Directive has not been fully effective in ensuring consistent high-quality service levels for domestic letter mail. Effective sanction powers for regulators may be one possible solution to address lack of quality compliance.”

Page 47:

“If, in the absence of the Directive, quality had been much lower, then the investments to improve quality would have constituted an important cost of the Directive. The need for this type of investments does not seem to have been as high in the last 5 to 10 years, however, as structural letter volume decline (and thereby less actual and potential competition in this part of the market) means declining need for investments to comply with the Directive.”

Page 51:

“Requirements on quality of service (i.e., transit time for delivery of letter mail) are crucial for building consumer trust in the reliability of postal services. External bodies monitor and verify whether the quality requirements of the Directive are respected.”

Page 55:

“The costs relating to quality requirements are rather low while the benefits of improved quality are important for society as a whole, and the quality standards contribute to creating transparency.”

Page 57:

“While it is cost efficient for authorities to adapt their national legal framework to slower domestic delivery it creates a conflict with the D+3 target that the Directive requires for cross-border delivery. Cross-border delivery of universal letter mail requires two operators working together, implying that a slower delivery by the operator in the country of the recipient prolongs the total cross-border transit time from sender to recipient. For cross-border (i.e., intra community) mail, quality standards on routing times and the regularity and reliability of services are set by the Parliament and the Council. They can only be changed through a regulatory procedure with scrutiny.”

Page 64:

“Postal users today generally want to maintain the quality of service and other features they are used to, even though many could accept reductions in quality for a corresponding reduction in price.”

“The importance of quality of services (transit time) for letter mail is changing. It remains very important for transaction mail, office mail and business-to-consumers/businesses parcels, which account for the vast majority of the total postal service. Conversely, for individual postal users transit time is no longer the dominant parameter/factor for determining quality of service.”

2.4 An Post’s supplementary comment 4. Sustainability

- 2.16 While An Post accepts that ComReg has a limited regulatory remit with respect to environmental sustainability and labour considerations in the parcels market , An Post urges ComReg to use its position at European Postal Regulators Group to further the objectives outlined in An Post’s submission to the Call for Inputs and to recognise the unique contribution pursued by An Post in this regard.
- 2.17 An Post further welcomes ComReg’s commitment to recent domestic legislation on climate action.

ComReg assessment of An Post’s supplementary comment 4

- 2.18 ComReg will act within its remit as set by legislation. ComReg notes the Climate Action and Low Carbon Development (Amendment) Act 2021 and as required, in so far as practicable, will discharge its existing functions consistent with the requirements included in that Act. Labour law matters if they arise in postal services are not within ComReg’s remit.

2.5 An Post’s supplementary comment 5. Customs

- 2.19 An Post requests ComReg to give closer consideration to the unique position of the universal service provider, An Post, for international inbound post. In this regard, An Post states that ComReg should support the simplification of the customs framework for universal postal services which would enhance the postal user experience, reduce An Post’s costs and contribute to the continuity of the mandatory inbound international universal postal service in Ireland.

ComReg assessment of An Post’s supplementary comment 5

- 2.20 ComReg agrees that that international inbound post should be a straight-forward process for all postal service users; however, ComReg has no remit in relation to the customs framework for universal postal services.

2.6 An Post's supplementary comment 6. Trends

- 2.21 Due to the exceptional nature of the recent and ongoing pandemic, An Post states that care must be taken in drawing conclusions from apparent 2019-2021 trends. For example, COVID-19 is likely to have produced once-off or anomalous results which may not continue in the longer term. Further, the apparent rise in USO letters from 2018-2019 owing to a reclassification of the bulk product as USO is not necessarily evidence of a slowdown in structural decline. In fact, non-bulk USO fell in the period 2018-2019. According to An Post, any figures relating to USO and non-USO bulk products should be considered in this context.
- 2.22 An Post notes that while the growth of e-commerce has led to a significant increase in parcel delivery services, the European Commission has noted that, with few exceptions, the market share of universal service providers in the parcel segment remains relatively small and there is vibrant competition in the parcel and express sector.

ComReg assessment of An Post's supplementary comment 6

- 2.23 Regarding the rise of USO letters, ComReg notes that the reason for this was already included in the proposed Postal Strategy Statement.
- 2.24 Regarding the parcel segment, the proposed Postal Strategy Statement noted the strong competitive dynamic in Ireland as identified by research commissioned by ComReg⁹ and by input submissions to the strategy.

2.7 An Post's supplementary comment 7. UPU rates and Terminal Dues

- 2.25 An Post would welcome support from ComReg in addressing the losses incurred in delivering international inbound letters and large envelopes. An Post states that while ComReg continues to emphasise the need for effective multilateral arrangements, it is important to note that An Post is legally bound by UPU rates. According to An Post, the rates paid to An Post for delivering this mail are approximately 20% less than the comparable rates paid by postal operators which are within the EU. An Post states that international inbound packet exchanges are either settled at self-declared rates or are already subject to competitive pressures.

⁹ <https://www.comreg.ie/media/2021/06/ComReg-2159.pdf>

- 2.26 An Post considers that while all postal operators in the EU are bound by the postal directive, the impact on each operator differs according to, for example, market share of the universal service provider, whether it owns or operates as a non-USO competitor in other Member States and on the symmetry of traffic. The needs of a relatively smaller postal operator which is a net recipient of international mail differ to those of a larger postal operator with non-USO subsidiaries or which is a net sender of post. Accordingly, the fact that An Post is bound by multilateral agreements within the EU, and UPU outside of the EU, limits the ability to achieve rates which cover fully allocated costs.

ComReg assessment of An Post's supplementary comment 7

- 2.27 ComReg can only act within its remit as set by legislation; ComReg has no remit for UPU Terminal Dues rates. As noted in the Postal Strategy Statement, international inbound losses are largely on Rest of World packets (that is packets posted from Asia) and ComReg has no remit for ensuring the terminal dues for these Asia packets cover the efficient cost.

2.8 An Post's supplementary comment 8. The Accounting Direction

- 2.28 An Post notes that ComReg intends to consider whether an updated Accounting Direction is required.
- 2.29 In this regard, An Post considers that there is a need to reduce (and not increase) regulatory costs.
- 2.30 An Post expects any revised direction to ensure a proportionate regulatory burden with regard to ComReg's analysis in the context of a declining letters market and gradual changes in the parcels market.

ComReg assessment of An Post's supplementary comment 8

- 2.31 As noted by the European Commission⁴ (page 109) " *the accounting provisions are intended to prevent cross-subsidies from the universal service to competitive services.*" This is the focus for any consideration as to whether an updated Accounting Direction is required. ComReg's main tool to monitor, detect and prevent harmful cross-subsidisation is robust cost allocation rules.

2.9 An Post's supplementary comment 9. USO Net Cost Funding

2.32 With regard to ComReg noting that An Post has not made any net cost claim of universal postal service provision, An Post states that the mechanism for this relies on apportioning the net cost among providers of postal services within the scope of the universal postal service. In this jurisdiction, express service providers are carved out of the scope of the universal postal service and, as such, An Post is the main provider affected according to An Post. An Post states that provision for direct public funding as contemplated by the Postal Directive to mitigate the financial burden of the USO is therefore not currently available.

ComReg assessment of An Post's supplementary comment 9

2.33 The Postal Act sets out which postal service providers that any net cost can be apportioned amongst. The Postal Act requires that only postal service providers providing postal services within the scope of the universal postal service are to make a contribution to any net cost claim of universal postal service provision if that net cost is an unfair burden.

2.10 An Post's supplementary comment 10. Vulnerable and Digitally Disadvantaged

2.34 An Post states that as the postal sector becomes increasingly digitised and overall consumer preferences shift, it is crucial to protect vulnerable and digitally disadvantaged consumers who continue to rely on traditional postal services.

2.35 Despite ComReg's stated strategic intent to "promote the interests of postal users" and to address "the postal needs of specific social groups", along with submissions from various representative groups including An Post, An Post states that the Proposed Strategy does not appear to engage with An Post's recommendation in relation to vulnerable and digitally disadvantaged postal users in any comprehensive or meaningful way.

2.36 According to An Post, ComReg should ensure that the regulatory framework incentivises and rewards An Post's efforts in protecting vulnerable and digitally disadvantaged consumers, for example, where value-added services for such consumers are no longer financially viable, there may be merit in public funding to finance these services.

ComReg assessment of An Post's supplementary comment 10

- 2.37 When considering any future changes to the universal postal service ComReg will consider the reasonable needs of postal service users, including the vulnerable and digitally disadvantaged, within its remit set by the Postal Act. It is envisaged that the efficient cost of the universal postal service is to be covered by cost-oriented prices that are affordable. In this context, ComReg notes for 2020, An Post had a profit of c.€18m and a margin of 7% on domestic universal postal services¹⁰.

¹⁰ An Post Regulatory Accounts 2020 - <https://www.anpost.com/AnPost/media/PDFs/An-Post-Regulatory-Accounts-2020.pdf>