



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Review of Postal Universal Service Provider Designation(s) after 1 August 2023

Response to Consultation and Decision on
Step 1 of review: Is there a requirement for a
postal universal service provider designation
after 1 August 2023?

**Response to Consultation and
Decision**

Reference: ComReg 22/103,
Decision D09/22

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1 Executive Summary

1. The designation of An Post as universal postal service provider (“USP”) ceases on 1 August 2023. The Commission for Communications Regulation (“ComReg”) has statutory responsibility to review the USP designation and decide whether a designation is required after 1 August 2023¹. ComReg is also statutorily required to ensure that this review is done in accordance with procedures established and maintained by ComReg². ComReg established the Procedures in 2019³ (“the Procedures”). The Procedures set out two main steps for USP designation reviews which are summarised as follows:
 - Step 1 – Is there a requirement for a USP designation?
 - If Yes at Step 1: Step 2 – Which postal service provider(s) (“PSP(s)”) should be designated as USP(s)?
2. The decision in this document is Step 1 and follows the Procedures and the same approach as the last designation review conducted by ComReg in 2019.
3. To inform this Step 1 review, ComReg conducted a public consultation⁴. In this consultation ComReg assessed whether each of the universal postal services required by law and ComReg’s regulations would be provided by the market without a USP designation. Based on information gathered, ComReg’s assessment is that the majority of universal postal services are currently provided by only one PSP, An Post. Furthermore, none of the universal postal services are currently provided throughout the State by more than one PSP.
4. There was one response to consultation from An Post, who agreed that there is a requirement for a designation of USP(s) after 1 August 2023.
5. The Step 1 Decision is that there is a requirement for a designation of USP(s) after 1 August 2023. ComReg is of the view that without a designated USP the universal postal service would not be provided to the required levels of accessibility, quality and affordability for the State by the market.
6. ComReg is now proceeding with Step 2 i.e. deciding which PSP(s) should be designated as USP(s) and for what duration(s). Therefore, ComReg is now asking potential USP(s)⁵ to respond with submissions by 27 January 2023.

¹ Section 18 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”)

² Section 19 of the 2011 Act

³ ComReg Document No. 19/64a

⁴ ComReg Document No. 22/85

⁵ See ComReg Document No. 22/103a on invitation for submissions to be considered USP from 1 August 2023

2 Introduction

7. ComReg is the national regulatory authority for postal services in the State and its functions and objectives are set out in the Communications Regulation Act 2002, as amended (“the 2002 Act”).
8. Under the 2011 Act, ComReg is mandated to ensure the provision of a universal postal service in the State that meets the reasonable needs of postal service users. The universal postal service obligation (“USO”) consists of a basic but high-quality postal service for all postal service users for the collection, sorting, transport and delivery of universal postal service postal packets, at affordable prices irrespective of where they are located in the State. The 2011 Act transposed the EU Postal Directive⁶ in Ireland. The USO was prescribed for all EU Member States by the EU Postal Directive recognising that postal services are an essential instrument of communication and trade.
9. The USP provides the USO required by the 2011 Act and the USO Regulations⁷. The USO means that on every working day there is at least one clearance and one delivery of postal items (largely letters) to the home or premises of every person in the State. The USO ensures the provision of specific postal services to all, at an affordable price, at a sufficient level of quality, throughout the State. The USO is a form of protection for postal service users, in particular vulnerable users and those that are digitally excluded.
10. Section 17(1) of the 2011 Act designated An Post as the sole USP for universal postal services in the State, for a period of 12 years following the passing of the 2011 Act (i.e. from 2 August 2011 – 1 August 2023), subject to designation review/decision by ComReg after the expiry of 7 years.⁸ Following public consultations⁹, ComReg made a decision¹⁰ to continue the designation of An Post as the USP for the entire State for the duration of the unexpired period of the designation specified in section 17(1) of the 2011 Act, that is to 1 August 2023.
11. There are considerable benefits to being designated as USP for the State. For example, designated USPs enjoy increased brand recognition. In addition,

⁶ The harmonised EU framework for the regulation of postal services under Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive No. 2002/39/EC, and Directive No. 2008/6/EC (“the EU Postal Directive”). The 2011 Act transposed the EU Postal Directive for the State.

⁷ The universal postal services as defined by section 16 of the 2011 Act and as specified by the Communications Regulation (Universal Postal Service) Regulations 2012 made by ComReg pursuant to section 16(9) of the 2011 Act (“USO Regulations”)

⁸ Prior to the 2011 Act, An Post was also designated as sole USP for the State under the previous regulations, the European Communities (Postal Services) Regulations, 2002 (S.I. No. 616 of 2002). Before that, the Postal and Telecommunications Services Act, 1983 (No. 24 of 1983) gave An Post exclusive privilege in respect of certain postal services in view of its primary purpose of providing a national postal service.

⁹ ComReg Document Nos. 19/125 and 20/49

¹⁰ ComReg Decision D13/20, ComReg Document No. 20/131

public postal services are VAT exempt¹¹. There are, however, also some additional statutory requirements on designated USPs beyond those which authorised PSPs must comply with, for example with regard to service quality, affordability, access, as well as the reporting of separated regulatory accounts.

12. By public consultation Document No. 22/85, ComReg commenced the review of the USP Designation after 1 August 2023 and whether there is a requirement for designated USP(s).

13. As required by section 19 of the 2011 Act, this review is in accordance with procedures established and maintained by ComReg, “the Procedures”. The Procedures set out two main steps for USP designation reviews which are summarised as follows:

- **Step 1 – Is there a requirement for a USP designation?**

ComReg will gather information, assess the Irish market for the provision of postal services (“the market”) and make a decision as to whether a USP designation is required. Following this assessment and a public consultation on same, ComReg will either make a decision that no USP designation is required or make a decision that there is a requirement for a USP designation. Following public consultation Document No. 22/85, this document sets out ComReg’s assessment, conclusion and decision in respect of Step 1 of the review.

- **If Yes at Step 1: Step 2 – Which PSP(s) should be designated as USP(s)?**

In this step ComReg will gather information, assess and decide on which PSP(s) should be designated as USP(s). In this step, ComReg may decide either to designate one USP or more than one USP. ComReg will complete a public consultation prior to any ComReg decision.

14. There was one response to the consultation on Step 1, An Post, who agreed that there is a requirement for a USP designation after 1 August 2023.

15. Having fully considered the response to public consultation Document No. 22/85 and for the reasons set out in this document, ComReg has made no changes to its decision instrument presented as draft in Consultation Document No. 22/85. The final decision instrument is at Annex 1 to this document. The final decision under Step 1 is that there is a requirement for a USP designation after 1 August 2023.

16. This Step 1 review is as follows:

- Chapter 3 sets out the categorisation of postal services that inform the assessment

¹¹ Value-Added Tax Consolidation Act 2010 Schedule 1 Part 1. ComReg has no remit in relation to taxation.

- Chapter 4 sets out the information gathered and considered
- Chapter 5 sets out the assessment and conclusion
- Chapter 6 sets out the next steps for Step 2 and an indicative timeframe before 1 August 2023
- Annex 1 is the Decision Instrument
- Annex 2 summarises the response to public consultation 22/85 and ComReg's position
- Annex 3 sets out the legal basis for the review.

3 Categorisation of Postal Services

17. There are three categories of postal services¹² which are subject to regulation under the 2011 Act:

- i. The universal postal services as defined by section 16 of the 2011 Act and as specified by the Communications Regulation (Universal Postal Service) Regulations 2012¹³ made by ComReg pursuant to section 16(9) of the 2011 Act (“USO Regulations”).
- ii. Postal services which are “*within the scope of the universal postal service*” on the basis that they meet any one of the three criteria set out in section 37(1) of the 2011 Act and by reference to ComReg’s published guidelines.
- iii. Other postal services; this is a residual category comprising postal services.

18. Consistent with the approach taken for the 2019 USP Designation Review, for the purpose of Step 1 ComReg:

- has considered postal services which fall within the first two categories.
- does not consider that “other postal services” are directly relevant to an assessment for the purpose of a review of the universal postal service designation.

3.1 The universal postal services to be provided under the USO

19. The USO required by the 2011 Act means that on every working day, except in such circumstances or geographical conditions as ComReg considers exceptional, there must be at least one clearance and one delivery to the home or premises of every person in the State.

20. The 2011 Act also requires that the following minimum set of universal postal services are provided for the State:

- i. the clearance, sorting, transport and distribution of postal packets¹⁴ up to 2 kilograms in weight;

¹² “Postal services” are services involving the clearance, sorting, transport and distribution of postal packets. See ComReg Document 12/81 for ComReg’s interpretation of this term.

¹³ S.I. 280 of 2012 as amended by S.I. No. 150 of 2019, S.I. No. 149 of 2019 and S.I. No. 534 of 2018.

¹⁴ “Postal packet” is defined by the 2011 Act as an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

- ii. the clearance, sorting, transport and distribution of parcels within the State up to 10kg in weight;
- iii. the sorting, transport and distribution of parcels from other Member States up to 20 kilograms in weight;
- iv. a registered items service for all postal packets;
- v. an insured items service for all postal packets, within the State and to and from all UPU¹⁵ member countries;
- vi. postal services, free of charge, to blind and partially-sighted persons.

21. As required by the 2011 Act¹⁶ ComReg made the USO Regulations specifying the services to be provided by a USP relating to the provision of a universal postal service.

22. As required by the 2011 Act, USO services must be provided for the benefit of all postal service users throughout the State. The USO sets requirements for:

- ease of access to use and avail of the services
- user protection with harmonised terms and conditions
- certain quality of service obligations so users get the service they paid for
- prices to be affordable and cost orientated.

¹⁵ Universal Postal Union

¹⁶ Section 16(9) of the 2011 Act

23. For the purpose of this review, ComReg has grouped together¹⁷ and set out in the table below the required universal postal services under the 2011 Act and the USO Regulations, and has separated domestic and international services:

Table 1 – Current Universal Postal Services

Universal postal services required under section 16 of the 2011 Act and the USO Regulations		Transit Time Objective (“D+n”) ¹⁸
Domestic Basic Single Piece Service¹⁹ for Letters and Large Envelopes	Letters up to 100g Large Envelopes (Flats) up to 500g	<i>D+1 for Domestic deliveries</i>
Domestic Basic Single Piece Service for Packets and Parcels	Packets up to 2kg Parcels up to 10kg.	<i>D+1 for Domestic deliveries</i>
Domestic Single Piece Registered/Proof of Delivery Service	A registered service with “proof of delivery facility” for single piece letters, large envelopes, packets and parcels.	<i>D+1 for Domestic deliveries</i>
Domestic Single Piece Insured Service	An insured service for single piece letters, large envelopes, packets and parcels.	<i>D+1 for Domestic deliveries</i>
Free of Charge Postal Services for the Blind and Partially Sighted	A service provided free of charge for the transmission of “postal packets for the blind” up to 7kg.	<i>D+1 for Domestic deliveries</i>

¹⁷ ComReg considers that the provision of Letters and Large Envelopes are provided by different networks to the provision of Packets and Parcels.

¹⁸ Where “D” represents the “day of posting” and “n” represents the number of working days after the day of posting after which the postal packet will be delivered to the addressee in due course of post.

¹⁹ Single Piece Service means a postal service involving transmission of individual postal packets to addressees where the postage paid by the senders is not subject to any discounts based upon: (a) the number of postal packets; (b) the substance, formatting or positioning of the address; (c) the use of markings to facilitate sorting by machines; (d) pre-sorting into geographical areas for delivery; or (e) an obligation to purchase any other postal service.

Universal postal services required under section 16 of the 2011 Act and the USO Regulations		Transit Time Objective (“D+n”) ¹⁸
Bulk Mail Services – Domestic and International	<p>Domestic Bulk Mail Services for</p> <ul style="list-style-type: none"> ▪ “Delivery only” – which refers to a D+1 service with the prescribed minimum requirements. ▪ “Deferred Delivery” – which refers to a D+2 service with the prescribed minimum requirements. <p>International Bulk Mail Service for items deposited in bulk pre-sorted by country of destination.</p>	<i>For domestic Bulk Mail Services as per the service description.</i>
International Inbound Service	<ul style="list-style-type: none"> ▪ A service for postal packets deposited at an Office of Exchange within the State by a designated operator member of the UPU²⁰. ▪ Parcels from other EU Member States up to 20kg. 	<i>D+1 from arrival in the State to delivery</i>
International Outbound Service	A service for all single piece and bulk mail universal postal service postal packets posted in the State to all countries which are signatories to the UPU.	<i>D+3 for EU deliveries D+ up to 9 for all other foreign deliveries</i>
Free Certificate of Posting on request	Certificate of posting on request where the postal packet is deposited at a post office.	<i>N/A</i>
Special Facilities for Delivery of Postal Packets at the Request of the Addressee	Business Reply	<i>D+1 for Domestic deliveries</i>
	Freepost	
	Redirection	
	MailMinder	
	Private boxes and bags (PO Box) ²¹	
	Poste Restante ²¹	

²⁰ Terminal dues rates are paid by postal operators to each other for delivery of international inbound mail items. The rules are mainly governed by the Universal Postal Convention of the Universal Postal Union.

²¹ Private boxes and bags and Poste Restante services have a D+1 transit time for domestic delivery to the collection point, where not delivered to the addressee’s address.

3.2 Postal services within the scope of the universal postal service

24. Only the designated USP has a legal obligation to provide the universal postal services as described above. However, the 2011 Act envisages that there may be postal services which are not universal postal services but are “*within the scope of the universal postal service*” and section 37(1) of the 2011 Act states that a postal service is within this scope if:

- a) the service is within the description of the universal postal service set out in section 16 of the 2011 Act,
- b) the service would be within the description of the universal postal service in section 16 of the 2011 Act but for the fact that –
 - i. in the case of a service consisting of the clearance and delivery of postal packets, the clearance or delivery is not made on every working day as required by section 16(1)(a) of the 2011 Act,
 - ii. the service is not provided throughout the State, or
 - iii. the service is not provided at an affordable price in accordance with a uniform tariff applicable throughout the State pursuant to section 28(2) of the 2011 Act, or
- c) the postal service is of a kind that, having regard to postal service users, could reasonably be said to be interchangeable with a service of a description set out in section 16 of the 2011 Act,

but does not include a document exchange²² or express or courier services.

²² In section 37(4) of the 2011 Act “document exchange” is defined as “*provision of means, including the supply of premises specifically for that purpose and transportation by a third party, allowing self-delivery by mutual exchange of postal packets between persons subscribing to this service.*”

4 Step 1 A: Information Gathering

25. Under section 38 of the 2011 Act there is an obligation on all PSPs in the State to be authorised by ComReg and when notifying ComReg of their intention to provide a postal service they must declare for each postal service provided / intended to be provided whether it is, or is not, “*within the scope of the universal postal service*”.

26. In preparation for this USP Designation Review, ComReg wrote to all authorised PSPs to request that they review the details of their notifications for authorisation to provide a postal service pursuant to section 38 of the 2011 Act. ComReg also wrote to potential PSPs and subsequently published advertisements in newspapers to ensure that all PSPs operating in the State were aware of the obligation to be authorised. Following receipt of authorisation responses, ComReg updated the register of authorised PSPs in the State which is published on ComReg’s website²³. ComReg therefore considers that the register of authorised PSPs lists all PSPs for the State in accordance with the 2011 Act.

27. On the basis of the updated information on the register of PSPs, ComReg has identified that there are currently twelve PSPs operating in the State, Table 2 below lists the current PSPs and summarises the number of postal services provided by each.

Table 2 - Current PSPs and summary of number of postal services provided

PSPs	Number of postal services	Number of postal services “within the scope of the universal postal service”
An Post	28	25
Budget Parcel	4	0
Corrigan Business Services	1	0
DCK/ DC Kavanagh	1	0
DX Ireland	6	1
Fastway Couriers (Ireland)	10	0
Hitch Delivery	1	0

²³ The Register of Authorised Postal Service Providers in the State is published at: <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/>

Lettershop Postal	3	0
Mail Metrics	1	0
Parcel King	2	2
Sooner than Later Solutions Ltd.	3	0
TICo Mail Works Ltd.	4	0

28. ComReg has commissioned various pieces of research on the postal sector²⁴ and in particular the reasonable needs of postal service users, with the last research on postal users conducted in 2021²⁵ and detailed research conducted in 2019 on residential²⁶ and small and medium sized enterprises²⁷. ComReg considers it appropriate to rely upon the information from these research reports in this review.

²⁴ <https://www.comreg.ie/industry/postal-regulation/postal-framework/postal-research/>

²⁵ ComReg Document No. 21/100a

²⁶ ComReg Document No. 19/84a

²⁷ ComReg Document No. 19/84b

5 Step 1 B: Assessment

29. The following assessment approach is consistent with:

- the Procedures
- the 2019 USP Designation Review.

30. ComReg considered the information gathered from PSPs. ComReg's assessment of the PSPs and the services which they provide was based upon the services "*within the scope of the universal postal service*".

31. ComReg considered the information which it gathered relating to the reasonable needs of postal service users. ComReg is of the view that if the universal postal service as specified is being provided by the market then it is meeting the reasonable needs of postal service users. As such, ComReg also considered what universal postal services are being provided by the market.

32. ComReg reviewed and assessed whether each of the universal postal services required by section 16 of the 2011 Act and the USO Regulations would be provided by the market without a USP designation. In order to ascertain the markets' capability to provide the universal postal service for the entire State without USP designation ComReg assessed whether each of the universal postal services are being provided:

- by more than one PSP;
- throughout the entire State by more than one PSP.

33. The result of ComReg's assessment is set out in the following table:

Table 3 - Assessment of the market's provision of universal postal services

Required Universal Postal Services	PSPs providing postal services within the scope of the universal postal service	Is there more than one PSP providing the service?	Are the services provided throughout the entire State by more than one PSP?
Domestic Basic Single Piece Service for Letters and for Large Envelopes (up to 2kg)	An Post DX Ireland Parcel King	✓	✗
Domestic Basic Single Piece Service for Packets (up to 2kg) and Parcels (up to 10kg)	An Post DX Ireland Parcel King	✓	✗
Domestic Single Piece Registered/Proof of Delivery service	An Post	✗	✗
Domestic Single Piece Insured service	An Post	✗	✗
Domestic Free of Charge Services for the Blind and Partially Sighted	An Post	✗	✗
Bulk Mail Services - Domestic and International	An Post	✗	✗
International Inbound Service (including parcels from other Member States up to 20kg)	An Post	✗	✗
International Outbound Service	An Post Parcel King	✓	✗
Free Certificate of Posting on Request	An Post	✗	✗

<p>Special Facilities for Delivery of Postal Packets at the Request of the Addressee</p> <table border="1" data-bbox="137 333 533 546"> <tr><td>Business Reply</td></tr> <tr><td>Freepost</td></tr> <tr><td>Redirection</td></tr> <tr><td>Mailminder</td></tr> <tr><td>Private Box and Bag</td></tr> <tr><td>Poste Restante</td></tr> </table>	Business Reply	Freepost	Redirection	Mailminder	Private Box and Bag	Poste Restante	<p>An Post</p>	<p>x</p>	<p>x</p>
Business Reply									
Freepost									
Redirection									
Mailminder									
Private Box and Bag									
Poste Restante									

34. ComReg has a statutory function to ensure the provision of a universal postal service which meets the reasonable needs of postal service users. Therefore, if ComReg is of the view that any part of the universal postal service would not be provided by the market without a designated USP, ComReg is required to proceed to designate USP(s) to ensure that the universal postal service is provided for the entire State.
35. ComReg notes that only the current designated USP (An Post) and two other PSPs (DX Ireland and Parcel King) have indicated that they are currently providing postal services *"within the scope of the universal postal service"*. However, DX Ireland provides only one service within the scope of the universal postal service (i.e. "DX Exchange to the Door" which covers postal packets up to 25kg) and this is provided for County Cork only. The other PSP (Parcel King) has noted intention for two postal services "within the scope of the universal postal service" from 7 October 2022; therefore, these services have just commenced and are at early stage.
36. ComReg's assessment as set out in Table 3 above demonstrates that the majority of universal postal services have only one PSP, the current USP (An Post) providing the service. Depending on just one PSP to provide the entire universal postal service nationwide without significant competition and without a USP designation is considered by ComReg to be inconsistent with ensuring the provision of the universal postal service.
37. In ComReg's view without a USP designation, the provision of the universal postal service to the required levels of accessibility, quality and affordability would not be ensured by the market.
38. On the basis of the above assessment, ComReg is of the view that it is not necessary to conduct a more detailed assessment of the market's capability to provide each of the universal postal services in accordance with the affordability, service quality and service access USO requirements or to conduct an assessment of any potential negative impacts on the market if there was to be no designated USP in place for the State.

Conclusion

39. On the basis of the above, it is clear that, absent a USP designation, there is a real risk that ComReg would not be fulfilling its statutory obligation to ensure the provision of the universal postal service that meets the reasonable needs of postal service users. **ComReg's conclusion therefore is that there is a requirement for USP designation after 1 August 2023.** This designation is required in order to safeguard and ensure the provision of the universal postal service for the entire State to the required levels of accessibility, quality and affordability. There is currently only one PSP (An Post) in the State that is providing all of the required universal postal services in full. There are two other PSPs providing services within the scope of the universal postal service but these are just certain services and one (DX Ireland) is in a limited geographic area only and the other (Parcel King) has just commenced its services.
40. The market alone cannot ensure full USO provision. As a result, a USP designation is crucial to ensure the provision of a sustainable and continuous USO after 1 August 2023.
41. ComReg notes that the consultation response from An Post agrees with this reasoning and conclusion.
42. ComReg makes the decision as set out at Annex 1 and will proceed to Step 2 of the review to decide which PSP(s) should be designated to provide universal postal services in the State and the duration of the designation period.

6 Step 2 before 1 August 2023

43. As ComReg has decided under Step 1 that a USP Designation is required after 1 August 2023, the following sets out an indicative timeframe for Step 2 of the review, this is unchanged from the indicative timeframe provided in Consultation Document No. 22/85.

6.1 Step 2: Which PSP(s) should be designated as USP(s)? (Consult Q1/23, Decision Q2/23)

Step 2A: Information Gathering (Q4/22-Q1/23)

44. In accordance with the Procedures, ComReg is now inviting submissions²⁸ from PSPs²⁹ who are interested in being considered as the designated USP(s) in the State, and capable of providing all or part of the universal postal service. **ComReg Document No. 22/103a accompanying this document provides the detail on how to make submissions to be considered for designation as USP.**

45. As noted in the Procedures, these submissions should contain proposals for the efficient provision of all of the universal postal service for the entire State and/or for the efficient provision of different parts of the universal postal service for the entire State and/or for the efficient provision of all aspects of the universal postal service for any part or parts of the State.

46. PSPs interested in being considered for designation as a USP will be required to demonstrate in their submission their capacity and capability to provide universal postal services from 1 August 2023. PSPs should note that all designated USPs will be subject to the universal postal service statutory requirements (including under the 2011 Act) and the current regulatory obligations and should therefore fully consider these requirements before making their submission.

47. The Procedures set out the detailed information that is required from PSPs in their submissions. Submissions should also include proposed terms and conditions for provision of the universal postal service as the 2011 Act requires that any designation is subject to ComReg's approval of terms and conditions, with or without amendment.

48. As noted in Consultation Document No. 22/85, given the deadline of 1 August 2023 for a decision and the time required for ComReg to fulfil its requirements prior to deciding USP(s), **ComReg is setting a deadline of 4pm Friday 27 January 2023 for interested PSPs to make a full submission in accordance with the Procedures.** Please note that ComReg will publish all

²⁸ ComReg Document No.22/103a

²⁹ Under section 18 of the 2011 Act ComReg may choose to designate one or more than one postal service provider(s) as USP(s). Entities not yet authorised as a postal service provider may seek designation as USP, however, only postal service providers authorised by ComReg under section 38 of the 2011 Act can be designated.

submissions, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24³⁰. Submissions should therefore clearly identify any confidential information.

Step 2B: Consultation on Assessment and ComReg's draft decision on USP(s) and duration(s) of designation (Consult Q1/23)

49. ComReg will review and assess the PSP(s) submission(s) and all information it has gathered from PSPs as part of its designation review process and all other relevant information in its possession. ComReg will then consult publicly on that assessment and ComReg's draft decisions on:

- choice of PSP(s) to be USP(s)³¹,
- the parts of the universal postal service to be provided by the designated USP(s),
- the part or parts of the State for which the designated USP(s) must provide the relevant part of the universal service,
- and duration(s) of USP(s) designations.

Step 2C: ComReg's decision on USPs(s) and duration(s) of designation(s) (Decision Q2/23)

50. Following consideration of responses to the public consultation, together with other relevant evidence, it is planned that ComReg will make a fully reasoned decision on USP designation in Q2/23, which will include :

- a decision on the choice of PSP(s) for USP designation(s) and the respective duration(s);
- the parts of the universal postal service to be provided by the designated USP(s);
- the part or parts of the State for which the designated USP(s) must provide the relevant part of the universal service;
- the date by which the designated USP(s) must submit its final set of terms and conditions of its universal postal service for approval and the effective date of the new designation(s), subject to approval of the universal postal service terms and conditions with or without amendment.

³⁰ https://www.comreg.ie/media/dlm_uploads/2015/12/ComReg0524.pdf

³¹ This assumes there will be PSP(s) interested to be USP. ComReg's Procedures set out what ComReg would propose to do if there was no interested PSP.

6.2 Regulatory certainty to enable USP designation process

51. To ensure regulatory certainty for the USP designation process, the USP designation is based on the current USO specification and USP regulatory obligations.
52. This ensures that PSPs interested in being designated USPs are clear on what the universal postal service specification is and the regulatory obligations which the USP is subject to.
53. As envisaged by the 2011 Act, ComReg notes that changes to the universal postal service specification and regulatory obligations will likely occur over the period of the next designation period(s), for example due to a new EU Postal Directive. Where appropriate, any such changes will be preceded by ComReg's usual public consultation process to consider submissions and other relevant evidence before any decisions are made.

Annex: 1 Step 1 C: Decision

1. STATUTORY FUNCTIONS AND POWERS

1.1 This Decision and Decision Instrument is hereby made by The Commission for Communications Regulation (“ComReg”) established under section 6 of the Communications Regulation Act 2002 (as amended”) (“the Act”), for the purposes of deciding that there is a requirement for a universal postal service provider designation in the State post 1 August 2023.

1.2 This Decision and Decision Instrument is made:

- (i) Pursuant to and having had regard to its statutory functions and objectives in relation to postal services, as set out in sections 10 and 12 of the Act;
- (ii) Pursuant to and having had regard to sections 18 and Section 19 of the Communications Regulation (Postal Services) Act 2011 (“the 2011 Act”)
- (iii) Having complied with the procedures established and published by the Commission pursuant to section 19 of the 2011 Act in ComReg Document No. 19/64a
- (iv) Having had regard to the assessment and reasoning set out in ComReg Document No. 22/103, Decision 09/22; and
- (v) Having had regard to the views of interested parties submitted in response to Consultation Document No. 22/85 as set out into Response to Consultation ComReg Document No. 22/103, Decision 09/22.

2. DEFINITIONS AND INTERPRETATION

- 2 Terms that are used in this Decision Instrument shall have the same meaning as when they are used in the 2011 Act, unless the context otherwise admits or requires.
- 3 Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.
- 4 “Effective Date” means the date specified in section 7.3 of this Decision Instrument.
- 5 “The Procedures” means the Procedures established and published by ComReg Document No. 19/64a entitled ‘Postal Universal Service Provider Designation Procedures’.
- 6 “Universal Postal Service Provider designation” means a designation under section 18 of the 2011 Act.

PART III – DECISION

7 ComReg decides:

- 7.1 that in accordance with Step 1 of the Procedures there is a requirement for a Universal Postal Service Provider designation(s) post 1 August 2023, and
- 7.2 that ComReg will proceed to Step 2 as described in the Procedures.

7.3 Effective Date: this decision is effective from the date of publication and shall remain in full force unless otherwise amended by ComReg.

**GARRETT BLANEY
COMMISSIONER
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE 9TH OF DECEMBER 2022**

Annex: 2 Summary of Response to Consultation 22/85

A 1.1 There was one response received to Consultation 22/85, this was from An Post. The following summarises the response to Consultation 22/85 and ComReg's position.

Q. 1 Do you agree or disagree with ComReg's assessment and preliminary conclusion as set out above and ComReg's draft decision as set out at Annex 1 of this document that there is a requirement for USP Designation after 1 August 2023? Please document clearly what part(s) you are in agreement or disagreement with by providing a detailed response with supporting information / data where appropriate to support your view.

Summary of Response to Q1

A 1.2 An Post agrees with ComReg's assessment, preliminary conclusion and draft decision that there is a requirement for USP Designation after 1 August 2023.

A 1.3 In particular, An Post agrees with ComReg's view at paras. 35 and 36 of the consultation document that

"without a USP designation, the provision of the universal postal service to the required levels of accessibility, quality and affordability would not be ensured by the market"

and that there is consequently no need for a

"more detailed assessment of the market's capability to provide each of the universal postal services in accordance with the affordability, service quality and service access USO requirements or to conduct an assessment of any potential negative impacts on the market if there was to be no designated USP in place for the State".

ComReg's position

A 1.4 ComReg notes An Post agreement with its assessment, preliminary conclusion and draft decision that there is a requirement for USP Designation after 1 August 2023.

Q. 2 What do you consider to be appropriate USP designation period(s) post 1 August 2023? Please provide a detailed response with supporting information / data where appropriate to support your view.

Summary of Response to Q2

A 1.5 An Post states that a minimum period of ten years is an appropriate USP designation period(s) post 1 August 2023 in order to allow a designated USP sufficient time to plan its universal service provision and invest appropriately in postal infrastructure.

A 1.6 An Post notes that ComReg posits at para. 43 of the consultation that An Post could require a shorter period than a new USP on the basis of its "*established network and investments already made*". In An Post's view, "*this simply underscores the reality that An Post is uniquely placed to assume a USP designation, a matter for Step 2 of this process, and does not support any argument for a shorter designation period. In fact, it behoves any USP, whether or not the incumbent, to invest in the continuous modernisation, adaptation and improvement of its service in order to ensure its financial sustainability while meeting evolving customer needs.*"

A 1.7 An Post does not agree that planned review of the EU Postal Directive is a factor in deciding the duration of the USP(s) designation(s). An Post does not accept that a review of the EU Postal Directive could or should happen within three years after 1 August 2023. An Post states that "*while the Council of the EU has requested the European Commission to study and make appropriate proposals for the revision of the Directive, the Commission's November 2021 report in the context of any review of the postal framework does not signal an overhaul of the legislative framework, nor does it include recommendations for legislative change. It would be short-sighted to reduce a designation period on the basis of prospective legislative change between 2023-2026, where no proposals have yet been made.*"

ComReg's position

A 1.8 The Procedures state that the USP designation period can be somewhere between 2 and 7 years. However, if sufficient evidence is provided that a different designation period to between 2 - 7 years would be more efficient and appropriate ComReg will consider these proposals. This will be consulted upon in the Step 2 consultation.

Annex: 3 Legal Basis

ComReg's functions and objectives relating to the postal sector

- A 1.9 ComReg's statutory functions in relation to the postal sector are set out in section 10(1) of the Communications Regulation Act 2002, as amended, ("the 2002 Act") and are as follows:
- "(ba) to ensure the provision of a universal postal service that meets the reasonable needs of postal service users,*
- (c) to monitor and ensure compliance by postal service providers with the obligations imposed on them by or under the Communications Regulation Acts 2002 to 2011 in relation to the provision of postal services."*
- A 1.10 ComReg's statutory objectives, in exercising the above functions, are set out in section 12(1)(c) of the 2002 Act, and are as follows:
- "(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 subparagraph (i), to facilitate the development of competition and innovation in the market for postal service provision".*
- A 1.11 The EU Postal Directive³² and national legislation have set down the requirements for a "universal service" which guarantees, one clearance and one delivery to the home or premises of every natural or legal person every working day, even in remote or sparsely populated areas.

Designation of USPs – General Provisions

- A 1.12 Section 18 "Designation of universal postal service providers – general provisions." provides:

³² Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service as amended by Directive No. 2002/39/EC of 10 June, 2002, and Directive No. 2008/6/EC of 20 February, 2008, of the European Parliament and of the Council.

“(1) Before the end of the period for which the designation of An Post is continued under subsection (2)(a)(i) or (5) of section 17 or, as the case may be, before the end of the period for which a universal postal service provider is designated under subsection (2)(a)(ii) of that section or, in a case where a universal postal service provider is designated under this section, before the end of the period for which the provider is so designated, the Commission—

(a) shall conduct a review of the designation, and

(b) may with effect from the expiry of that period—

(i) decide to designate one or more than one postal service provider as a universal postal service provider for such period, subject to subsection (4), as the Commission considers appropriate, or

(ii) decide that no such designation is required.

(2) Where the Commission makes a decision—

(a) with the prior consent of the Minister, under section 17 (2)(b), or

(b) under subsection (1)(b)(ii),

it shall, at such intervals as it considers appropriate, conduct a review under section 19 for the purpose of deciding whether a designation of one or more than one postal service provider as a universal postal service provider is required and may decide that—

(i) no such designation is required for the time being, or

(ii) such designation is required for such period, subject to subsection (4), as the Commission considers appropriate,

and this section applies to a decision made under subparagraph (i) or (ii), as the case may be, as it applies to a decision made under subparagraph (i) or (ii) of subsection (1)(b).

(3) The Commission may determine that different universal postal service providers, the subject of a designation made by the Commission under section 17 (2)(a)(ii) or this section, shall provide different parts of the universal postal service or provide that service in respect of all or any part or parts of the State, or both, having regard to the need to ensure that there is no duplication of the obligations imposed on each universal postal service provider so designated.

(4) The designation of a universal postal service provider by the Commission under section 17 (2)(a)(ii) or this section—

(a) shall be for such period as the Commission considers appropriate, having regard to the need to ensure that the designation is of sufficient duration for the return on investments,

(b) shall take effect 14 days after the date on which notice of approval of the terms and conditions of its universal postal service provision is published under section 23 (2)(a), and

(c) shall cease to have effect—

(i) on the date on which the designation of a universal postal service provider takes effect under paragraph (b), or

(ii) on the date on which the Commission decides that no such designation is required.”

USP Designation Reviews by ComReg

A 1.13 Section 19 “Review by Commission” provides:

“(1) A review by the Commission for the purposes of section 17 or 18 shall, subject to subsection (2), be conducted in accordance with such procedures as may be established and maintained by the Commission having regard to its functions and objectives under the Communications Regulation Acts 2002 to 2011 relating to postal services, in particular the need to ensure the provision of a universal postal service and compliance with the requirements specified in section 18.

(2) The procedures referred to in subsection (1) shall—

(a) make provision for the carrying out of an assessment of the extent to which the market for the provision of postal services in the State is meeting the reasonable needs of postal service users,

(b) be such as the Commission considers to be efficient, objective, transparent, non-discriminatory and proportionate, and

(c) be published by the Commission.”

Notification of USP Designation by ComReg

A 1.14 Section 20 “Notification of designation” provides:

“(1) The continuance of the designation of An Post under subsection (2)(a)(i) or (5) of section 17 or, as the case may be, the designation of a universal postal service provider under subsection (2)(a)(ii) of that section, or the designation of a universal postal service provider under section 18, shall be in writing, and the Commission shall—

(a) publish notice of the such continuance or designation in Iris Oifigiúil and in such other manner as it considers appropriate, and

(b) notify in writing—

(i) the European Commission of such continuance or the identity of any universal postal service provider so designated, and

(ii) the Minister of the identity of any universal postal service provider so designated.

(2) Where the Commission makes a decision under section 17 (2)(b) or subsection (1)(b)(ii) or (2)(i) of section 18, as the case may be, that no designation is required, it shall—

(a) publish notice of such a decision in Iris Oifigiúil and in such other manner as it considers appropriate, and

(b) notify in writing the Minister and the European Commission.”