



Commission for
Communications Regulation

Repeal of price cap control for universal postal services

Information Notice

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

Abbey Court Lower Abbey Street Dublin 1 D01 W2H4 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

1. Section 30 of the Communications Regulation (Postal Services) Act 2011 (“2011 Act”) empowered ComReg to limit the amount by which An Post could increase the prices of any of its universal postal services, in a given year. ComReg established such a “price cap” in June 2014 and it was to remain in effect for five years, until June 2019.¹ This ensured, among other things, that the prices of universal postal services remained affordable.
2. The Communications Regulation (Postal Services) (Amendment) Act 2017 has now been enacted and when it commences it will repeal section 30 of the 2011 Act and the current five-year price cap. This means that ComReg will no longer have any statutory power to regulate the prices of universal postal services on an *ex ante* basis (before the prices are increased) - i.e. An Post alone can increase such prices, without requiring any advance approval from ComReg, and ComReg cannot limit the size of such price increases.
3. The prices of universal postal services will now be set exclusively by An Post. However, in setting such prices An Post must continue to comply with the "tariff requirements" set out in section 28 of the 2011 Act, which specify that such prices must be:
 - affordable, - such that all postal service users in the State may avail of the services provided;
 - cost-oriented, - the price must take account of, and reflect the costs of providing, the postal service concerned;
 - uniform throughout the State (unless ComReg with the prior consent of the Minister decides otherwise); and
 - transparent and non-discriminatory.
4. ComReg will continue to monitor An Post’s compliance, on an *ex post* (after the event) basis.
5. Any enquiries regarding the prices of universal postal services should be directed to An Post Customer Services, at **1850 575859** or **01 7057600** or via the An Post website (www.anpost.ie).

¹ subject to the review of the price cap which ComReg, in September 2016, signalled would occur following An Post’s request for same - see ComReg Document 16/81 at <https://www.comreg.ie/publication/posts-performance-price-cap/>

ComReg will report in two years' time on the consequences of the repeal of the price cap

6. The amending legislation also requires ComReg to review the consequences of the repeal of section 30, two years after the repeal is made, and to report its findings not later than 6 months after the commencement of the review to the Minister for Communications, Climate Action and Environment.
7. ComReg will take all necessary steps to ensure that a complete report is provided to the Minister by September 2019 at the latest. In preparing the report, ComReg will utilise information contained in An Post's audited Regulatory Accounts and any other relevant information which may be obtained through research, by requiring An Post to provide such information, and/or through public consultation as necessary.

Background Information:

8. The framework for the regulation of the universal postal service is harmonised across the EU by the “Postal Directive”², enacted in 1997 and most recently transposed into Irish law by the 2011 Act.
9. The 2011 Act designates An Post as the sole universal postal service provider (“USP”) in the State, for twelve years subject to review after seven years, and it designates ComReg as the national regulatory authority for the postal sector.
10. An Post, as USP, is obliged to provide a universal postal service that meets the reasonable needs of all postal service users in the State, in terms of its affordability and quality. ComReg’s overarching function is to ensure the proper provision of that universal postal service.
11. A universal postal service is an essential postal service, the provision of which is mandated by the State because the market concerned is not effectively competitive, meaning that there is no guarantee that the market, of itself, will ensure the provision of the service to all persons in the State, at an affordable price and to a sufficient level of quality and while upholding the rights of postal service users.
12. In Ireland, the universal postal service mainly consists of the posting of letters, which comprise about 90% of all universal postal service postings within the State.
13. The Postal Directive and the 2011 Act both specify that prices for universal postal services must be cost-oriented and affordable. Most letters are posted by large mailers (e.g. utilities, banks, State) and small and medium-sized enterprises (“SMEs”).
14. The repeal of section 30 of the 2011 Act, and of the current five-year price cap, means that the prices of universal postal services are no longer subject to prior regulatory approval.
15. Up to the repeal of the price cap, ComReg took various measures in order that An Post could increase its prices for certain universal postal services, by an appropriate amount and in order to ensure the continued provision of those services. This was mainly done through the five-year price cap control put in place in June 2014 under section 30 of the 2011 Act (the five-year price cap and section 30 are now both repealed). For example, the price of a stamped letter has increased by 31% in recent years, from 55 cents in 2013 to 72 cents today.

² Directive 97/67/EC as amended by Directive 2002/39/EC and Directive 2008/6/EC.

16. The five-year price cap relied on forecasts provided by An Post, as to its future mail volumes and costs. It also required An Post to improve its efficiencies by 10% over the five year duration of the price cap (2% per annum) and it was structured so as to enable An Post to make a reasonable profit on the provision of the universal postal services. As a result, An Post's annual losses on those universal postal services which were subject to the price cap did reduce significantly. Annual losses in 2012 were approximately €57m but had fallen to €19m by 2015.³
17. ComReg purposely designed the price cap control so as to bring the universal postal services segment of An Post's business back to profitability within the five-year term of the price cap (2014 – 2019). However, the success of the price cap in terms of returning the universal postal service to profitability was dependent on: (i) the accuracy of the information provided by An Post, and (ii) certain actions being taken by An Post⁴. In this regard, the following four facts are noted:
- (i). An Post indicated that there would be no wage increases within the five-year term of the price cap, however, wage increases were agreed and have now been implemented. A 1% wage increase translates into approximately €4m p.a. in additional operating costs.
 - (ii). Actual declines in mail volumes have exceeded An Post's forecast declines. A 1% decline in mail volumes translates into a loss of approximately €4m p.a. in revenue.
 - (iii). An Post has thus far not achieved the target of a 2% improvement in efficiency per year (10% over five years).⁵ This target was based on internal benchmarking within An Post which showed potential inefficiency of up to 22% within its mails network.
 - (iv). An Post did not increase the prices of its universal postal services by the full amount permitted by the price cap control.

³ The other €13m of losses on the universal postal service at end of 2015 was outside the price cap and relates to losses on mail coming in from overseas which are priced based on "terminal dues" agreements.

⁴ An Post did not achieve the modest efficiency target and did not price to the maximum allowed under the price cap.

⁵ This was confirmed by An Post in its letter of 14 September 2016 – see ComReg Document No. 16/81a - <https://www.comreg.ie/publication/request-post-review-price-cap/>.

18. An Post intends to increase its prices by up to 39%⁶. ComReg, in a statement to the Joint Oireachtas Committee on Communications made on 17 January 2017, set out its concerns regarding the potential impact of price increases of such magnitude.⁷ In summary, ComReg's main concerns are:

- that large mailers are very price sensitive and will move to electronic substitutes; and
- that there is limited scope to gain significant additional revenue from SMEs through price increases.

19. The above concerns are informed by expert research and surveys conducted for ComReg, which sought the views of postal service users on a number of matters, including price increases.⁸

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<http://www.anpost.ie/AnPost/MainContent/About+An+Post/Media+Centre/Press+Releases/2017/Postal+rates+2017.htm>

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<https://www.comreg.ie/publication/statement-joint-committee-communications-climate-action-environment/>

⁸ <https://www.comreg.ie/publication/media-release-research-postal-users-needs/>