



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

# Review of the universal postal service specification

## Response to further consultation on certain bulk mail services

Response to consultation and amending Regulation

**Reference:** ComReg 19/35,  
D04/19  
**Date:** 10/04/2019

## Additional Information

	Reference
Review of universal postal service specification – Consultation and draft amending regulation.	ComReg 18/66
Submissions to consultation 18/66	ComReg 18/99s
Review of universal postal service specification - Response to consultation and further consultation on certain bulk mail services	ComReg 18/100
Submissions to consultation 18/100	ComReg 19/35s

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# 1 Executive Summary

- 1 The universal postal service guarantees postal services of a specified quality at an affordable price for the benefit of all postal service users (both the senders and receivers of post), irrespective of their geographic location. The universal postal service is part of the European regulatory framework laid down by the European Postal Services Directive<sup>1</sup>, transposed into Irish law by the Communications Regulation (Postal Services) Act 2011 (the “Postal Act”).
- 2 The Commission for Communications Regulation (“ComReg”) is required to make regulations specifying the services to be provided by a universal postal service provider.<sup>2</sup> In 2012, following a public consultation<sup>3</sup>, ComReg made the Communications Regulation (Universal Postal Service) Regulations 2012<sup>4</sup> (“the Regulations”), specifying the universal postal service.
- 3 Given the passage of time and developments in the postal sector since 2012, in July 2018 ComReg reviewed the specification of the universal postal service and proposed the removal of certain bulk mail services from the specification of the universal postal service<sup>5 6</sup>.
- 4 Having considered the responses to Consultation 18/66 regarding bulk mail, ComReg then consulted<sup>7</sup> on an amended proposal which involved keeping certain bulk mail services in the universal postal service specification, but amending the universal postal service specification in order to prescribe in more detail the minimum requirements to avail of these certain bulk mail services.

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<sup>1</sup> Directive 97/67/EC, as amended by Directive 2002/39/EC and Directive 2008/6/EC.

<sup>2</sup> Section 16(9) of the Postal Act requires the ComReg “*For the purposes of ensuring that the universal postal service develops in responses to the technical, economic, and social environment and to the reasonable needs of postal service users ... following a public consultation process, [to] make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service.*”

<sup>3</sup> ComReg Document No. 12/38, dated 30 April 2012 (<https://www.comreg.ie/publication/postal-regulatory-framework-implementation-of-the-communications-regulation-postal-services-act-2011/>)

<sup>4</sup> S.I. 280 of 2012

<sup>5</sup> ComReg Document No. 18/66 dated 11 July 2018 (<https://www.comreg.ie/publication/review-of-universal-postal-service-specification-consultation-and-draft-amending-regulation/>) (“Consultation 18/66”)

<sup>6</sup> ComReg also made proposals in relation to the maximum weight of parcels within the universal postal service. A response to consultation and decision in relation to this aspect was published on 26 November 2018 (ComReg 18/99R, D13/18)

<sup>7</sup> ComReg Document No. 18/100, dated 26 November 2018 (<https://www.comreg.ie/publication/review-of-the-universal-postal-service-specification-response-to-consultation-and-further-consultation-on-certain-bulk-mail-services/>) (“Consultation 18/100”)

- 5 The preliminary views in both the public consultations were formed following consideration of supporting research and analysis on changes to the technical, economic, and social environment and to the reasonable needs of postal service users<sup>8</sup>.
- 6 The proposal consulted on (in Consultation 18/100) was designed to ensure that the certain bulk mail services in the universal postal service specification are more suited to the needs of small and medium-sized enterprises (“SMEs”). This course of action was recommended to ComReg in previous research conducted<sup>9</sup> which noted that minimum volume and auto-sort thresholds are barriers to mailers using bulk mail services in the universal postal service.
- 7 There were two responses to Consultation 18/100<sup>10</sup>; (1) An Post and (2) Tico Mail Works Limited (“Tico Mail Works”) and this document addresses those responses. In summary:
  - An Post in general welcomes and supports ComReg’s proposals in Consultation 18/100, also noting that *“the more detailed specification will provide greater certainty for customers and may well help ensure continued use of mail as a communication medium.”*
  - Tico Mail Works contends that no change should be made to the bulk mail services within the universal postal service.
- 8 Having considered these responses, together with other relevant evidence, and for the reasons set out in this document, ComReg has decided to keep the certain bulk mail services in the universal postal service specification, but to amend the universal postal service specification for the certain domestic bulk mail services in order to prescribe in a more detailed way the minimum requirements to avail of these bulk mail services.
- 9 In summary, ComReg has decided that the prescribed universal postal service specification for the certain domestic bulk mail services will be as follows:
  - Minimum volume of 200 letters/large envelopes; and/or
  - Minimum volume of 200 packets up to 1kg.
  - Both can be paid by meter and/or pre-paid posting under special license (referred to by An Post as “Ceadúnas”).

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<sup>8</sup> ComReg Document No. 18/66a ‘Report by Frontier Economics: Research and recommendations on the universal postal service specification’

<sup>9</sup> ComReg Document No.16/107 ‘ Research on postal service users needs’, Frontier Economics’, published 7 December 2016 (<https://www.comreg.ie/publication/research-postal-users-needs/> )

<sup>10</sup> See ComReg Document No. 19/35s

- The specification also prescribes the minimum national bulk mail presentation locations (safeguarding geographical reach currently provided by An Post through 43 locations – 4 Mail Centres, 39 Delivery Service Units).
- 10 The universal service in respect of international bulk mail service (“IBMS”) remains unchanged.
- 11 For the avoidance of doubt, the proposed more detailed minimum requirements of the certain bulk mail services in the universal postal service will still allow a universal postal service provider (“USP”) (currently, An Post) to offer:
- other bulk mail services within the universal postal service that meet the requirements of the universal postal service specification, but have a volume / auto-sort requirement that is higher than the minimum, once that minimum requirement is offered and available.
  - various different bulk mail services; these bulk mail services would be outside the universal postal service and not subject to regulatory oversight. For example, the USP could offer deferred delivery over 3 days, or 5 days, if postal service users are willing to accept such delays for a lower price reflective of the cost saving associated with the delayed delivery.

### **Structure of this document**

- 12 Chapter 2 summarises the responses to the further consultation on proposed amendments to the specification of certain bulk mail services in the universal postal service and sets out ComReg’s positions. Chapter 3 sets out the text of the statutory instrument which amends the Regulations (“the amending Regulation”). Chapter 4 sets out the Regulatory Impact Assessment (“RIA”).

## 2 Further consultation on the certain bulk mail services

- 13 ComReg's 2012 specification of the universal postal service required the provision of the following bulk mail services as part of the universal postal service:
- 1) International service for items deposited in bulk (currently accounts for c.2% of universal postal service volumes<sup>11</sup>);
  - 2a) Service for domestic next day delivery (currently accounts for less than 1% of universal postal service volumes<sup>11</sup>); and
  - 2b) Service for domestic deferred delivery service, delivery within 2 days (currently accounts for c.20% of universal postal service volumes and c.12% of total mail volumes<sup>11</sup>)
- (2a and 2b together “the certain domestic bulk mail services”;
- 1, 2a, and 2b together “the certain bulk mail services”).
- 14 In Consultation 18/100, ComReg made several proposals regarding the bulk mail services in the specification of the universal postal service, as detailed below.

### 2.1 International bulk mail service

- 15 IBMS is specified in the Regulations as a service within the universal postal service, however a designated USP has flexibility as to the requirements for users to avail of the service. ComReg's preliminary view outlined in Consultation 18/100 was that the specification of this service within the universal postal service should remain as is, which is a service for the clearance, transport and distribution of foreign “*postal packets deposited in bulk*” pre-sorted by country of destination. ComReg noted that An Post had in its response to Consultation 18/66 highlighted the importance of this service to multinationals in Ireland.
- 16 In Consultation 18/100, ComReg sought views on this preliminary view by asking:

*“Q. 1 Do you agree with the proposal to keep the international bulk mail service as is in the universal postal service specification? Please explain your response.”*

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<sup>11</sup> ComReg analysis of An Post's Regulatory Accounts 2017 (available at <http://www.anpost.ie/AnPost/MainContent/About+An+Post/Annual+Reports/Annual+Reports/>)

## 2.1.1 Responses to Q.1 of Consultation 18/100

17 An Post fully endorses ComReg's proposal that the IBMS should remain in the universal postal service specification. However, An Post submits that the specification of the IBMS should:

- introduce a threshold of 200 items and that this threshold of 200 items must be met for each format of mail presented; and
- retain the current IBMS sortation by destination country requirement.

18 Tico Mail Works did not respond to this question in its submission.

## 2.1.2 ComReg position

19 ComReg did not specify a minimum volume threshold for IBMS in the universal postal service specification in the Regulations. As a result, An Post has been to date free to set the volume threshold for IBMS in the universal postal service. An Post has set the current minimum volume threshold for pre-sorted IBMS to meet the universal postal service specification as follows:

### Standard IBMS - Present items sorted

- Letters only: Minimum 1kg or 50 items per country
- Letters, large envelopes, packets: Minimum 3kg per country

20 There are other variants of the IBMS service offered by An Post, these are not universal postal services.

21 In its submission, An Post has not stated why it wants the specification of the IBMS in the universal postal service to now include a minimum volume threshold. Furthermore, An Post has not explained why it wants to increase the minimum volume threshold it set of 50 items per country to 200 items by format per country.

22 ComReg sees no reason to change the specification of IBMS in the universal postal service at this time; however, given the changes to domestic bulk mail services outlined below, ComReg will add a new definition of "foreign postal packets deposited in bulk" in the amending Regulation. For the avoidance of any doubt, the specification of IBMS is unchanged and ComReg's position is as its preliminary view set out in Consultation 18/100. The specification of IBMS does not set a minimum volume threshold and An Post will remain free to set appropriate minimum volume thresholds for IBMS.

## 2.2 Certain domestic bulk mail services

23 The current universal postal service specification requires two domestic bulk mail services:

- (1) Delivery only (i.e. next working day delivery); and
- (2) Deferred delivery (i.e. delivery within two working days).

24 The current domestic bulk mail services provided by An Post to meet the universal postal service specification are set out in the tables below. Table A shows the “Deferred Delivery” services, Table B shows the “Delivery Only” services:

**Table A: “Deferred Delivery” services**

An Post’s bulk mail services in universal postal service	Delivery	Minimum volume in single posting	Minimum auto-sort	Presentation location	What can be sent?
<b>Bulk A: Deferred Manual Processing before noon</b>	D+2	200	0%	4 Mail Centres (“MC”) and 39 Delivery Service Units (“DSU”)	Packets 100g-1kg
<b>Bulk B: Deferred Automated Processing before noon</b>	D+2	200	85%	4 MC and 39 DSU	Letters and large envelopes 100g-500g
<b>Bulk 6: Deferred Processing before noon</b>	D+2	2000	85%	4 MC and 39 DSU	Letters and large envelopes 100g-500g

An Post's bulk mail services in universal postal service	Delivery	Minimum volume in single posting	Minimum auto-sort	Presentation location	What can be sent?
<b>Bulk 7: Deferred Processing before noon</b>	D+2	2000	0%	4 MC and 39 DSU	Letters and large envelopes 100g-500g and Packets 100g-1kg

Table B: "Delivery Only" services

An Post's bulk mail services in universal postal service	Delivery	Minimum volume in single posting	Minimum Auto-sort	Presentation location	What can be sent?
<b>Bulk 9: Pre-sorted (151 sorts) before 5:30pm</b>	D+1	2000	0%	4 MC and 39 DSU	Letters and large envelopes 100g-500g

25 The current universal postal service specification does not prescribe minimum volume or auto-sort thresholds and in the absence of such a specification, An Post sets them. The provision of a more detailed specification of the certain domestic bulk mail services in the universal postal service was a recommendation made to ComReg by Frontier Economics in 2016<sup>12</sup> on the basis that the minimum volume and auto-sort thresholds set by An Post are likely barriers to SMEs using the certain domestic bulk mail services in the universal postal service. Therefore, Frontier Economics recommended that consideration should therefore be given to amending the bulk mail specification in the Regulations to make these bulk mail services available to more postal service users.

<sup>12</sup>Report by Frontier Economics 'Research on postal users' needs, published 18 November 2016 - [https://www.comreg.ie/media/dlm\\_uploads/2016/12/16107.pdf](https://www.comreg.ie/media/dlm_uploads/2016/12/16107.pdf)

26 Having considered the needs of postal service users, in particular, SMEs, the preliminary view outlined in Consultation 18/100 was that it was appropriate to amend the specification of the certain domestic bulk mail services in the universal postal service in order to prescribe minimum requirements to avail of the certain domestic bulk mail services.

27 Therefore, ComReg's preliminary view outlined in Consultation 18/100 was to further detail the minimum requirements to avail of the two domestic bulk mail services in the universal postal service as follows:

Domestic bulk mail in universal postal services	Delivery	Minimum volume in single posting	Minimum Auto-sort	Presentation location	What can be sent?
<b>Deferred Delivery</b>	D+2	200	85% letters and large envelopes / 0% packets	MCs and 39 DSU	Letters and large envelopes 100g-500g, Packets 100g-1kg
<b>Delivery only</b>	D+1	200	85% letters and large envelopes / 0% packets	MCs and 39 DSU	Letters and large envelopes 100g-500g, Packets 100g-1kg

28 In Consultation 18/100, ComReg sought views on the proposal by asking:

*“Q. 2 Do you agree with the proposal to further detail the minimum requirements to avail of the certain domestic bulk mail services in the universal postal service? Please explain your response.”*

## 2.2.1 Responses to Q.2 of Consultation 18/100

- 29 An Post supports the proposed amendment to the specification of the universal postal service for the certain domestic bulk mail services, but provides a number of observations on the proposed amended specifications.
- 30 Tico Mail Works is of the view that the current specification of the universal postal service for the certain domestic bulk mail services should remain unchanged and makes a number of observations for ComReg's consideration.
- 31 Both An Post and Tico Mail Works provided observations on the proposals regarding:
1. minimum volume threshold; and
  2. bulk mail presentation locations.

### Minimum volume threshold

- 32 An Post agrees with the introduction of a new minimum volume of 200 items in a single posting, subject to the following qualifications:
- Thresholds should refer to minimum volume of mail per format (Letter/Large Envelope/Package). i.e. 100 letters + 50 Large Envelopes + 50 packets would not meet the minimum volume threshold of 200 items, it must be 200 Letters or 200 Large Envelopes or 200 Packets.
  - The 200 item threshold for Meter mail should remain in place.
  - *“Although the Ceadúnas service is generally limited to mailings over 2,000 items, customers using the discount services specified in this consultation will be allowed access those services, i.e. for volumes greater than 200 items. It should also be noted that tariffs for bulk mail services at 200 items and 2,000 items will differ...”*
  - *“It is important to clarify that although the specified USO bulk discounts will be made available to customers using the Ceadúnas and Meter payment methods, these services will not be made available to customers using stamps. This is in line with current access conditions but should be made clear ...”*

- 33 Tico Mail Works considers that the proposed specification of the minimum volume threshold at 200 items is not consistent with maintaining meaningful bulk mail services within the universal postal service. Tico Mail Works submits that according to research conducted for ComReg, 86% of SMEs have less than an average of 200 items in their bulk mailings.
- 34 Tico Mail Works submits that the minimum volume threshold should be 2,000 items and indicates that it is not aware of any dissatisfaction with the existing position. While noting that An Post can offer bulk mail services that have a volume / auto-sort requirement that is higher than the minimum, Tico Mail Works considers that “ *the reality is that the only mandatory regulatory requirement for the threshold of bulk mail services will be 200*”. As a result, Tico Mail Works considers that the regulations should include universal bulk mail services with “*another minimum volume threshold of 2,000*”.

### **Bulk mail presentation locations**

- 35 An Post states that in the interests of commercial flexibility it would prefer bulk mail presentation locations not to be specified in a statutory instrument. An Post submits that this approach would be “*unduly and unnecessarily restrictive*”
- 36 An Post suggests instead that An Post’s bulk mail presentation locations could be published by An Post in a manner approved by ComReg. An Post submits that this approach would facilitate changes where An Post moves to a new location near an existing designated bulk mail acceptance office, or to permit closure of an bulk mail acceptance office for which it is demonstrated that there is low or no demand. Furthermore, according to An Post, if ComReg was of the view that the “*list of delivery office acceptance locations so published was inadequate it could specify additional required access locations also to be published.*” . Alternatively, An Post states that ComReg could consider issuing a direction to An Post on bulk mail access points.
- 37 Tico Mail Works believes that An Post, with its long experience of managing its business and meeting its customers’ needs at a local level, should continue to have the freedom to decide the presentation locations for bulk mail.

## **2.2.2 ComReg position**

- 38 Having considered the submissions made, and other relevant evidence, ComReg’s position is as set out below.

## Minimum volume threshold

- 39 As noted in Table A above, An Post currently provides a bulk mail service in the universal postal service with a minimum volume threshold of 200 items in a single posting. Following consideration of the submission by An Post, the amending Regulation will make clear that the 200 items threshold will be:
- for letters and large envelopes together, as these mails are typically sent together, are largely correspondence, and both can be machine sorted. ComReg does not consider it reasonable to require a separate minimum 200 volume threshold for (1) letters (2) large envelopes as these mailings are similar / interchangeable for postal service users; and
  - for packets up to 1kg, as this is a very different type of mailing than letters/large envelopes and currently cannot be machine sorted by An Post<sup>13</sup>.
- 40 The amending Regulation will also make clear that the 200 minimum volume threshold only applies to items paid by meter and/or pre-paid posting under special license; it does not apply to payment by stamps.
- 41 In response to Tico Mail Works, ComReg notes that there are currently bulk mail services with minimum volume thresholds of 200 in the universal postal service; ComReg's specification will safeguard this. ComReg further notes that An Post commits in its submission to offer bulk mail services at lower prices for volumes greater than 200 items, this should address the concerns raised by Tico Mail Works and is consistent with the tariff requirements (i.e. a service for 200 items would cost more than a service for 2000 items and this cost differential must be reflected in the price).
- 42 In response to Tico Mail Works' submission regarding research conducted for ComReg stating that 86% of SMEs have less than an average of 200 items, ComReg notes the full relevant findings of the research<sup>14</sup> as follows (also set out in Consultation 18/100):
- 86% of SME bulk users reported that the average number of items in each of their bulk mailings were under 200 items but approximately 60% of SMEs bunch their mail in order to reach volume thresholds for discounts;
  - 11% of SMEs send bulk mail with an average number of items between 200 and 1999; and

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<sup>13</sup> Noting An Post's intention, as set out in its submission, that it will introduce a packet sorting machine in 2019

<sup>14</sup> Report by Frontier Economics 'Research on postal users' needs, published 18 November 2016 - [https://www.comreg.ie/media/dlm\\_uploads/2016/12/16107.pdf](https://www.comreg.ie/media/dlm_uploads/2016/12/16107.pdf)

- 8% of SMEs reported outsourcing their mailings to a managed print service provider.

The research shows that where SMEs are below the 200 item threshold they will bunch their mail to get the required minimum volume, this is logical when availing of a deferred delivery service, where such mail is not time sensitive. The research also shows that there is a significant cohort of SMEs that have mailings between 200 and 1999, a 2,000 minimum item threshold (as opposed to the 200 minimum item threshold) would be more difficult for these SMEs to avail of, even if they did bunch their mail.

### **Bulk mail presentation locations**

- 43 The current universal postal service specification does require presentation of bulk mail at delivery offices (which include Delivery Service Units/Offices (“DSU/DSO”)). Currently there is a total of 114 DSUs and 111 DSOs. However, in practice An Post has limited presentation of bulk mail to the 4 Mail Centres (“MC”) and 39 DSUs.
- 44 In making its proposal to specify the bulk mail presentation locations in the amending Regulation, ComReg was recognising the current service provision by An Post and endeavouring to safeguard the national reach of these locations, in particular for SMEs. This ensures that domestic bulk mail presented at Killarney for, say, delivery in Dublin will be delivered to the addressee in Dublin on the next working day when availing of ‘Delivery only’ and within two working days when availing of ‘Deferred Delivery’.
- 45 ComReg notes the submissions of An Post and Tico Mail Works that these presentation locations should not be specified in the amending Regulation. ComReg is conscious of its obligation to ensure that bulk mail presentation locations take account of the reasonable needs of postal service users while allowing the USP sufficient flexibility to change bulk mail presentation locations.
- 46 In making the amending Regulation, ComReg has described the bulk mail presentation locations required in general terms which will facilitate the USP moving to a new location near an existing bulk mail presentation location, for example, Killarney. ComReg further notes that the specified delivery office locations for bulk mail presentation are those currently provided by An Post and therefore should not present difficulties. Furthermore, ComReg notes that without amending the specification, the Regulation requires all of a USP’s delivery offices to accept bulk mail (for An Post this means 114 Delivery Service Units and 111 smaller Delivery Service Offices). Limiting the bulk mail presentation locations reflects An Post’s current bulk mail presentation locations and services provision and is therefore reasonable and proportionate.

47 If a USP does require changes to the specified bulk mail presentation locations prescribed in the amending Regulation, ComReg will put the USP's proposal to public consultation and, following consideration of responses to that public consultation, may decide to amend the bulk mail presentation locations in the universal postal service specification.

48 Therefore, in summary ComReg's position is as follows:

Domestic bulk mail in universal postal services	Delivery	Minimum volume in single posting	Minimum Auto-sort	Bulk mail presentation locations	What can be sent?	Payment
<b>Deferred Delivery</b>	D+2	200 letters and large envelopes / 200 packets	85% letters and large envelopes / 0% packets	Specified	Letters and large envelopes 100g-500g / packets 100g-1kg	By meter and/or pre-paid posting under special license
<b>Delivery only</b>	D+1	200 letters and large envelopes / 200 packets	85% letters and large envelopes / 0% packets	Specified	Letters and large envelopes 100g-500g / packets 100g-1kg	By meter and/or pre-paid posting under special license

## 2.3 Regulations

49 In Consultation 18/100, ComReg sought views on the proposed draft amending Regulations by asking:

*“Q.3. Do you have any comments on the draft amending Regulations to further detail the minimum requirements to avail of the certain domestic bulk mail services in the universal postal service? Please explain your response.”*

## 2.3.1 Responses to Q.3 of Consultation 18/100

50 An Post made a number of suggested amendments as set out below. In Consultation 18/100 ComReg proposed amending the definition of “postal packets deposited in bulk” contained in Regulation of 2(1) in S.I. 280 of 2012 from:

*““postal packets deposited in bulk” means a substantial number of similar postal packets deposited with a universal postal service provider at the same place and time, to be transported and distributed to the addressees as marked on each of the postal packets;”*

to:

*““postal packets deposited in bulk” means a minimum number of 200 letters, large envelopes, or packets up to 1kg in weight, capable of being processed, though not necessarily auto-sorted, by automated equipment, deposited with a universal postal service provider at the same place and time, to be transported and distributed to the addressees as marked on each of the postal packets;”*

51 An Post submits that this should be amended further to clarify that a mix of formats and weights will not suffice to meet the required threshold and An Post suggests the following:

*““postal packets deposited in bulk” means a minimum number of 200 letters, large envelopes, or packets up to 1kg in weight, but not a mix of these formats, all having a thickness of 20 millimetres or less or all having a thickness of more than 20 millimetres, capable of being processed, though not necessarily auto-sorted, by automated equipment, deposited with a universal postal service provider at the same place and time, to be transported and distributed to the addressees as marked on each of the postal packets;”*(underlined text is that proposed by An Post)

52 An Post’s reasoning for the proposed further amendments are:

- thresholds should refer to minimum volume of mail per format as there is no efficiency associated with handling a mixture of formats and as such, these should not attract a discounted bulk rate;

- to reflect the definitions and dimensions referred to in the Cross-Border Parcel Delivery Services Regulation<sup>15</sup> where it is stated (in recital 16) that there is an assumption that postal items which are over 20 mm thick contain goods other than items of correspondence (and this Regulation applies only to parcels containing items other than correspondence). In recognition of the different handling requirements as well as of the differences acknowledged in EU legislation, An Post submits that ComReg should clarify in the proposed revised definition of “*postal packets deposited in bulk*” that the required threshold of 200 items of bulk mail must either all have a thickness of 20 millimetres or less, or all have a thickness of more than 20 millimetres.

53 In the interests of commercial flexibility An Post would prefer bulk mail acceptance points not to be specified in a statutory instrument.

54 An Post also submits that the requirement for 100% machinability and greater than 85% Auto-sort readability should also be made clearer.

### 2.3.2 ComReg position

55 Having considered the submissions made, and other relevant evidence, ComReg’s position is as set out below.

56 As noted earlier, the amending Regulation will make clear that the 200 items threshold will be separate for “letters and large envelopes” and for “packets up to 1kg” as:

- letters and large envelopes are typically sent together, largely correspondence, and both can be machine sorted. ComReg does not consider it reasonable to require a separate minimum 200 volume threshold for (1) letters (2) large envelopes as these mailings are similar / interchangeable for postal service users; and
- packets up to 1kg is a very different type of mailing than letters/large envelopes and currently cannot be machine sorted by An Post, the current USP<sup>16</sup>.

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<sup>15</sup> Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services.

<sup>16</sup> Noting An Post’s intention, as set out in its submission, that it will introduce a packet sorting machine in 2019

- 57 The amending Regulation will not change the specification of thickness for postal packets deposited in bulk as suggested by An Post. ComReg does not consider this change to be necessary or appropriate.
- 58 The amending Regulation will specify the bulk mail presentation locations for the reasons outlined in the section dealing with responses to question 2 of Consultation 18/100.
- 59 The amending Regulation will make the 100% machinability and greater than 85% auto-sort requirement for letters and large envelopes clear.
- 60 The amending Regulation will remove the pre-sort requirement for delivery only bulk mail. This was sought by An Post in response to Consultation 18/66 by submitting that it *“does not make commercial sense for either An Post or for users”*. Consultation 18/100 therefore proposed the removal of this pre-sort requirement. No response to Consultation 18/100 noted any issue with this.

## 2.4 Regulatory Impact Assessment (“RIA”)

- 61 In Consultation 18/100, ComReg sought views on the draft Regulatory Impact Assessment relating to the proposed changes to the certain domestic bulk mail services in the universal postal service specification by asking:

*“Q.4. Do you have any comments on the draft RIA for this proposal to further detail the minimum requirements to avail of the certain domestic bulk mail services in the universal postal service? Please explain your response.”*

### 2.4.1 Responses to Q.4 of Consultation 18/100

- 62 An Post submits that ComReg’s statement that *“the further detail of the minimum requirements matches current provision of bulk mail service (Bulk A and B) by An Post so cause no issues”* requires the following qualification:

*“The potential for increased volumes, including increased multiple mailings, from SMEs is welcomed by An Post. However, increased volumes for the Delivery Only D+1 service for 200-2,000 packets may cause potential problems of segregating these D+1 mailings from those for deferred delivery. This will need to be monitored by An Post over the implementation period to ensure full service can be provided.”*

## 2.4.2 ComReg position

63 ComReg notes An Post's welcoming of ComReg's proposals. ComReg considers An Post's submission relates to possible operational matters for An Post regarding potential problems segregating next day delivery mailings from those for deferred delivery. ComReg notes that An Post already deals with similar segregations now for next day delivery mails from those for deferred delivery. These possible operational matters are not matters suitable for a RIA.

## 3 Amending Regulations

S.I. No. 149 of 2019

### COMMUNICATIONS REGULATION (UNIVERSAL POSTAL SERVICE) (AMENDMENT) REGULATIONS 2019

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 16(9) of the Communications Regulation (Postal Services) Act 2011 (No. 21 of 2011), hereby makes the following regulations:

#### *Citation and Commencement*

1. (1) These Regulations may be cited as the Communications Regulation (Universal Postal Service) (Amendment) Regulations 2019.

(2) These Regulations, the Communications Regulation (Universal Postal Service) (Amendment) (No.2) Regulations 2018 and the Principal Regulations may be cited together as the Communications Regulation (Universal Postal Service) Regulations 2012 to 2019 and shall be construed together as one.

(3) These Regulations shall come into operation on 1 May 2019.

#### *Interpretation*

2. In these Regulations “Principal Regulations” means the Communications Regulation (Universal Postal Service) Regulations 2012 (S.I. No. 280 of 2012).

#### *Amendment*

3. (1) Regulation 2(1) of the Principal Regulations is amended by substituting for the definition of “deferred delivery” the following:

“ ‘deferred delivery’ means deposited at a delivery office at one of the specified locations for delivery within the State one day later than would otherwise be the case using the ‘D+n’ formula”;

(2) Regulation 2(1) of the Principal Regulations is amended by substituting for the definition of “delivery only” the following:

“ ‘delivery only’ means deposited at a delivery office at one of the specified locations for delivery within the State using the ‘D+n’ formula”;

(3) Regulation 2(1) of the Principal Regulations is amended by inserting following the definition of “foreign” the following:

“ ‘foreign postal packets deposited in bulk’ means a substantial number of similar foreign postal packets deposited with a universal postal service provider at the same place and time, pre-sorted by country of destination and prepaid by postal franking machine or prepaid posting under special licence, to be transported and distributed to the addressees as marked on each of the postal packets;”

(4) Regulation 2(1) of the Principal Regulations is amended by substituting for the definition of “postal packets deposited in bulk” the following:

“ ‘postal packets deposited in bulk’ means either:

- (a) a minimum number of 200 letters and large envelopes capable of being processed by automated equipment, with a minimum auto-sort (readability) of 85%, prepaid by postal franking machine or prepaid posting under special licence, deposited with a universal postal service provider at the same place and time to be transported and distributed to the addressees as marked on each of the postal packets; or
- (b) a minimum number of 200 packets up to 1kg in weight, prepaid by postal franking machine or prepaid posting under special licence, deposited with a universal postal service provider at the same place and time to be transported and distributed to the addressees as marked on each of the postal packets.”.

(5) Regulation 2(1) of the Principal Regulations is amended by inserting following the definition of “single piece service” the following:

“ ‘specified locations’ means Athlone, Ballina, Bray, Carlow, Carrick-on-Shannon, Castlebar, Cavan, Clonmel, Cork City, Cork, Drogheda, Dublin, Dublin City, Dundalk, Dungarvan, Ennis, Galway, Glenageary, Kilkenny, Killarney, Letterkenny, Lifford, Limerick, Longford, Mallow, Maynooth, Monaghan, Mullingar, Naas, Navan, Nenagh, Newbridge (Droichead Nua), Portlaoise, Roscommon, Shannon, Sligo, Swords, Thurles, Tralee, Tuam, Tullamore, Waterford and Wexford.”

(6) Regulation 3(1) of the Principal Regulations is amended by substituting for sub-paragraph (h) the following:

“(h) A service for the clearance, sorting, transport, distribution of ‘postal packets deposited in bulk’ for ‘delivery only’.”

(7) Regulation 3(1)(i) of the Principal Regulations is amended by substituting for sub-paragraph (i) the following:

“(i) A service for the clearance, transport, distribution of ‘foreign postal packets deposited in bulk’.”

(8) Regulation 3(1)(j) of the Principal Regulations is amended by substituting for sub-paragraph (j) the following:

“(j) A service for the clearance, sorting, transport, distribution of ‘postal packets deposited in bulk’ for ‘deferred delivery’.”

GIVEN under the official seal of the Commission for Communications Regulation,

10 April 2019

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Garrett Blaney, Chairperson

For and on behalf of the Commission for Communications Regulation

## 4 Regulatory Impact Assessment

- 64 A Regulatory Impact Assessment (“RIA”) is a structured approach to the identification and assessment of available regulatory options to meet the policy issue, including the likely impact of the regulatory options on different stakeholders. Based on this assessment, the RIA concludes with the choice of the best option to meet the policy issue. This best option should be the most effective and least burdensome regulatory option – it should be appropriate, effective, proportionate, and justified.
- 65 ComReg’s approach to the RIA is set out in the “Guidelines on ComReg’s Approach to Regulatory Impact Assessment” published in August 2007<sup>17</sup> and have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009 (“the Department’s RIA Guidelines”), adopted under the Government’s Better Regulation programme.
- 66 The guidelines set out, amongst other things, the circumstances in which ComReg considers that a RIA is appropriate. In summary, ComReg indicated that it would generally conduct a RIA in any process that might result in the imposition of a regulatory obligation, or the amendment of existing regulatory obligations to a significant degree, or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers

### Steps involved

- 67 In assessing the available regulatory options, ComReg’s approach to RIA follows five steps as follows:
- 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

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<sup>17</sup> ComReg document 07/56a

## Step 1: Describe the policy issue and identify the objectives

- 68 The Postal Act requires ComReg *"for the purposes of ensuring that the universal postal service develops in responses to the technical, economic, and social environment and to the reasonable needs of postal service users ... following a public consultation process, [to] make regulations specifying the services to be provided by a universal postal service provider relating to the provision of a universal postal service."* In 2012, following a public consultation, ComReg made the Communications Regulation (Universal Postal Service) Regulations 2012 (S.I. 280 of 2012) specifying the universal postal service ("the Regulations").
- 69 Given the passage of time and developments in the postal sector since 2012, it is appropriate to revisit the specification of the universal postal service for the purposes of ensuring that the universal postal service develops as required by section 16(9) and this was noted as Goal 2 in the Postal Strategy Statement ("PSS") 2018 - 2020.
- 70 Consequently, the policy issue and the objective is to ensure that the specification of the universal postal service that the universal postal service provider ("USP") must provide continues to develop in response to the technical, economic and social environment, and to the reasonable needs of postal service users.

## Step 2: Identify and describe the regulatory options

- 71 The inclusion of a service within the universal postal service is, among other things, intended to safeguard the provision of that service at an affordable price to all postal service users in a transparent and non-discriminatory way. Without this protection, these services may not be offered commercially, or offered only to a sub-set of the population where it is most profitable to do so.
- 72 However, in line with ComReg's statutory duties, a balance must be struck between the protection that the universal postal service affords postal service users (both senders and receivers), and any potentially detrimental impact on the development of competition that could result from restricting commercial freedom as universal postal services are subject to regulatory oversight on price, quality, access, and terms and conditions.
- 73 In identifying the regulatory options, ComReg has considered the changes to the reasonable needs of postal service users and to the wider technical, economic and social environment changes since 2012, noting that these two considerations are very much interlinked.

74 As a result:

74.1 Option 1 is to maintain the universal postal service specification of the certain domestic bulk mail services (as set in 2012 in the Regulations).

74.2 Option 2 is to further detail the minimum requirements to avail of the certain domestic bulk mail services in the universal postal service<sup>18</sup>. The proposal is being made following consideration of:

- All submissions to Consultations 18/66 and 18/100, noting An Post's submission to Consultation 18/66 regarding the adverse effects on postal service users that would arise without the safeguards afforded by a universal postal service specification<sup>19</sup>.
- The current domestic bulk mail services offered by An Post to meet the universal postal service specification.
- Relevant research published by ComReg<sup>12</sup>.

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

75 Option 1 maintain the status quo. There would be no additional impact on stakeholders and competition.

76 Option 2 would have a number of impacts:

- it continues to ensure a minimum set of certain domestic bulk mail services, that may otherwise not be provided according to the submission by An Post to Consultation 18/66, to meet the needs of postal customers, particularly SMEs;
- it specifies minimum volume and auto-sort requirements on the certain domestic bulk mail services in the universal postal service to the benefit of SMEs, noting that previous research recommended that this be done to remove barriers to the use by SMEs of domestic bulk mail services<sup>12</sup>;
- it specifies the maximum weights for postal packets to avail of the certain domestic bulk mail services as per An Post's current provision (that is letters, large envelopes, packets up to 1kg), noting that ComReg is not aware of any issues with these so that it appears that these requirements are meeting the needs of postal service users;

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<sup>18</sup> International Bulk Mail Services in the universal postal service will remain unchanged and therefore no RIA on this is required.

<sup>19</sup> Published at <https://www.comreg.ie/publication/submissions-to-consultation-18-66/>

- the proposal should have minimal impact on competition, submissions by An Post and Tico Mail Works have noted the very limited competition in bulk mail services and in particular ComReg notes that:
  - the proposed detailed specification considers the current provision of bulk mail services by An Post, namely Bulk A and Bulk B<sup>20</sup>
  - research has found very limited outsourcing by SMEs of their mailings to a managed print service providers.

77 The options are assessed as follows for impact on stakeholders, namely the USP and postal service users, and on competition as follows:

Options	Impact on the USP (An Post)	Impact on postal service users	Impact on competition
Option 1: Leave specification of certain domestic bulk mail services as is	Maintains the status quo.	Maintains status quo but SMEs will continue to face barriers to use of domestic bulk mail services in the universal postal service given An Post's minimum volume requirements.	Maintains status quo, no effect on competition according to submissions by An Post and Tico Mail Works.

<sup>20</sup> [http://www.anpost.ie/AnPost/Downloads/050318/2018\\_BulkMail200.pdf](http://www.anpost.ie/AnPost/Downloads/050318/2018_BulkMail200.pdf)

Options	Impact on the USP (An Post)	Impact on postal service users	Impact on competition
<p><b>Option 2: Further detail the minimum requirements to avail of the certain domestic bulk mail services in the universal postal service</b></p>	<p>The further detail of the certain domestic bulk mail services matches current provision of bulk mail service by An Post so causes no issues. An Post, the current USP, has welcomed the Option, subject to certain observations.</p>	<p>The further detail of the certain domestic bulk mail services should enable more SMEs to avail of bulk mail services given lower minimum volume thresholds. The further detail of the certain domestic bulk mail services safeguards the nationwide locations that accept domestic bulk mail.</p>	<p>Given SMEs currently make limited use of domestic bulk mail services and limited use of outsourcing of postal services, the detailed specification should have minimal impact on existing competition. If there is increased use of domestic bulk mail services by SMEs, this may increase competitive dynamics in the postal sector.</p>