



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Submissions in response to consultation on Draft Postal Strategy Statement

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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Additional Information

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1: An Post

An Post's response to ComReg's "Draft Postal Strategy Statement 2018-2020"

ComReg Document 17/72, published 25 August 2017

9 October 2017

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1. Executive Summary

An Post has in the last year developed a comprehensive detailed strategy based on global research, with the advice of consultancy firm, McKinsey & Company. In response to its severe cash flow position An Post worked with Government to remove the Price Cap Mechanism allowing An Post to implement cost based tariffs and providing the financial resources, for a short period, to facilitate the implementation of the strategy.

The challenge An Post faces is a universal one: the electronic substitution of physical mail by e-mail. Postal services are ex-growth especially in their core-product of mail, while the pockets of growth, especially in the parcels sector are highly competitive. Regulating An Post in its declining market while not regulating the competitive growth sector is unfair, damaging and potentially discriminatory.

Perversely the cost of regulation is increasing although the postal market is declining. An Post is having to work hard to drive efficiencies throughout its business (a need recognised by ComReg) but its most inefficient cost is the cost of regulation. This must change.

ComReg has also identified the unfair trade of international mail for An Post, which, due to international agreements, forces An Post to deliver inbound international letters at far below cost. ComReg has an important and urgent role to stop this unfair practice.

Productivity and responsiveness are key to An Post's survival in an unprecedented chapter of change in the postal industry globally. An Post is a recognised world-class commercial service provider. Continuing to adapt and change to meet the demands of consumers and businesses today requires the removal of obstacles that discourage or prevent innovation in our service offering.

An Post is not just a global postal operator, it is also the national designated Universal Service Provider (USP). The ongoing provision of the universal service and the survival and success of An Post commercially requires a flexible, pragmatic

regulatory framework that operates to serve the interests of postal users having regard to the role that the universal service now plays in daily life.

ComReg has isolated An Post in its role as universal service provider by focusing almost all of its proposed future regulatory framework on the declining universal service with little or no regard to the landscape in which An Post and the universal service itself is situated. Regulation should not discriminate and the proposed regulatory framework should focus on the collective marketplace and not just An Post. The industry is changing and letters are no longer the only focus of our business. Accountability for effective regulation that supports the postal sector and especially the universal service is paramount and the costs of complying with ComReg's regulatory framework should be subject to that accountability having regard to the emergence of a strong postal sector that is responsive to the needs of postal users.

1.1 Postal Strategy – Essential Key Elements

An Post considers that ComReg's Postal Strategy Statement should include the following key elements:

- **Appropriate regulation for the existing postal market, supporting the provision of the universal service**
- **Reduced regulatory intervention as the market continues to develop**
- **Regulation of all postal operators, moving away from a reliance on regulation of An Post only as a proxy for regulation of the market**
- **Support for An Post in addressing inbound international losses**
- **Flexibility in the provision of the universal service, to facilitate innovation, and to enable An Post to continue to meet evolving customer requirements**
- **Reduced cost of regulation, bringing regulation costs for An Post in line with other EU universal service providers and moving away from the current position of being the most expensive postal regulatory regime in Europe**

1.2 Postal Strategy - Key Facts

The key elements above have been proposed in recognition of the following facts:

- An Post currently provides the universal service, ensuring that the State complies with Directive 97/67/EC of the European Parliament and of the Council.

- An Post provides a world class postal service, a fact supported by numerous market reports, including the independent RepTrak and CXi reports.
- Postal volumes continue to decline, worldwide, predominantly due to the impact of e-substitution. An Post is not unaffected by this and has experienced volume decline of over 40% since the peak of 2007.
- An Post has incurred losses in excess of €375m over the last ten years in the provision of the universal service, primarily due to artificially low postal tariffs. The removal of the Price Cap Mechanism (PCM) in March 2017 has facilitated the introduction of cost orientated tariffs for domestic and outbound international mail.
- Inbound international mail is loss making predominantly due to artificially low Terminal Dues rates. ComReg's information notice of June 2016 clearly highlighted An Post's limited scope to address this issue directly.
- An Post has not received any funding from the State for the provision of the universal service.
- The cost of regulation is effectively borne solely by An Post and this must be changed to reflect market conditions. This cost has increased in recent years in spite of a declining market.

1.3 Key Concerns

While we generally agree with the three high level strategic intentions as set out in the Draft Postal Strategy Statement, we have a number of significant concerns. These include:

- **Lack of a coherent postal strategy:** The Draft Postal Strategy Statement does not provide a coherent strategy for the future of the postal market. Chapter 4 of the Draft Postal Strategy Statement sets out, at a very high level, the actions to

be taken by ComReg over the period 2018-2020. This programme is theoretical and lacks any grit and ComReg should recognise that a declining USO must be matched with a declining cost of regulation. In our view, a disproportionate amount of the document focuses on scene setting and historical data and there is insufficient articulation of, and detail on, ComReg's forward looking regulatory postal strategy. There is also little detail on its practical implementation. In addition, it is unclear as to how recent and expected future postal market developments have been incorporated into the strategy. The result is that we are not clear from the Draft Postal Strategy Statement what the resulting regulatory strategy involves. Given its importance, we encourage ComReg to revisit this as a matter of priority for the final strategy statement. We are somewhat surprised that the Draft Strategy Statement does not include a list of regulatory activities and actions, this is not in line with previous consultations. An Post suggests that a list of activities be developed by ComReg and should focus on the following key areas:

Subject	Action
International Inbound Losses	ComReg to support An Post in implementing strategies to deal with annual losses
Quality of Service (QoS) Monitoring	Implement a single QoS Monitor, providing ComReg and An Post with a Monitor that meets the requirements of both parties and reduces the inherent duplication of cost in running two separate Monitors
Information requests	Develop and implement a process to minimise the requirement for such information requests. ComReg's strategy must ensure that these are proportionate and avoid the time consuming, costly and legally challenging 13F ¹ requests currently employed by ComReg, including a recent reminder from ComReg that <i>"...criminal or civil proceedings may be initiated against any postal service provider that fails to comply with an information requirement.."</i>
Customer complaint handling process	Review best practice in handling customer complaints, including the Section 43(3) process, and consider outsourcing to an independent 3rd party, similar to the position adopted by Royal Mail and Ofcom in the UK

¹ Section 13F of Communications Regulation (Postal Services) Act 2011

- **An Post Statement to the Oireachtas:** The Draft Postal Strategy Statement states that a statement made by An Post to the *Oireachtas Joint and Select Committee on Communications, Climate Action and Environment* is contrary to information in the An Post's 2016 Regulatory Accounts. This is incorrect.
- **Proportionate regulation:** An Post's recent experience is that its regulatory burden is increasing and there is no evidence from this document that this situation is going to change.
- **Regulation priorities:** The Draft Postal Strategy Statement does not clearly set out ComReg's priorities and focus areas or explain how it intends to allocate its resources. We would welcome further information on this to better understand and plan accordingly for An Post to provide resources to deal with the proposed strategy.
- **Support for Statements made:** The Draft Postal Strategy Statement includes a number of statements and opinions for which the basis cited for making those statements and opinions appears to be over-simplistic and lacking sufficient supporting analysis. They are also inconsistent with An Post's own detailed research and analysis in these areas. For example, the Draft Postal Strategy Statement cites limited and simplistic inputs to support the opinion that the market has "*very limited scope for future significant price increases*". We encourage ComReg to share the additional analysis used by it to inform the Draft Postal Strategy Statement and to arrive at their opinions.
- **Potentially commercially damaging statements:** The Draft Postal Strategy Statement makes a number of statements and comments which are potentially commercially damaging to An Post. These include comments on An Post's liquidity position, creating doubt over the continued provision of the Universal Service Obligations (USO) by An Post and An Post's stamp and parcel pricing strategies.

- **Future regulatory framework:** The Strategy should clearly support a regulatory framework that is aligned with the market, including the significant changes seen to date and the likely changes into the future. In particular, the regulatory framework should support the sustainable provision of the USO and include the principles of:
 - Regulatory costs proportionate to the need for regulation. It is clear that customers are satisfied with An Post's provision of the universal service. Further detailed and costly regulation is not necessary.
 - The need for flexibility in provision of all services in the postal market to facilitate innovation and meet developing customer demands for postal services into the 21st century.
 - Appropriate regulation of all postal operators in the market.

An Post anticipates that ComReg will give due consideration to the issues raised in our response. An Post recommends that all parties work together to review the most appropriate regulatory regime and overall regulatory monitoring and reporting requirements that are proportionate. An Post is both available and ready to actively engage with ComReg in this regard. Finally, we encourage ComReg to look to best practice and other regulators, when finalising the strategy statement.

2. Detailed Comments - Draft Postal Strategy Statement 2018-2020

Our comments on the Draft Postal Strategy Statement 2018-2020 are detailed below:

2.1 Lack of coherent overall regulatory Postal Strategy

As stated, An Post welcomes, in broad terms, the Strategic Intentions as detailed by ComReg. But the Draft Postal Strategy Statement does not present a coherent regulatory postal strategy. A disproportionate amount of the document focuses on scene setting and high level historical data rather than on providing a forward looking regulatory postal strategy.

Consideration of postal market development

There have been significant changes in the postal market in recent years and it continues to evolve. In addition, there have been changes to ComReg's areas of responsibilities. It is not evident how such changes have been incorporated into the Draft regulatory strategies, which appear to have only minor modifications when compared to the ComReg 2015 to 2017 strategic statement.

As part of the strategy development process we would have expected ComReg to have reviewed, critiqued and developed on their previous postal strategy statement. This approach would have aligned with the process employed by ComReg when it published its recent Communications strategy². As part of the Communication strategy review ComReg included a section specifically dealing with the need to evolve its strategies in the light of market development.

We would contrast ComReg's approach to that of Ofcom in this area - where market developments are a key determinant to their evolving strategies.

² - See ComReg 17/31, published 12 April 2017.

Inclusion of an indicative work programme

We note that this consultation did not include an indicative work programme. This was included in previous Postal Strategies³. We encourage ComReg to issue such an indicative work programme to align with the Draft Postal Strategy Statement.

In addition, we have a number of concerns and questions of ComReg:

Strategic Intent #1 “*Seek to ensure that the provision of a universal postal service*”

The Draft Postal Strategy Statement describes this as “*There is a universal postal service that meets the reasonable needs of postal service users*”. An Post agrees with this intent. However, the document introduces unnecessary uncertainty over An Post’s continued provision of the USO.

As we have previously stated, as the designated universal service provider, and in the interests of all stakeholders in the postal industry, it is important that An Post remains a strong and vibrant company. This is recognised by both ComReg and in the current Government’s Programme for Government and is also reflected in the current Strategy Statement of the Department of Communications, Energy and Natural Resources (now the Department of Communications, Climate Action and Environment). The Programme for Government stated:

*“A universal postal service is an essential public service, in particular for rural communities and those disadvantaged communities affected by the digital divide. A publicly owned, commercially viable, profitable and efficient An Post is critical to the long-term viability of the postal market”.*⁴

³ A work programme was included in the 2015-2017 Consultation, See ComReg Doc. 14/131

⁴ www.dccae.gov.ie/en-ie/news-and-media/publications/Pages/Statement-of-Strategy-2015-2017.aspx

The critical importance of the universal service was set out clearly in the Act⁵ with ComReg's objective to facilitate the development of competition and innovation being subject to the overriding objective of the availability of the universal service. As such, ComReg's finalised Strategy Statement should reflect both the priority given to the universal service in the Act and the importance to all parties interested in the postal industry in Ireland in ensuring a vibrant An Post as the universal service provider.

Thus, we feel that the final Postal Strategy Statement should outline a clear strategy with regard to ensuring the continued availability of the universal service as opposed to creating any uncertainty around its future provision.

Strategic Intent #2 “Promote the interests of postal service users”

The Draft Postal Strategy Statement describes this as “*Postal service users can choose and use postal services with confidence*”. An Post agrees with this intent.

An Post welcomes ComReg's continuing commitment to ensure that the code of practice set out by the respective postal service providers is sufficient and contains appropriate information. An Post believes that certain private postal operators are remiss in their responsibility to their customers and workforce, for example, in not properly advising on procedures for processing and handling undeliverable mail. In some instances undelivered mail of other operators is directed, perhaps inadvertently, to An Post for attention. In addition, we have a number concerns to bring to your attention:

- **Regulation of all Postal Service Providers:** We would emphasise the significant importance of ComReg being more focused and proactive in ensuring that *all* postal service providers, and not just An Post, meet their statutory and regulatory obligations. This is required to protect the market as a whole and deliver the appropriate level of postal services to all customers. The current lack of focus on other service providers needs to be urgently addressed and incorporated into ComReg's postal strategy. It took a complaint from An Post to

⁵ See Communications Regulations Act, 2002

the Advertising Standards Authority of Ireland (ASAI) to correct a misleading claim by a competitor.

- **Complaint handling process:** The complaint handling process is overly burdensome, time consuming and costly. Significant costs are incurred dealing with unmeritorious claims. We would like to see a better solution developed. To this end, we would encourage ComReg to review the workings of the UK Postal complaints process which is outsourced to a 3rd party.
- **Strategic Intent #3 “Facilitate the development of competition and innovation”**

The Draft Postal Strategy Statement describes this as “*Regulation facilitates the development of competition and innovation in the provision of postal services by using appropriate regulatory intervention within our remit*”. An Post agrees with this intent. However we have a number of concerns to bring to your attention:

- **Functioning market:** An Post would contend that the postal market in Ireland is fully functioning, with the market operating in an effective manner. ComReg itself highlights the impact of e-commerce, driven by increasing broadband penetration in Ireland and across the world. Despite this, ComReg fails to follow through on this high level comment to appreciate that this has the effect of providing additional competitive pressures on An Post.
- **Appropriate regulatory Intervention:** We note that with respect to appropriate regulatory intervention, Ofcom have worked to lessen the regulatory burden and cost on Royal Mail. This is in sharp contrast to ComReg, who is *increasing* the burden and thus cost on An Post. An example of this includes the increased level of regulatory reporting required of An Post, which is not in line with the decreasing size of the universal service, and the requirements set on Royal Mail by Ofcom.
- **Register of authorised postal service providers:** ComReg’s role in maintaining a register of authorised postal service providers is a responsibility which demands constant vigilance to ensure that operators are not exceeding the terms of their

authorisation, and that standards are maintained across all operators. When breaches occur, these need to be appropriately identified and dealt with on a timely basis by ComReg. We would encourage ComReg to make all such information available to customers to help them make informed choices.

2.2 Proportionate Regulation

As stated by the EU and ComReg any regulation must be proportionate in nature to the market issues identified. The postal market has changed significantly in recent years and continues to evolve. For the following reasons it is not evident in the Draft Postal Strategy Statement how ComReg's regulation has responded to the changing market dynamics:

Expand the focus of postal regulation

The focus of this document, and also ComReg's regulatory focus, needs to expand beyond, what has been to date, an over concentration on regulation of An Post. An Post would strongly argue that ComReg's focus to date has been far too narrow as it would appear by its actions to date that regulation of An Post is equated by ComReg as regulation of the industry. Regulation of the Postal market must be appropriate, cost effective and applied equally to all operators.

Overall regulation burden

There was every expectation that the regulatory burden would now be moving away from An Post. In contrast to ComReg, Ofcom has acknowledged and acted to reduce the level of regulation it has imposed on Royal Mail⁶. As previously stated, this cannot be said of ComReg, it can be clearly argued that ComReg has in effect increased the regulatory burden on An Post. In this context we would encourage ComReg to revisit

⁶ See Ofcom Annual Plan for 2017-2018 (Section 3.23 on page 11)

any such increases in the regulatory burden in the context of setting the appropriate balance of regulations across the industry.

With regard to the direct cost of regulating the postal industry in Ireland, the regulatory cost to An Post, is amongst the highest in Europe. For example, the cost to An Post in 2016 was €1.8m or 0.4% of relevant turnover. The cost in the UK (2016/17) was £7.8m (€8.7m) or 0.1% of relevant turnover, a quarter of the cost relative to An Post.

It should also be noted that Ofcom state⁷ that it has reduced the administrative levy on Royal Mail “...by more than 50% in real terms...” since assuming responsibility for oversight of the postal sector in 2011. This is in sharp contrast to the situation where ComReg has increased the basis of the regulatory levy on An Post by up to 60% (from 0.25% to 0.40% of turnover), after the 2013 Consultation on the Regulatory Levy⁸.

Balancing the costs and benefits of regulation

An Post would also question why this document does not include a **Regulatory Impact Assessment ('RIA')** of its proposed strategic intentions. As ComReg has stated “*RIA plays an important part in regulatory decisions by ensuring a number of different options are considered and in doing so ensures that the most effective option is chosen. Options such as maintaining the status quo, regulatory forbearance, along with alternative forms of regulation will need consideration*”⁹. Given the potential impact of, for example, continuing with the status quo, we would encourage ComReg to adopt this best practice approach in reviewing its regulatory postal strategy.

In this context we ask ComReg to consider the following impacts of its current strategies and resultant approaches:

⁷ See Ofcom Annual Plan for 2017-2018 (Section A2.43 on page 51)

⁸ See ComReg Postal Levy <https://www.comreg.ie/industry/postal-regulation/authorised-postal-providers/postal-levy/>

⁹ See ComReg 06/69, ComReg’s Approach to Regulatory Impact Assessment, 24 December 2006

- Certain previous Decisions resulting in An Post having to sell certain products below cost;
- The cost and burden imposed on An Post due to ComReg's use of the 13F powers to gather a wide range of information for which there seemed limited regulatory need or application;
- The cost and burden imposed on An Post of providing published Regulatory Financial Statements (RFS) that are among the most detailed of all EU operators and as such cannot be viewed as either proportional or cost justified. Given the level of detail provided in the RFS it is not clear why ComReg appears to ignore the RFS in favour of more time consuming, costly and legally challenging 13F information requests; and
- ComReg has continued to focus on An Post's product service quality but there is limited evidence that this same focus is applied to other postal operators.

2.3 Regulation Priorities

The Draft Postal Strategy Statement does not set out clearly ComReg's priorities and focus areas, and how it intends to allocate its limited resources. We would welcome further information on this to better understand and plan accordingly. In the past we have had concerns over ComReg's regulatory focus and areas prioritised.

For example, An Post had requested that ComReg review the overall pricing regime. As ComReg demonstrates on Page 28 of the Draft Postal Strategy Statement, the requirement for the recent significant price increases at the very least points to a serious problem with ComReg's previous pricing regime and its decision making in this area. This in itself demonstrates a lack of focus of regulation on key issues which has and continues to negatively impact on An Post.

In addition, on a number of occasions in the past we have attempted to gain ComReg's support in addressing the losses on international mail. More specifically

An Post requested ComReg's support to address the issues with regard to Terminal Dues losses¹⁰. ComReg states (Page 6) that there is a "*Need to reduce losses (by negotiating better Terminal Dues agreements) on International Inbound mail*".

ComReg has previously acknowledged that "*An Post's ability to negotiate increased terminal dues tariffs is limited...*"¹¹. Now that domestic tariffs have moved to a more cost orientated basis An Post is working with various stakeholders in the area of Terminal Dues, including ComReg, to address this complex issue. The current Terminal Dues rate of €0.45 (UPU Letters), with a unit cost of €0.69 is unsustainable and must be addressed, with the support of all stakeholders including ComReg.

An Post welcomes ComReg's recent engagement with An Post on this issue and the inclusion of this important topic in the strategy statement.

Introduction of regulatory uncertainty

This Draft Postal Strategy Statement can be seen as introducing additional regulatory uncertainty into the market place, which at this point in time is unhelpful. For example, ComReg states that postal service user requirements, such as next day delivery, are evolving but there are no clear Draft goals set out as to what this might imply. As such there is a lack of clarity over the changes that ComReg is proposing in relation to the USO. This is in addition to ComReg's statements in relation to the continued designation of An Post as the USP and high level mention of potential alternatives. These comments are generating unnecessary uncertainty, as well as being potentially commercially damaging to An Post.

¹⁰ See recent paper from Cullen International on "terminal dues and the sustainability of the postal universal service" which details the impacts on all postal operators, including An Post;

¹¹ Information Notice 16/53, issued in June 2016

2.4 An Post Statement to the Oireachtas

The Draft Postal Strategy Statement states that a statement made by An Post to the *Oireachtas Joint and Select Committee on Communications, Climate Action and Environment* is contrary to information in the An Post's 2016 Regulatory Accounts. This is inaccurate and misleading.

ComReg's statement in the Draft Postal Strategy: "*However, according to An Post's audited 2016 Regulatory Accounts, domestic stamped letter volumes increased by 7% in 2016. This is a reversal of the trend to date and **contrary** to An Post's statement made to the Oireachtas Joint and Select Committee on Communications, Climate Action and Environment*" (emphasis added by An Post). In its evidence before the Oireachtas An Post made no reference, of any sort, to Domestic Stamped Letter volumes. This statement from the ComReg Consultation paper 17/72 has been repeated in Irish and international media articles, is damaging to the reputation of An Post and must be corrected immediately.

2.5 Support for Statements made

The Draft Postal Strategy Statement makes a number of statements and opinions for which the basis cited for making those statements and opinions appear to be oversimplistic and lacking sufficient supporting analysis. These are also inconsistent with An Post's detailed research and analysis in these areas.

Certain statements and opinions, such as on An Post pricing strategies, and associated pricing flexibility are both overly simplistic and also inconsistent with the detailed analysis performed by An Post. A more thorough and detailed econometric analysis is required to properly capture the appropriateness and reasonableness of recent An Post price changes.

We see little in the way of detail on the affordability, cost-orientation or any link with the cost of provision of the USO. It would appear that ComReg bases many of their opinions on one data point which compares the headline letter cost directly with other EU markets. We would strongly argue that this is not the most relevant benchmark. Such a complex area needs much deeper analysis to be performed over a longer time period. This analysis should include adjustments to the headline price including Purchasing Power Parity per country, geographic analysis of the costs of collection and delivery, along with cost adjustment with regard to the provision of the USO. While An Post would acknowledge the commercially sensitive nature of much of this analysis, we would request that ComReg share with An Post any detailed research it has completed to support the stated opinions.

In addition, we note that much of the data presented by ComReg as part of the Trends and Challenges section of this document is of a high level nature and there are many inconsistencies with regard to the periods over which information is provided. For example certain data is presented over a period 2008 to 2016, others 2012 to 2016 and more 2010 to 2016 etc. This makes any high level comments drawing together trends both difficult and also prone to misinterpretation. There is a large quantity of data available from the industry that clearly shows volume decline, ComReg is aware of this data and should take this opportunity to share such data with the readers in setting out their strategy over the coming years.

An Post would also like to draw to ComReg's attention the fact that An Post is currently engaged with ComReg in relation to answering specific queries ComReg had with respect to the 2016 Regulatory Financial Statements, a normal annual process between both parties. As there is duplication with regard to a number of the queries raised in the Draft Postal Strategy Statement and the queries raised separately, we are surprised that ComReg did not wait for a response from An Post, or advise An Post of any urgency with regard to responding, before issuing this Consultation.

2.6 Potentially commercially damaging statements

As a Regulator ComReg plays an important role in the Postal sector and with this comes responsibilities to all stakeholders, including An Post. Thus there is a responsibility on ComReg to avoid making comments which could be misinterpreted or potentially misleading in nature.

The Draft Postal Strategy Statement makes a number of statements and comments which are potentially commercially damaging to An Post. These include comments on An Post's liquidity position, creating doubt over the continued provision of the Universal Service Obligations (USO) by An Post and An Post's stamp and parcel pricing strategies.

ComReg makes reference to what it terms a "*Liquidity Situation*" at An Post (page 25) and to what it considers the "*grave financial and liquidity situation facing An Post*" (page 41). It also states that it has "*publicly noted these concerns since 2012*" (Ref. 16, page 25). Given the duration over which ComReg has had "*these concerns*" it is difficult to understand how this has not been addressed by ComReg to date, in particular through the previous pricing regime. ComReg's statement is damaging to An Post as it raises some concerns on the viability of An Post and the continuation of service provision to customers. This could put An Post at a commercial disadvantage and indirectly encourage customers to further reduce volumes.

This statement is deeply unhelpful as it contradicts ComReg's primary strategic intention #1 "*to ensure the provision of a universal postal service*". In addition, ComReg fails to highlight the improved financial situation with the removal of the ComReg price cap regime.

Continued An Post cost reduction effort

An Post acknowledges the need for innovation with a continuing focus on reducing its cost base. In this regard An Post is undertaking significant efforts and actions to address the financial issues that arise from a decline in mail volumes, while at the same time fulfilling its Universal Service Obligation (USO). This is being undertaken

in conjunction with the Department of Communications (DCCA) and New Era (DPER). ComReg is aware of these efforts and actions but has failed to acknowledge these efforts in the Draft Postal Strategy Statement.

Through its detailed postal regulatory work, ComReg is aware that the reduction of the An Post cost base is not a simple task. ComReg is also aware that there is not a simple linear relationship between the reduction in mail volumes and the ability to reduce costs. In reducing costs An Post has to take into consideration the impact on the USO of any cost reduction programme. There is also a time lag between volume reduction and An Post's ability to redesign its postal network to account for the reduced and changing mix in mail volumes. In addition, there are a number of cost factors which are outside of An Post's control such as the need to implement labour court recommendations in relation to pay increases.

Of particular note is ComReg's continued reference to a 2014 An Post study which highlighted a potential range for An Post's level of inefficiency, and not a set figure, as misleadingly stated by ComReg. We would ask that any detailed analysis completed by ComReg be shared with An Post and we could work together to correct and clarify the misleading statements which have been made by ComReg in this regard.

ComReg document (14/59) states that - "*econometric benchmarking of An Post's **delivery network** revealed inefficiencies in the **range of 7% to 22%**". We would stress that, firstly this analysis is dated as it was performed in 2014. Secondly, it is based only on internal benchmarking. Thirdly, it focuses upon the **delivery network** and not An Post as a whole. Finally, it specifies a broad range across which the delivery network is efficient/inefficient. ComReg presenting the upper bounds (22% in isolation) for the delivery network's cost inefficiency out of context is thoroughly misleading. ComReg has also failed to acknowledge that movement on cost reduction has in itself to be balanced with the continuing provision of the USO. It should also be noted that the wide range was eventually set at a target of 10% over five years by ComReg in the final Price Cap Mechanism (PCM) Decision 14/59.*

Finally, ComReg quotes a number of **high level** examples with regard to the USO, including examples on the universal postal service provision in Denmark and

Germany. It would appear that ComReg is implying that there are simple solutions to the provision of the USO and ComReg has been very selective in its choice of international comparators. These examples have already been shown by An Post to be either irrelevant, in the case of Deutsche Post, or not comparable in the case of the Danish example, to the situation in Ireland. We would encourage ComReg to engage with us and other key stakeholders to enhance the analysis and also the understanding of the USO and the possible strategies which could be employed to maintain and improve the provision of universal postal services in Ireland.

3. Conclusion

The Draft Postal Strategy Statement 2018-2020 is a most important policy document for ComReg and the wider postal market, including An Post. This Strategy Statement must reflect the postal market in Ireland and also respect the principles included in the EU Postal Directive. It is clear that the postal market in Ireland is in decline and the sustainability of the provision of the universal service into the future must be considered in ComReg's Postal Strategy.

Regulation of the postal market must however be appropriate, cost effective and applied equally to all operators, including operators authorised by ComReg¹². ComReg must also prioritise addressing the key issues impacting the sustainability of the provision of the universal service and ensure that the Postal Strategy is aligned with this important principle.

¹² www.comreg.ie/industry/postal-regulation/authorised-postal-providers/authorised-postal-providers-register/

2: Citypost

Commission for Communications Regulation

Draft Postal Strategy Statement

2018 – 2020

Draft Response by CityPOST

Introduction

CityPOST as a licenced postal provider who is actively engaged in the collection, processing and delivery of mail welcome the opportunity to contribute to this consultation. As an observation while we recognise the decline in mail volumes as a challenge it is our belief that there is a substantial opportunity to address some of the key areas that mail services can provide albeit in an environment where competition has been encouraged, supported and allow to flourish. Simply more of the same will fall well short of the needs of postal consumers in Ireland.

CityPOST supports an approach where the regulator takes a longer term view of the market while also addressing the 2018 -2020 period.

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Key Points

1) Competition

For CityPOST the key area that COMREG needs to address is its remit articulated in Strategic Intent 3 namely that “Regulation facilitates the development of competition and innovation...” we hold the view that the failure thus far to address this has seen more than 6 years of missed opportunity to give consumers real choice in one of the few remaining monopoly areas.

There is a well established dominant provider who controls key access elements vital for proper competition and who it appears has no interest or incentive in helping to change the status quo. Nor does there appear to be any material attempt to address this.

We believe that the regulators powers should properly reflect their role in the postal sector and be equal to the other areas of communication regulation for which they have responsibility. It is our ongoing concern particularly with the removal of their authority over ‘the price cap’ that without new powers it is questionable how COMREG will deliver on this strategic intent through effective actions.

Innovation in the postal sector is difficult to envision without basic access issues first being addressed to encourage competition. The absence of a healthy competitive market and a very limited number of 'last mile' competition providers reinforces this, the lack of innovation can be seen as a symptom of the lack of competition brought about by the high barriers to entry for potential competitors.

Much is made of the liquidity issues faced by An Post but the solution to this is in their own gift by tackling their operational costs in Ireland while tackling the issue of terminal dues costs, providing innovative customer centric solutions to secure new business and reduce the decline in mail streams and by also endorsing enthusiastically the benefit that competition will bring for them by creating an urgency in driving the efficiency programme they so clearly need.

More effective competition models exist both in the European postal industry and in other regulated industries. If it is the strategic intention of COMREG to facilitate competition these models should be explored particularly if a review of the USO is envisioned.

What measure can meaningfully be applied to the strategic intent to facilitate the development of competition? The industry needs to see a clear pathway to the delivery of this intent.

We agree with the view that being the long standing national postal provider who is also the USP confers additional competitive advantages to An Post which need to be addressed to properly open the market to competition.

2) USO

The Universal Service Obligation is a matter for the regulator and ultimately the Oireachtas as it needs to reflect the need for social cohesion for the country more than a technical view of a 'de minimis' universal postal service. If COMREG are satisfied that any such change addresses this point and is also used as a lever to address the underlying inefficiencies of the Universal Service Provider who is then properly held to account to address inefficiency, rather than simply remaining inefficient to the same degree as this report states, then there is an opportunity in making a change to the USO. It is noted however that the 'single piece priority mail' targets must also be met as an example of the balanced element of the USPs obligations, this appears largely lost in comparison to the efficiency question.

CityPOST would welcome a review of the Universal Service Provision if this is part of a wider context to create meaningful competition in the market place.

As An Post have identified one loss making element of their operation as the provision of the USO, they must now be able to understand the true cost of those operations and should be able to charge accordingly with perhaps a regional pricing model balanced by making the appropriate cost reductions and efficiency improvements in high density high volume locations. Competitors could then either buy into a Down Stream Access solution which is properly costed or charge a realistic rate to carry out rural deliveries themselves.

For COMREG to consider the provision of the USO on its current or modified terms surely you first need to have created an environment where alternatives exist, it is meaningless to float the possibility to 'consider other arrangements for the provision of the universal postal service' without any alternative. Simply reducing the need to collect and deliver mail every day just changes the scope and scale of the problem rather than addressing it.

While it is the case that the market [and its customers] could service [and accept] a deferred delivery model as opposed to the current USO requirement this of itself does not address key issues that form barriers to entry for any new postal organisation. Examples of these barriers might include;

- A method for dealing with returned mail which does not require a change in customer behaviour which is provided at cost by the dominant player for all parties
- Access to redirection services on the same basis
- Access to locked delivery points or a database that controls these on an equitable basis for all parties
- Access to PO Box services
- A better interpretation of what constitutes a correct delivery address which prevents large scale returned mail for competitors but could allow individual delivery personnel the freedom to deliver mail using local knowledge for their own employer. It is interesting to see regular coverage in the press of mail pieces being delivered despite very poor addressing which is inconsistent with the requirement for correct addressing.

3) Market View

We are surprised at the absence of more references to the opportunities that the postal industry has, research increasingly shows for example, the value of well produced and effectively targeted DM pieces. There is also research that is freely available highlighting that post is 'valued' by people in the 18-30 age range as physical mail pieces are seen as 'important'.

When considering trends and challenges the point is made that some customers believe that e-substitution allows better smoothing of activities like cashflow and resourcing for call centres, in fact it is perfectly possible to achieve the same outcome through reliable mail delivery.

The potential for industrial action is a perceived threat, this appears not to have a current basis in fact, while it cannot be dismissed as a possibility, a significant failure to provide electricity for either infrastructure or industrial action reasons is a perceived threat to the use of electronic communications. In fact there have been a number of more recent 'cyber attacks' which have disrupted electronic communications which are an increasingly common reality while the postal service continues to deliver mail reliably.

One way of addressing the perceived threat of industrial action is to address the lack of competition to provide postal services which then provides alternate carriers for mail.

Mail cannot be looked at in isolation when considering the communications landscape, a well targeted DM piece is often retained for an extended period in a special location by the recipient. It is a complimentary service to electronic communication, it is perceived as having a higher value.

4) Regulatory Regime

When considering the Danish model of postal operations this must be looked at within the context of a significant change in the regulatory regime to facilitate the efficiency gains that have been achieved, a look at the situation in Sweden who are serviced by the same postal administration will demonstrate they have not been able to replicate the model there which is clearly highlighted in their report and accounts as being a consequence of failing to have the same change in regulation

that was required. It is also the case that the postal administration had the means and the will to drive through the changes necessary to achieve this outcome.

They highlight a number of issues/realities that need to be taken into consideration in addition to what they describe as an “antiquated post regulatory environment” in Sweden. They were not achieving their quality gateways in Denmark post change and had issues with perceived quality as well. There was a significant slimming down of their product portfolio and they have also highlighted the need to have suitably skilled managers in the operation and the quality of their current managers needed to improve.

While referencing the lack of a USP in Germany it is important to take this in context in terms of national geography and the distribution of significant population levels as well as the nature of Government below the national tier. It is also believed to be the case that the national carrier received significant Government support in transitioning to its current state.

Within the provision of the USO is a requirement to provide ‘postal services, free of charge to blind and partially sighted persons’. While CityPOST support and applaud the recognition of this need, is it not time to take a wider view about groups in society who have an equal need?

5) Summary

CityPOST hold the view that while there remains a need for a universal postal service in Ireland [Strategic Intent 1] this is not where COMREG should focus its attention [in terms of change] during this period. Likewise while it is also the case that service users can use services with confidence [Strategic Intent 2], this in isolation does not address the critical need of the market.

We strongly believe that attention is now long overdue for Strategic Intent 3 namely the development of competition [and innovation] in the provision of postal services. CityPOST hold the view that the Commission for Communications Regulation needs to exercise to its fullest extent the regulatory powers it current holds while consulting on extending these powers to reflect the same capability that it holds in the wider regulated communications field.

There is an absence of competition in the Irish postal market and this needs to be addressed, consumers deserve choice and this is not thus far available to them at a meaningful level.

Report Ends

CityPOST 2017

3: Communications Workers' Union

SUBMISSION RE:

ComReg 17/72

**Draft Postal Strategy Statement
2018-2020**

September 2017

submitted by

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Head of Regulatory Affairs

**Communications Workers' Union
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Communications Workers' Union Submission:

Response to the Draft Postal Strategy Statement 2018-2020

Introduction

The Communications Workers' Union (hereinafter referred to as "CWU" or "the Union") represents approximately 14,000 workers employed in the communications sector in the Republic of Ireland, of which over half are employed in the Postal & Courier Sectors. The CWU represents staff working in the following postal and courier companies:

- An Post
- UPS
- DPD
- Printpost
- Data Ireland
- IO Systems

As the trade union representing a significant number of workers in the postal & courier markets, the CWU welcomes this opportunity to respond to the Draft Postal Strategy Statement 2018-2020 (hereinafter referred to as "the Strategy Statement") issued by the Commission for Communications Regulation (hereinafter referred to as "ComReg" or "the Regulator").

General Observation

The CWU is struck by the strident tone of this consultation document, which contrasts with previous draft strategy statements. It is alarming to read the cavalier attitude that ComReg appears to be taking to the continued liquidity of An Post and potential break-up of the Universal Service Obligation (USO) and Universal Service Provider (USP) in the context of the removal of the next-day delivery. It should be noted that ComReg was responsible for the regulation of the postal market throughout the period of decline in An Post's cash balance and while it argues that the Regulator "*has no*

prudential function with regard to An Post”, this serves to ignore the price-setting responsibility that ComReg retained.

An Post’s liquidity issues are largely driven by the Company’s need to carry years of losses arising from delivery of the USO. In that time, ComReg would not permit the adequate and necessary price rises that would have allowed the Company to mitigate the burden of the USO. Instead, it chose to limit the commercial freedom of An Post under the auspices of its price mechanism. Without any consideration for the social and economic impacts that might arise, ComReg proposes potential universal service alternatives to An Post if the Company’s liquidity problems persist.

It is interesting to note that control of pricing has now been removed from ComReg as the political and social reality of the challenges facing the USP were drawn into sharp focus in recent months. It is predicted that, on foot of this price rise, the Company is on target to make a modest profit in the mails business for the first time in a long time. One could be forgiven for thinking that the Regulator is less concerned with the current challenges faced by the single, Universal Service Provider and its nine thousand employees, and would be content to see the services broken up and contracted out to a myriad of other operators. These suggestions are alarming and unhelpful in circumstances where the main stakeholders involved in the actual delivery of the postal service are working hard to improve the efficiency of the operation.

Threat of Industrial Action

It is noted in the consultation document *“that large mailers have expressed concerns at their over reliance on An Post. For example, industrial action at An Post could potentially impact future mail flows”*¹. As the main union representing around 90% of An Post staff, the CWU is proud of the fact that there has been industrial peace in the Company for over thirteen years.

¹ ComReg Document No. 16/107 @ <https://www.comreg.ie/publication/research-postal-users-needs/>

This has not come about by accident and is the result of constant hard work and vigilance by both sides to deal with the many challenges that have emerged as the Company has adapted to a fully liberalised postal marketplace and steadily declining mail volumes, driven by fierce competition from other communications formats. Such is the commitment by both management and unions to progressive and pragmatic industrial relations, that the recent Labour Court recommendation on staff reductions in Collection & Delivery includes an acknowledgement of the importance of the new *“industrial relations/industrial peace protocol”*.

Ironically, the most recent adverse impact on the postal service arising from a trade dispute occurred when An Post management effectively shut down the service following a dispute between a third party supplier to An Post and the CWU. It was not as a result of industrial action taken by the CWU in An Post.

The comprehensive recommendation of the Labour Court, which provided for 3.5% pay increases co-funded by efficiencies identified *“the ongoing benefits to the company arising from the new staffing process and the new industrial relations/industrial peace protocol.”*²

The same Labour Court decision provides for a reduction of 290 staff in Collection & Delivery and stipulates that pay increases must be funded by improved efficiency. These efficiencies include new staffing structures and a commitment to conclude talks on reducing the size of the mails processing network by March 2018, taking into consideration the findings of the Company’s report from McKinsey. These recommendations follow on from last year’s changes to the sick pay scheme, reduced redundancy entitlements and a range of other efficiencies.

The fact that such a challenging change agenda that is driving efficiency and reducing head count is happening without serious industrial unrest is a testament to the pragmatic, realistic and professional approach of the unions and their activists.

² LCR 21563 @ <https://www.workplacerelations.ie:443/en/Cases/2017/September/LCR21563.html>

Efficiency Measures

The suggestion on page 30 that An Post is “*up to 22% inefficient*” is disingenuous in the absence of appropriate context. The internal benchmarking by An Post referred to in the consultation document offered a range of between 7% and 22%, and was based on the different challenges faced by an urban and rural office. Cost of delivery to a largely rural population in a country like Ireland is always going to be higher than the costs incurred in countries such as Germany and Denmark, which calls into question the appropriateness of these comparator countries in the consultation document.

In relation to efficiency it would be more pertinent to question the efficiency of ComReg or indeed whether the organisation has a future in its current format. On foot of all the changes that have taken place in the reducing mails market, it is legitimate to review the continued role of ComReg.

Mail volumes have declined by 40% and of the remaining market, the bulk of it is comprised of mail sent by the top thirty mailers who utilise a deferred delivery bulk service, which is not a universal service product and as such is not subject to direct ComReg regulation. In the packets and parcels sector most of these “*originate with ‘Business to Consumer’ large mailers who use commercially negotiated services. As a result, the vast majority of packets and parcels in this sector are not subject to regulation by ComReg, with ComReg’s remit largely limited to universal postal service packet and parcels which are single piece and low volume services.*”

Role of ComReg

ComReg’s role in price setting has been repealed and is now limited to an ex-post review of the market following the recently agreed increases. The Regulator has no role in setting or negotiating terminal dues tariffs and these represent 40% of An Post’s total losses in providing the Universal Postal Service.

There are many challenges facing An Post and the broader postal market, and by its own admission “*for many of these challenges, ComReg has no role or remit*”. In light of this reduced role, it is wholly appropriate to review the current and continued funding of ComReg and its role in the marketplace. We have seen in the past how a limitless budget funded by customers of An Post can lead to questionable decisions.

For example, the threat to fine the company €12 million over quality of service issues which would have wiped out the Company's profits for years and potentially led to huge job losses, to say nothing of the threat to the very service the Regulator was bound by law to protect. In addition to this, the Regulator saw fit to try and micro-manage the postal service by insisting that the Company deliver to a geographic description of a customer's house rather than a postal address. This case resulted in a High Court finding in favour of the Company³. It is fair to ask, in these circumstances, if this is the best use of the ample resources available to ComReg. Perhaps it is time to move the role of compliance and monitoring, which largely defines the role of ComReg, over to the Competition and Consumer Protection Commission, or at the very least benchmark the 'value-for-money' offering it is making against its international comparators and whether the cost of regulation should be reduced accordingly.

³ Irish Independent, *High Court rules post can be only delivered to postal address* (2012) <http://www.independent.ie/irish-news/courts/high-court-rules-post-can-be-delivered-only-to-postal-address-28817426.html>

4: Tico Mail Works

TICO MAIL WORKS RESPONSE TO COMREG DRAFT POSTAL STRATEGY

STATEMENT 2018 – 2020: COMREG DOCUMENT 17/72

By email to: marketframeworkconsult@comreg.ie

Tico Mail Works acknowledges ComReg's Draft Postal Strategy Statement 2018 to 2020 and has noted the comprehensive analysis contained therein.

Tico Mail Works has the following specific comments on the document.

1. Terminal Dues

Tico Mail Works welcomes the section in relation to terminal dues.

We would stress the urgent need for action by An Post, the State and ComReg, in partnership, to secure improvements to the present unsatisfactory situation, where significant annual losses, highlighted by ComReg, are being incurred. We would suggest that such a partnership might take the form of a working group to agree a strategy on the way forward and which could invite input from interested parties.

It is unclear to what extent, if any, Brexit will affect terminal dues but because of the uncertainty around Brexit, it is clearly something that should be kept on the table and subjected to appropriate analysis.

2. Universal Service

Tico Mail Works notes the proposals to revisit the universal service by undertaking the optional statutory review in August 2018. Such a review will allow ComReg to examine the best way forward for the universal service, taking account of the needs of postal service users. Tico Mail Works notes that there would be a prior consultation process, in the event of any changes to the current universal service being proposed by ComReg.

END