

**LICENCE GRANTED TO  
DANIEL ALBERT CHARLESWORTH  
TRADING AS DATARUN**

**DECISION DOCUMENT**

**MAY 2002**

## Summary

On 21 March 2002, the Postal Services Commission (“Postcomm”) issued a consultation notice on the proposal to grant a short term licence to Daniel Albert Charlesworth Trading as Datarun (“Datarun”). Representations on the granting of that licence were requested by 22 April 2002. Postcomm having considered the representations decided to grant a licence to Datarun.

This document summarises the main points of the responses to the consultation and sets out the reasons for the decision to grant a licence to Datarun.

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# 1. Introduction

## **Purpose of this document**

- 1.1 This document explains the outcome of the consultation process undertaken on the licence application received from Daniel Albert Charlesworth Trading as Datarun ("Datarun") and outlines the background to the decision taken to grant a licence to Datarun.

## **Background**

- 1.2 On 26 March 2001 the new regulatory regime for postal services established by the Postal Services Act 2000 came into force. On 28 January 2002 an application was received from Datarun for a licence under Section 11 of the Postal Services Act 2000 ("the Act"). This application was considered under the terms of Postcomm's Interim Approach to Licensing published in April 2001.
- 1.3 On 21 March 2002 Postcomm issued a consultation notice on the proposal to grant a short term licence to Datarun under Section 11 of the Act. This sought views on Postcomm's proposal to grant a licence to Datarun and the form of that licence. Under the terms of the statutory notice, representations regarding the draft licence were requested by 22 April 2002.
- 1.4 The proposed licence covered:
- o The conveyance of publications sector letters, to addresses within the postcode areas B1-3, B6, B15-16, B98, BS1-2, BS8, BS99, EH1-2, G1-2, LS1-3, E1, E14, EC1-4, N1, NW1, SE1, SW1, SW3, SW5-7, SW10, W1-2, W4, W7-11, W14, WC1-2, M1-5, M15-17, M60, WA1, WA3 and WA5, or for conveyance to other postal operators holding licences under the Act containing an obligation to provide a universal postal service.
- 1.5 Postcomm received formal responses or enquiries from three respondents. None of the responses were marked "confidential". A list of those who responded or enquired is attached at Appendix 1. Copies of the responses are held in Postcomm's library.
- 1.6 The responses to the consultation focused on two key areas, including:
- o The consistency of this licence with our market opening proposals; and
  - o Impact on the universal service.
- 1.7 Postcomm gave very careful consideration to the representations received and is satisfied that the granting of this licence, with the safeguards it contains, is a proper exercise of Postcomm's functions under the Act.
- 1.8 This decision document summarises the main points arising from the consultation and explains the basis of our decision to grant a licence to

Datarun in the terms in which it has been issued. In particular it explains the basis of decisions taken in relation to specific aspects of the licence.

**Contact details at Postcomm**

- 1.9 If you have questions about any aspect of this document please contact Shahida Mukhtar or Ros Poulson at:

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## 2. Consultees' representations and Postcomm's views on the representations

### **Support for the grant of Datarun's licence**

#### Consultees' representations

- 2.1 Centaur Communications Limited has responded by signalling its support for the Datarun application.
- 2.2 Postwatch also supports the proposal to issue licences to new operators as they provide new and innovative postal services and will benefit all customers.

### **Consistency with Postcomm's proposals for introducing effective competition**

#### Consultees' representations

- 2.3 Consignia claims that in the preamble to this licence proposal, Postcomm stated that this licence is consistent with its proposals for introducing effective competition, published January 2002. But that the preamble does not state whether it is intended to issue a "large mailing" licence or a "defined activity" licence. Consignia argues that this licence must be regarded as a "large mailing" licence.

#### Postcomm's views

- 2.4 Postcomm has stated in the Statutory notice, at paragraph 3(c) and 3(c)(ii), that the grant of the licence on the terms proposed is consistent with the Commission's January 2002 proposals for promoting effective competition in the UK, which if adopted, will provide for licences for large scale mailings and certain defined activities. We have therefore signalled in the Statutory notice that Datarun could seek a licence for large scale mailings and or for certain defined activities. We do not believe it would be proper, at this stage, to form a final judgement on this categorisation issue, since it will be a matter for the company to decide in due course what form of long-term licence it wishes to seek. The Commission will consider any such application when the time comes.

### **Universal service obligation**

#### Consultees' representations

- 2.5 Consignia argued that the operation described is simply the delivery of letters within the "publications" sector and is entirely substitutable for the letter delivery service offered by the universal service provider, Consignia.
- 2.6 Consignia further argues that the nature of the service provided constitutes a classic cream-skimming opportunity created by the requirement of Consignia to operate its mails services within a uniform tariff structure. It

claims that ultimately progressive cream-skimming could lead to Consignia not being able to meet the requirements of its licence to provide the USO and to finance its functions.

- 2.7 Postwatch states it has no objection to the proposal to grant this licence and that it believes it would have no appreciable effect on the provision of a universal postal service.

Postcomm's views

- 2.8 Postcomm is satisfied that the licence contains adequate safeguards for the universal service. The service restriction allows Datarun to only convey limited mail ancillary to an area of the postal market that falls outside the reserved area. In considering the potential impact on the universal service, Postcomm has taken into account the one year duration of this licence and Datarun's revenue estimate which amounts to a fraction of 1% of Consignia's annual turnover. Neither this in itself, nor when considered with the revenues which may be earned by other existing licence holders, is likely to have an appreciable effect on Consignia's ability to continue to provide the universal service.

### 3. Postcomm's decision

#### **Background**

- 3.1 In taking the decision to grant the licence to Datarun, we considered the responses received to the consultation notice and for consistency considered our proposals for promoting effective competition in the UK postal services which were published in January 2002.

#### **Changes to the consultation draft licence**

- 3.2 Postcomm reconsidered the service restriction in condition 2 and felt that it would benefit from re-wording to tighten it up and make it clearer. The changes do not affect the services to be offered under the licence.

#### **Assessment of impact on the universal service Safeguards**

- 3.3 Because of -
- a. the short term nature of the proposed licence, and
  - b. the restrictions on the activities that may be conducted by Datarun
- we felt that it was highly improbable that they will have any discernable effect on the continued provision of the universal service.
- 3.4 We considered the projected turnover figures (£540k per annum) provided by Datarun and having taken into account the level of business under the licence we believe that a realistic estimate of the licensed business's revenue amounts to a fraction of 1% of Consignia's turnover.

#### **Safeguards**

- 3.5 We have drafted the Datarun licence in such a way as to restrict the extent to which the business permitted by the licence can be developed.
- 3.6 This supplements the safeguard provided by our ability to terminate the licence after a year. Although, Postcomm has considered this licence in line with the its new long term market opening policy, Postcomm has made clear to Datarun that it will need to apply for a new licence under that policy in due course. Datarun cannot assume that the terms of any new licence will be the same as for the licence now granted. Terms and conditions appropriate at that time to safeguard the universal service will need to be included in any extended or renewed licence.

#### **Competition**

- 3.7 We believe that the grant of the licence would further the interests of users of postal services by promoting competition and would encourage efficiency on the part of the postal operators.

#### **Ability to finance licensed activities**

- 3.8 We are satisfied that Datarun can finance the proposed licensed activities and that the grant of the licence would not prevent any other licence holder from financing the activities authorised or required by its licence.

## **Decision**

- 3.9 Our overall assessment of the points made about the way the licence is expressed, the conditions and the duration, is that the licence should be granted, with the slightly re-worded condition 2, for a one year period. We concluded that to grant an interim licence to Datarun is a proper exercise of our functions under the Act in that it would have no adverse effect on the provision of the universal service and would further our duty in relation to the interests of consumers and competition. We therefore decided to grant the licence.

## Appendix 1

Responses to the consultation notice were received from the following bodies/individuals:

1. Centaur Communications Limited
2. Consignia plc
3. Postwatch