

# **Royal Mail's Mail Integrity Procedures: Imposition of Penalty**

August 2006

## Summary

- S1 This report sets out Postcomm’s assessment of the representations it received on the proposed variation of financial penalty to be imposed on Royal Mail in respect of contraventions of Condition 8 of its licence, relating to the integrity of the mail. It confirms the imposition upon Royal Mail of a financial penalty of £9.62 million and includes a copy of the formal Notice of Imposition (Annex A).
- S2 The licences of all postal operators contain obligations in respect of mail integrity. Users of mail services need to be confident that postal operators are taking appropriate steps to safeguard the security of the mail entrusted to them.
- S3 In essence, at the relevant time, the obligation in Condition 8(4) of its licence required Royal Mail to use all reasonable endeavours at all times to apply the mail protection procedures (“the Procedures”) that it had created. The Procedures were designed to minimise all forms of mail loss, damage, interference and theft. The Procedures contained much guidance for management of processes such as recruitment, vetting and training which, if applied, should have minimised losses of mail items. In the event that Royal Mail amended the procedures at any time, Royal Mail was required formally to notify Postcomm of the changes in accordance with Condition 8(5).
- S4 During the course of 2004/5 Postcomm conducted a review (“the Review”) of Royal Mail’s application of its Procedures. In February 2006, Postcomm published a report (“the February report”) on its Review. As a result of the Review, Postcomm found that Royal Mail was in breach of Condition 8(4) of its licence because, in a significant number of areas, it had not used all reasonable endeavours at all times to apply its Procedures. Postcomm also found that Royal Mail had failed to follow the required processes in changing its Procedures as required by Condition 8(5) of its licence. On publishing the February Report, Postcomm published a notice proposing a financial penalty of £11.38 million in respect of the licence breaches and set a timescale of

28 days within which representations should be made. Representations were received from several interested parties, notably Royal Mail, Postwatch, the Communications Workers Union (CWU), The Mail Users Association and the Mayor of London, as well as individual representations from and on behalf of mail users and postal employees.

S5 In May 2006, after careful consideration of the representations Postcomm proposed to impose a varied penalty of £9.62 million. On 16 June 2006 Postcomm published its decision explaining the variation to the proposed penalty (“the June report”) and a formal Notice of Variation, inviting representations by 30 June 2006. Representations were subsequently received from Royal Mail and Postwatch.

S6 In its representations, Royal Mail addressed two issues in addition to those it had set out in its earlier representations, namely:

- whether Postcomm had given sufficient reasons for the exercise of its judgment in determining a level of penalty by reference to Royal Mail’s ability to reduce the level of mail interfered with, lost, damaged or stolen by complying with Condition 8(4) of its licence; and
- whether Postcomm had relied upon a continuing licence contravention in assessing a penalty and whether Postcomm had any evidence of continuing licence contravention.

S7 At its Commission meeting in July 2006 Postcomm considered all the representations it had received. Postcomm had regard to the seriousness of Royal Mail’s failings and the consequences of those failings in terms of mail that had been interfered with, lost, damaged or stolen. Postcomm’s assessment of Royal Mail’s representations is set out in section 2 below. After careful consideration of those representations, Postcomm remains of the view that a penalty of £9.62 million is reasonable having regard to the seriousness of Royal Mail’s

failings and proportionate to the objective of incentivising Royal Mail to comply with its mail integrity obligations both now and in the future.

S8 Postcomm now therefore imposes a penalty of £9.62 million. Formal Notices of Imposition of the penalty have been served on Royal Mail and Postwatch, and a copy published on Postcomm's website. Royal Mail has been given until 12 October 2006 to pay the penalty in full.

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# 1. Introduction

## ***What is Postcomm?***

- 1.1 The Postal Services Act 2000 (“the Act”) established the Postal Services Commission (“Postcomm”) as the regulatory body for the postal services industry in the United Kingdom. Postcomm’s business plan, which can be found on its website [www.psc.gov.uk](http://www.psc.gov.uk) gives details of its duties, functions, objectives and work programme.

## ***Postcomm’s statutory duties***

- 1.2 Postcomm’s universal service duty is to act in a manner which it considers is best calculated to ensure the provision of a “universal postal service”. The universal postal service consists of the delivery and collection of postal packets (not exceeding 20 kilograms in weight) at least once every working day and the provision of a registered postal service, all at affordable prices which are universal throughout the UK.
- 1.3 Subject to this, Postcomm is also charged with furthering the interests of users of postal services, wherever appropriate by promoting effective competition between postal operators. In doing so, Postcomm must have regard to the interests of those who are disabled or chronically sick, are of pensionable age, are on low incomes or who reside in rural areas.
- 1.4 Subject to both the duties above, Postcomm has a further duty to exercise its functions in a manner which it considers is best calculated to promote efficiency and economy on the part of postal operators.
- 1.5 Finally, in performing all its functions, Postcomm must have regard to the need to ensure that licensees are able to finance the activities authorised or required by their licences.

## **Background**

- 1.6 On 10 February 2006, Postcomm published a report<sup>1</sup> setting out the results of its Review regarding Royal Mail's application of its Mail Integrity Procedures. These Procedures were developed by Royal Mail to meet the obligations that were contained in its licence, up to 31 December 2005<sup>2</sup>. Condition 8 of Royal Mail's licence, as granted in March 2001, required Royal Mail to establish the Procedures to minimise the risk of loss, theft, damage or interference to mail, and to improve its performance in these areas (Condition 8(2)). Having established the Procedures, the purposes of which are further explained in Condition 8(3) of the licence, Royal Mail was then required to "use all reasonable endeavours at all times" to apply them (Condition 8(4)). If the Procedures were amended or required amendment at any time then Royal Mail was required to notify Postcomm formally in accordance with Condition 8(5) of the licence.
- 1.7 Mail integrity is recognised as a key issue for the postal industry – customers will not use an operator if they do not have confidence in its ability to safeguard their mail. Ensuring mail integrity is central to Postcomm's duty to further the interests of all senders and recipients of mail, both business and domestic, since it underpins the requirement in any postal market that mail users know that there are systems in place to ensure, so far as is possible, that mail reaches the intended recipient without interference. Mail as a medium of communication will be affected if customers lose confidence in it, and that would be to the detriment of the whole postal industry.

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<sup>1</sup> Royal Mail's Mail Integrity Procedures: Report on Review by Postcomm. Published February 2006

<sup>2</sup> From 1 January 2006 these obligations have been replaced by new obligations in relation to the Mail Integrity Code. A copy of Royal Mail's licence is available on Postcomm's website at [www.psc.gov.uk](http://www.psc.gov.uk)

1.8 Postcomm found that Royal Mail was in breach of its licence because, in a number of significant areas, it did not use all reasonable endeavours at all times to apply its Procedures. These areas fell under four broad headings, all of which were breaches of Condition 8(4) of Royal Mail's licence:

- Recruitment of staff through non-panellist agencies,
- Loss prevention management,
- The lack of effective use of data, and
- The general lack of monitoring mechanisms.

1.9 Postcomm also found that Royal Mail had contravened Condition 8(5) of its Licence in that it had failed to follow the change control process for the Procedures set out in its licence.

1.10 Postcomm considered these to be serious contraventions by Royal Mail of its licence obligations, and accordingly proposed a penalty of £11.38 million.

1.11 In accordance with section 32 of the Act, a Notice of Proposed Financial Penalty was served on Royal Mail and Postwatch and published on Postcomm's website. A deadline of 10 March 2006 was set for representations to be received by Postcomm about the proposed penalty.

1.12 Postcomm considered these representations in May 2006. In the light of the representations on the amount of the penalty and calculation methodology. Postcomm refined and revised its calculation methodology taking appropriate account of the diverse views. Postcomm concluded that a penalty of £9.62 million was reasonable given the seriousness of Royal Mail's failings and was proportionate to Postcomm's objective of incentivising licence compliance. On 16 June 2006, in accordance with section 33 of the Act, Postcomm served a Notice of Variation of proposed financial penalty on Royal Mail and published its decision in the June report.

1.13 The period for representations closed on 30 June 2006 and representations were received from Royal Mail and Postwatch.

1.14 The Review's process is set out fully in Chapter 3 of the February report. The chronology of the Review and formal interaction with Royal Mail were summarised in the June report. For completeness the additional items in the chronology are:

- June 2006 - Report published including Notice of Variation of proposed financial penalty with representations due by 30 June. Written representations were received from Royal Mail and Postwatch.
- July 2006 - Commission review and decision.

### ***Purpose of this document***

1.15 This report sets out Postcomm's assessment of the representations received about its proposal to vary the amount of the proposed financial penalty and the reasons in support of its decision to impose the penalty in this varied amount.

1.16 Postcomm received representations from Royal Mail and Postwatch. Neither response was confidential. Copies of both responses are on Postcomm's website.

1.17 Note that all Postcomm publications referred to in this document are available on its website. Hard copies can be requested from Dionne Maneh on 020 7593 2115 or [dionne.maneh@psc.gov.uk](mailto:dionne.maneh@psc.gov.uk)

### ***Next steps***

1.18 Postcomm has given notice of the imposition of penalty pursuant to section 32 of the Act by serving the Notice on Royal Mail and Postwatch on 24 August 2006. A copy of the Notice is at Appendix 1.

1.19 Section 32 of the Act requires that a period of not less than forty two days (starting with the date of the service of the notice) is allowed for Royal Mail to pay the penalty. Royal Mail has been given until 12 October 2006 to pay the penalty in full.

1.20 Any enquiries about the contents of this report may be made to Fran Gillon.

E-mail: [Fran.Gillon@psc.gov.uk](mailto:Fran.Gillon@psc.gov.uk)

Phone: 020 7593 2100.

## 2. Assessment of Representations

### ***Postwatch's representations***

2.1 The Postwatch representations were supportive of Postcomm's decision to impose a penalty and expressed the view that a penalty figure of £9.62 million "*sends the right message to Royal Mail's management*". In its response to the February report, Postwatch had sought greater clarification of one aspect of Postcomm's approach to assessing the penalty figure. As a consequence of seeing the June report, setting out the proposed variation, Postwatch then concluded that Postcomm's approach to assessing the penalty "*was a reasonable one*".

### ***Royal Mail's representations***

2.2 Royal Mail's representations raised two issues in addition to the issues that had been raised formally during the Review and in response to Notices served by Postcomm after the Review:

- whether Postcomm had given sufficient reasons for the exercise of its judgment in determining a level of penalty by reference to Royal Mail's ability to reduce the level of mail interfered with, lost, damaged or stolen by complying with Condition 8(4) of its licence; and
- whether Postcomm had relied upon a continuing licence contravention in assessing a penalty and whether Postcomm had any evidence of continuing licence contravention.

### ***Assessment of Royal Mail's representations***

2.3 Postcomm has had regard to all of the representations it has received. In particular, Royal Mail made representations at the Hearing held on 8 December 2005 and in response to the February and June reports. In exercising its power to impose a penalty, Postcomm has sought to assess a figure that is reasonable having regard to the seriousness of Royal Mail's failings and proportionate to the objective of incentivising Royal Mail to comply with its mail integrity obligations both now and in the future.

2.4 In assessing a penalty figure Postcomm has had regard to its Statement of Policy on Financial Penalties. Postcomm stresses that whatever penalty calculation methodology it adopts, the penalty figure is ultimately assessed for its reasonableness and proportionality as set out in paragraph 2.3 above. As stated in paragraph 18 of the Statement of Policy, "*Postcomm will then [that is, once it has generated a figure with a calculation methodology]– review the resulting figure generally with a view to considering whether it is reasonable and proportional in the circumstances of the case*".

***The impact of using all reasonable endeavours at all times to apply the Procedures***

- 2.5 Postcomm's calculation methodology assumed that if Royal Mail had complied with Condition 8(4) it would have been able to reduce the level of mail that had been interfered with, lost, damaged or stolen (estimated to be 15.76 million items in 2004/5). An international bench-marking exercise was conducted which did not yield any direct comparators, but did illustrate that universal service operators in some other European Member States had achieved substantially lower levels of lost mail. In the absence of obvious comparators, and noting that no respondents to the February report had provided any justification for an alternative figure, Postcomm retained a 50% figure for the potential impact of licence compliance in order to generate a varied penalty figure. The resulting penalty figure was then subjected to an assessment of reasonableness and proportionality.
- 2.6 Royal Mail's latest representations concern the appropriateness of the use of the 50% figure in the penalty calculation methodology. In Postcomm's view, the penalty calculation methodology represents an appropriate step in the overall assessment of a penalty which ultimately produced a figure that was reasonable having regard to the seriousness of Royal Mail's failings and proportionate to the objective of incentivising Royal Mail to comply with its mail integrity obligations both now and in the future.
- 2.7 The factors used by Postcomm in the calculation of the penalty figure were merely tools and not in themselves the basis for the imposition of a penalty. Postcomm was guided by its Statement of Policy on Financial Penalties in having regard to the burden Royal Mail had imposed on others as a result of its licence compliance. Mail that has been interfered with, lost, damaged or stolen imposes a burden on mail users.

- 2.8 Postcomm concluded that it would be unreasonable to assume that compliance with Condition 8(4) at the relevant time would have enabled Royal Mail to ensure that no mail was interfered with, lost damaged or stolen. Equally, given the seriousness of Royal Mail's failings, Postcomm considered that it was reasonable to infer that, had those failings not occurred, a substantial volume of mail which was interfered with, lost, damaged or stolen, would have been safely delivered. Any attempt to quantify possible consequences of licence compliance must, necessarily, be an approximation.
- 2.9 Postcomm's methodology has involved a number of assumptions which are favourable to Royal Mail. For example, in Postcomm's view it is more likely than not that Royal Mail's licence non-compliance persisted for well over a year but, nonetheless, the penalty has been assessed by reference to annual loss figures for the year 2004/5 only. Furthermore, Postcomm remains of the view that Royal Mail received a financial benefit by failing to apply the Procedures, but Postcomm has not attempted to quantify that benefit as an additional element to the penalty.
- 2.10 Postcomm's penalty calculation methodology incorporated a process designed to acknowledge the burden that Royal Mail's failings placed on mail users by assessing a notional value for lost mail. Postcomm adjusted its notional value in the light of the representations it received to the February report, and notes that Royal Mail has not made any comment regarding the revised notional value set out in the June report.
- 2.11 Postcomm is content that it has given adequate reasons in support of the exercise of its judgment and further asserts that the explanation as to the limitations of the data about other operators and its subsequent exercise of judgment, as set out in the June report, remains appropriate.

2.12 Postcomm acknowledges that there were errors in the percentage figures set out in the table at Annex 2 to the June report, for both Denmark and Portugal. There were also some minor anomalies created by inconsistent rounding which have been corrected. The corrected figures are at Appendix 2. For the purposes of Royal Mail's representations, the figures for Denmark and Portugal have changed from 87% to 98.22% and 85% to 98.49% respectively. The effect of these changes is to illustrate that the extent to which these countries' mail operators experienced lower losses than Royal Mail was in fact understated by Postcomm in its June document. By way of illustration, for every million letters that Royal Mail handles it estimates that it loses 730 of them. The Danish postal operator's estimate of losses for an equivalent volume of mail produces a figure of 13 items. The figures provided by Portugal indicate that the postal operator there loses 11 letters for every million that it handles. Postcomm has treated these figures with caution since there are different definitions and measures of "loss" in each country. Nevertheless, some postal operators in Europe have achieved low levels of loss.

2.13 Having considered Royal Mail's representations, Postcomm remains of the view that the figure of 50% is reasonable. It represents a substantial burden imposed on mail users by Royal Mail's failings, whilst recognising that some mail losses are inevitable even if all reasonable endeavours are used at all times. Royal Mail's representations regarding the penalty calculation methodology do not undermine Postcomm's conclusion as to the amount of the penalty set out in the June report. Postcomm noted that Royal Mail has been unable to put forward an alternative penalty calculation methodology which it believes will more accurately lead to the assessment of a penalty that is reasonable and proportionate.

### ***Continuing non-compliance with mail integrity obligations***

- 2.14 Postcomm considers that Royal Mail's assertion, in its most recent representations, that it has not been in breach of the Mail Integrity Code is incorrect. Royal Mail told Postcomm in November 2005 that it would not be compliant with the new Condition 8 on 1 January 2006, and presented to Postcomm its strategy for moving towards compliance with the new licence condition. Royal Mail had a further meeting with Postcomm in December 2005, again discussing how it would seek to achieve compliance after 1 January 2006.
- 2.15 Royal Mail has continued to inform Postcomm of its progress towards achieving compliance with the Code throughout the first half of 2006. In July 2006 Postcomm invited Royal Mail to indicate whether or not it now considered itself to be in compliance with the Mail Integrity Code. Royal Mail did not answer that question directly but stated that it could "*provide assurance, however, that the structures, policies and procedures which it has designed to meet the requirements of the Code are in place*".
- 2.16 Postcomm has made no finding as to whether Royal Mail is currently in compliance with the Mail Integrity Code.
- 2.17 Postcomm's published reports have clearly drawn the distinction between the Condition 8 requirements existing before, and after, 1 January 2006. The Review, and its subsequent findings, relate to Condition 8 as it applied up to 31 December 2005 and the penalty is solely in respect of past breaches. In accordance with the Statement of Policy, Postcomm has only sought to impose a penalty having satisfied itself that there has been non-compliance with Conditions 8(4) and 8(5) of the licence (as applied up to 31 December 2005).

2.18 The fact that Royal Mail has told Postcomm that it would not be compliant with the Mail Integrity Code means that Royal Mail is, or may have been, technically in breach of its licence. However, Postcomm has made no findings in relation to compliance with Condition 8 (after 1 January 2006) and this was therefore not a factor in the calculation of the penalty. Nevertheless, Postcomm considers that part of the justification for imposing the penalty is the need to incentivise compliance. There is no need for a licensee to be in current contravention of a licence condition to justify incentivisation of the achievement and maintenance of licence compliance.

2.19 Postcomm has concluded that there was no substance in Royal Mail's assertion regarding reliance on continuing licence contravention. Moreover, Postcomm asserts that the seriousness of the past breaches, and Royal Mail's own admissions with regard to current non-compliance, are relevant factors in concluding that the level of the penalty is both reasonable and proportionate to incentivise Royal Mail to comply with its current mail integrity licence obligations.

### **3. Imposition of Financial Penalty**

- 3.1 In reaching its final determination as to the level of penalty to impose on Royal Mail, Postcomm has re-assessed the reasonableness and proportionality of the imposition of a penalty in the sum of £9.62 million, in respect of the contraventions of Conditions 8(4) and 8(5) of its licence that Postcomm had found and later confirmed at its meeting in May 2006. The decision to vary the proposed penalty followed Postcomm's consideration of the representations it received to the proposed penalty figure of £11.38 million. Postcomm believes that the imposition of a penalty of £9.62 million is justified.
- 3.2 Postcomm set out in the June report its analysis of why it considered that a penalty at the level of £9.62 million was reasonable having regard to the seriousness of Royal Mail's failings and proportionate to the objective of incentivising Royal Mail to comply with its mail integrity obligations both now and in the future. Postcomm has considered the minimum amount that might incentivise Royal Mail to address the issues seriously on an ongoing basis. None of the representations received in March or June 2006 suggested any alternative figure or indeed any alternative calculation methodology.
- 3.3 In exercising its judgment in May 2006, Postcomm was confident that the variation would not produce a penalty that was too low to achieve the aim of making Royal Mail's management acknowledge the previous failure and continue to make the necessary improvements towards compliance with the new Licence condition. It was also mindful of the concerns, albeit unsubstantiated, that too high a penalty might undermine Royal Mail's investment plans. Postcomm notes that Postwatch is of the opinion that a penalty of £9.62 million would send the appropriate signal to Royal Mail's management.

- 3.4 Postcomm reconsidered the appropriateness of the level of penalty at its meeting in July 2006, having regard to the representations it had received. In Postcomm's judgment none of the representations in response to its proposed Notice of Variation undermined the position it took in May 2006. Postcomm is therefore confident that this is the appropriate level of penalty to meet the regulatory balance it is required to achieve.
- 3.5 Postcomm believes that, in imposing a penalty in this amount, its statutory duties in respect of the quality of the universal service and protecting the interests of all mail users will be better discharged.
- 3.6 Therefore, Postcomm has determined that £9.62 million is a reasonable and proportionate level of penalty having regard to the seriousness of the breaches and the need to incentivise continuing compliance by Royal Mail with its mail integrity obligations.
- 3.7 Postcomm relies upon the totality of this document and the February and June reports as setting out the facts supporting its findings of licence breach and its assessment of the seriousness of those breaches, and on this document and the June report in relation to its assessment on the appropriate level of penalty.
- 3.8 Having given due consideration to the method of payment by Royal Mail and whether it is appropriate in the circumstances for the amount to be paid in instalments, in the light of Royal Mail's operating profit in 2005/6 of £355 million, Postcomm has concluded that the penalty should be paid in one lump sum. Postcomm notes that it has received no representations from Royal Mail seeking to pay the penalty in instalments.

## **4. Conduct of Review**

- 4.1 In exercising its functions in relation to this Review Postcomm confirms that it has acted in accordance with its statutory duties and the relevant provisions of the Act. The conduct of the Review, including all considerations and determinations by Commissioners, has been in accordance with Postcomm's Code of Practice for the discharge of its functions. In particular Postcomm has endeavoured to ensure that all its decisions have been soundly based in fact and procedurally fair. Throughout the process Postcomm has given Royal Mail an indication of the facts upon which it was proposing to rely. Furthermore Postcomm informed Royal Mail of its in principle "minded to" decision. It then gave Royal Mail the opportunity of a hearing which took place on 8 December 2005.
- 4.2 In determining and imposing a financial penalty, Postcomm has had regard to its Statement of Policy on Financial Penalties.
- 4.3 Postcomm has imposed a penalty which is reasonable having regard to the seriousness of Royal Mail's failings and proportionate to the objective of incentivising Royal Mail to comply with its mail integrity obligations both now and in the future. Neither the method of calculation nor the amount should be treated as establishing a precedent for the treatment of any licence contravention in the future.

**Appendix 1 Notice of imposition of financial penalty**

**POSTCOMM**

(THE POSTAL SERVICES COMMISSION)

**POSTAL SERVICES ACT 2000**

SECTIONS 30, 31, 32 AND 33

**NOTICE OF IMPOSITION OF  
FINANCIAL PENALTY**

TO BE PAID BY

**ROYAL MAIL GROUP PLC**

August 2006

**POSTCOMM**  
**(THE POSTAL SERVICES COMMISSION)**  
**POSTAL SERVICES ACT 2000**  
**SECTIONS 30, 31, 32 AND 33**  
**NOTICE OF PROPOSED FINANCIAL PENALTY**  
**TO BE PAID BY**  
**ROYAL MAIL GROUP PLC**

**Whereas –**

- (1) Royal Mail Group plc, company number 4138203, having its registered office at 148 Old Street London EC 1V 9HQ (“Royal Mail”) is the holder of a licence (“the Licence”) granted by the Postal Services Commission (“Postcomm”) under section 11 of the Postal Services Act 2000 (“the Act”) on 23 March 2001.
- (2) The Licence was amended on 31 March 2003, 2 November 2005 and 25 May 2006.
- (3) The version of the Licence to which this Notice refers is that which was extant prior to 1 January 2006 (“the 2005 Licence”).
- (4) It was a requirement of paragraph 1 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(1)”) that Royal Mail shall at all times maintain mail protection procedures for the purposes set out in paragraph 2 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(2)”).
- (5) The purposes for the establishment and maintenance of the mail protection procedures referred to in Condition 8(2) were-
  - a) minimising the exposure of postal packets conveyed by Royal Mail to the risk of loss, theft, damage and interference,
  - b) minimising the risk of offences under sections 83 and 84 of the Act occurring in relation to postal packets and mailbags conveyed by Royal Mail, and

- c) improving the performance of Royal Mail in relation to the matters referred to in sub-paragraphs (a) and (b) above.
- (6) Royal Mail could have made modifications to its mail protection procedures at any time provided that –
  - a) the mail protection procedures, with the proposed modifications would, in the reasonable opinion of Royal Mail, better facilitate the achievement of the purposes set out in paragraph (5) above,
  - b) Royal Mail had given not less than 3 months notice in writing of the proposed modifications to Postcomm and the Consumer Council for Postal Services (“the Council”), and
  - c) Postcomm, within that notice period, had not served notice in writing on Royal Mail requiring that the proposed modifications be not made.
- (7) It was a requirement of paragraph 4 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(4)”) that Royal Mail use all reasonable endeavours at all times to apply its mail protection procedures.
- (8) During 2004 and 2005 Postcomm conducted a review of Royal Mail’s use of all reasonable endeavours at all times to apply its mail protection procedures.
- (9) In the course of its review, Postcomm became aware of a possible failure by Royal Mail to comply with Condition 8(5) of its licence.
- (10) On the basis of information obtained in the course of Postcomm’s review, Postcomm concluded in January 2006 that Royal Mail had contravened Conditions 8(4) and 8(5) of the 2005 Licence and that it should propose the imposition of a financial penalty.
- (11) In a report published on 10 February 2006 (“the February Report”) Postcomm set out the facts it relied upon in reaching its decision as to the contraventions of the 2005 Licence and formally gave notice of its proposal to impose a financial penalty in the sum of £11,380,000.
- (12) Postcomm received a number of representations in response to its formal notice proposing to impose a financial penalty.

- (13) Having considered those representations, in May 2006 Postcomm confirmed its findings that Royal Mail had contravened Conditions 8(4) and 8(5) of the 2005 Licence and decided that the proposed penalty should be varied to the sum of £9,620,000 in accordance with section 33 of the Act.
- (14) In a report published on 16 June 2006 (“the June Report”) Postcomm set out its analysis of the representations it had received to the February Report and Notice and gave reasons for its decision to vary the proposed penalty, providing a period up to 30 June 2006 for the receipt of representations regarding the Notice of Variation of the proposed penalty.
- (15) In July 2006 Postcomm considered the representations it received to the June report and accompanying Notice of Variation of proposed penalty and decided that the proposed penalty should be varied and imposed in the sum of £9,620,000.
- (16) On the basis of information obtained in the course of Postcomm’s review, and the representations received on the Notice of Variation referred to in paragraph (14) above, Postcomm is still satisfied that Royal Mail did contravene Conditions 8(4) and 8(5) and, for the reasons stated in the Notice of Variation, that the proposed financial penalty should now be imposed in the varied sum in accordance with section 30 of the Act.

**Now therefore pursuant to sections 32 and 33 of the Act and having had regard to its statement of policy under section 31 of the Act, Postcomm hereby gives notice as follows –**

1. Postcomm has imposed a financial penalty on Royal Mail.
2. The amount of the penalty is £9,620,000.
3. The conditions which Postcomm is satisfied have been contravened are Conditions 8(4) and 8(5) of the 2005 Licence.

4. The acts or omissions which the Postcomm considers constitute contraventions of each of these conditions are –
  - (a) the lack of any apparent process to manage and monitor the recruitment of staff through agencies categorised by Royal Mail as “non-panellists” including the failure of Royal Mail to have in place a standard form contract with non-panellists and to conduct any form of audit in relation to compliance by those agencies with their contractual arrangements so as to ensure that staff recruited through non-panellists were subjected to selection, vetting and initial training processes which are appropriate for the purposes of Condition 8 of the 2005 Licence,
  - (b) the failure of Royal Mail to have in place, and to monitor the effectiveness of, a cross-functional team of key appointments from within the commercial, operational and security elements of its business working closely to co-ordinate loss management activities as set out in its mail protection procedures,
  - (c) the failure of Royal Mail effectively to use data to facilitate strategic security planning and deployment of security strategy,
  - (d) the general failure of Royal Mail to have in place effective mechanisms for monitoring its application of the Procedures, and
  - (e) the failure of Royal Mail to notify Postcomm of changes to its mail protection procedures as required by Condition 8(5) of the 2005 Licence.
  
5. Other facts which Postcomm considers justify the imposition of a penalty and the amount of the penalty are the facts set out in the Report which accompanies this Notice, the February Report, and the June Report and Postcomm relies on the totality of the three reports insofar as facts contained in them are not referred to in this Notice.
  
6. The penalty is required to be paid in one instalment by banker’s draft payable to Postcomm at Hercules House, 6 Hercules Road, London SE1 7DB.

7. The date by which the penalty is required to be paid is by 12:00 noon on Thursday 12 October 2006.
  
8. This Notice shall be construed in the same manner as the 2005 Licence and in the event of any inconsistency between the meaning of terms or expressions used in this Notice and the meaning of terms and expressions used in the reports referred to in paragraph 5. above, the meaning applicable for the purpose of this Notice shall prevail.

The Seal of the  
Commission  
hereunto  
affixed is  
authenticated  
by –

Authorised for that purpose  
by the Commission

Dated 24 August 2006

## Appendix 2 International Benchmarking corrections

Country of USP	Figure used in June report	Actual Percentage
France	18%	17.81%
Portugal	85%	98.49%
Hungary	“approximately 30%”	31.51%
Czech Republic	Not stated	6.16%
Slovenia	97%	96.58%
Denmark	87%	98.22%