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Licensing Framework in a Fully Open Market

1. DX Network Services Ltd welcomes the opportunity to comment on Postcomm's proposals for a licensing framework in a fully open market.
2. Our views on the detailed questions posed in the consultation document are fully reflected in the response you have received from the Mail Competition Forum, and I will therefore not repeat them here. There are however three points to which we attach particular importance and on which I would like to set out our thinking in a little more detail.

Mail integrity

3. Given that the exclusive focus of DX Network Services Ltd for the past 30 years has been on the overnight delivery of business to business mail, we are acutely aware of the importance which our customers – and in turn their customers, the recipients – attach to the security of their business-critical postal communications. We accept of course that however effective the measures we put in place there will always be scope to improve them still further, and we will continue to welcome the involvement of Postcomm in helping us to achieve that. If a major breach of security affecting the integrity of mail were to occur, we would regard it as both appropriate and helpful for Postcomm to be involved, particularly given Postcomm's ability as a prosecuting authority to deal with wrongdoers. In the period following 1 January 2006 there may be an influx of new competitors entering the market, and in these circumstance a Code of Practice spelling out what needs to be achieved to ensure compliance with the provisions of Sections 83

and 84 of the Postal Services Act 2000 may be both helpful to new entrants and reassuring to customers generally.

4. We do however also have a number of concerns. First, whilst we accept that Postcomm has a role in spelling out – whether by a Code of Practice or by other means – what operators need to achieve to represent reasonable endeavours to comply with the provisions of the Postal Services Act 2000, it must be no part of Postcomm’s role to tell operators how they must achieve it (though in practice we would expect Postcomm’s advice to be both welcome and freely sought).

5. Second, the provisions of the Postal Services Act 2000 in respect of the integrity of mail apply to mail items “postal packets” across the spectrum of the postal market, not just to letters within the licensed area. It will be important that any measures that apply to licensees, especially in respect of mail outside the licensed area, are applied and are seen to be applied equally to all postal operators including Royal Mail. In other words Postcomm must not seek to impose on licensees measures that realistically could not be enforced on the remainder of the sector.

6. Third, and also related to the need for equality of treatment, we believe that it will be unreasonably onerous on licensees, unenforceable elsewhere, a strong incentive to avoid applying for a licence, and entirely unmanageable from Postcomm’s own perspective, to include a requirement for each and every security incident involving mail to be reported individually to Postcomm. We believe that the support of licensees for a Code of Practice will not be forthcoming unless there is a clear and reasonable limit below which incidents do not have to be individually reported. Such a limit would of course not preclude operators from inviting Postcomm’s involvement in incidents below the threshold where particular circumstances appeared to merit it.

Quality of service reporting

7. We have fundamental reservations about any proposal to introduce any form of standardised quality of service measurement for licensees across the range of services they provide. A key benefit of a liberalised market is the diversity of services and approaches that it promotes. Service providers will generally seek clear product differentiation from the products or services of their competitors. As a result any standardised quality of service measure will inevitably not be comparing like with like, and as such is more likely to confuse than it is to help the non-expert purchaser. In any case different customers will attach different sets of priorities to different attributes of the available services, and for many the standardised measures selected will not be those to which they attach particular importance.

8. It is likely, particularly over the course of the next year or two and indeed perhaps beyond that, that most competition will focus on business users. It is our experience that even very small businesses are capable of making more sophisticated purchasing decisions than the general public, no doubt in part because of the help, advice and information from shared experience that they receive from their professional

organisations, trade associations, small business advice services, and consultants. Finally, measurement systems – and especially any form of continuous end-to-end service quality measurement – are notoriously expensive, particularly if they are to be implemented to a standard that will carry credibility and if the cost has to be spread over modest volumes. These costs will of course have to be passed on to customers.

9. Operators should be left to provide their customers with the information they believe to be relevant. If they get it wrong, or if they fail to deliver the standards that customers believe they have a right to expect, customers will vote with their feet by transferring their business elsewhere.

Progressive deregulation

10. Subject to these comments and those contained in the MCF's response, we think that the measures proposed by Postcomm are both sensible and desirable for the first stages of full market opening after January 2006. However we would not support them as the basis for a long-term licensing regime, which we regard as both unnecessary and inappropriate. There is probably little value at this point in time in attempting to speculate with any degree of precision how long it may take for the market to stabilise sufficiently for the proposed licensing regime to become as redundant as it would be today for the parcels, express or document exchange sectors of the market, and it may be that a progressive relaxation over the course of, for example, years 2 to 5 following full liberalisation will in the event prove to be the more attractive route to full deregulation.

11. We accept of course that there will be a continuing role for Postcomm in respect of the universal service, and we do not anticipate (or seek) any change of substance to the mail integrity provisions of the Postal Services Act 2000. We assume that price and quality of service control of Royal Mail will continue for some years to come, but we see no reason why these controls should not be progressively reduced as competition develops, so that they cover only the most basic universal service products, leaving Royal Mail with as much commercial freedom and flexibility as possible. However the quid pro quo for this commercial freedom and flexibility must be that Postcomm will equip itself with the tools, powers and expertise to act rapidly and decisively to preempt or to remedy anti-competitive or abusive practices wherever they threaten or occur.

Kind regards

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