

Rt Hon Patricia Hewitt
Secretary of State for Trade and Industry
Department of Trade and Industry
1 Victoria Street
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I am writing in response to your request for advice under section 44(6) of the Postal Services Act 2000, concerning implementation of the new European Postal Services Directive 2002/39/EC. In July you invited Postcomm to consult on how best to implement the Directive "consistent with the operation of the domestic regulatory regime, in particularly in relation to the licensing regime and the recent decision taken by Postcomm on market opening". On 4 September, Postcomm issued a consultation document seeking views on options for implementation of the provisions in the Directive. I attach a document setting out Postcomm's analysis of the responses to that consultation and our advice on the relevant issues. I would like to draw your attention to the three main issues.

First, in respect of the key provision in the Directive to reduce the maximum limit of services that may be reserved to ensure maintenance of a universal service, Postcomm recognises the concerns of some respondents, particularly Royal Mail and private operators in the express market, that the postal services market should be allowed to develop as far as possible without unnecessary regulatory controls. However, as other respondents have argued, there should be sufficient regulatory control especially in the transition to full market opening to enable Postcomm to safeguard the universal service and to react flexibly to developments in the market as competition emerges. Accordingly, Postcomm recommends that keeping the UK licensing limit at 350 grams (£1) is the best way to safeguard the universal service and to secure the benefits of competition particularly during the transition to full market opening. This would be on the basis that licences above 100 grams (80p) after 1 January 2003 and 50 grams (65p) after 1 January 2006 would be granted by Postcomm with no restriction on the nature of the services provided. Furthermore, Postcomm would keep under review the licensing threshold as part of its commitment to monitor the postal services market and would make recommendations on the threshold as necessary.

Secondly, the consultation sought views on the limit of Postcomm's licensing powers in relation to whether the services fall within or outside the scope of the universal service. In the light of views from respondents, Postcomm has concluded that the best approach would be for the UK to clarify the position by exempting all services that fall outside the scope of the universal service. Postcomm also recognises the concerns of respondents that it should move ahead with developing its view of the universal service to provide a greater degree of certainty in this area. We expect to publish a consultation document early in 2003 on our approach to the universal service and which of Royal Mail's services make up the universal service in the UK.

Our advice is to restrict Postcomm's statutory licensing powers above 100 grams after 1 January 2003 and above 50 grams after 1 January 2006, and to exclude from licensing any services which fall outside of the scope of the universal service, both of which require amendment of the Postal Services Act. We understand that you would make these amendments through an order under Section 2(2) of the European Communities Act 1972.

Thirdly, the consultation sought views on implementation of a number of minor provisions in the Directive concerning transparency and non-discrimination in relation to special tariffs, prohibition of cross-subsidization and complaint handling to protect users of postal services. I am pleased to report that Postcomm's options for implementing these provisions have been generally supported. They can all be implemented as necessary through minor modifications to Royal Mail's licence. Royal Mail has accepted the need for these changes. We therefore now propose to take the necessary action to make these licence modifications under the procedures established by the Act.

As I mentioned, the attached document summarises the views of respondents and Postcomm's assessment of the issues on which we were asked to provide advice. We would expect to publish this advice and we will liaise with DTI officials over the timing and form of publication.

Your officials have also raised with mine some issues on our new licensing regime which are related to but separate from the points dealt with in this consultation. Our officials are dealing with those issues separately.

We appreciate that there is a very tight timescale for implementation of the Directive and this of course aligns with the roll out of the UK's market opening strategy from 1 January 2003. Subject to your confirmation, we stand ready to implement those provisions in the Directive which fall to Postcomm for action.

Graham Corbett
Chairman