



Royal Mail, Licensed Postal Operators  
Postwatch, Trade Associations and  
other interested parties.

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Dear Colleague,

## **Open letter regarding the exemption from the requirement for a licence of ‘pre-paid’ mail conveyed to a licence holder**

### Introduction

This open letter sets out Postcomm’s understanding of the exception from section 6 set out at section 7(2)(h) of the Postal Services Act 2000 (‘the Act’) in relation to letters conveyed to a mail centre or distribution office for onward conveyance by a licensed postal operator such as Royal Mail, under an access agreement. This open letter provides guidance; it does not take precedence over the Act.

### Background

A number of stakeholders have asked Postcomm about the application of the exception in section 7(2)(h) of the Act. Section 7(2)(h) provides that section 6 of the Act (the offence of conveying letters without a licence) is not contravened by:

‘the conveyance and delivery to a licence holder of pre-paid letters for conveyance and delivery by that person to the addressees, and the collection of such letters for that purpose.’

Section 7(5) further defines ‘pre-paid letter’ thus:

‘ “pre-paid letter” includes any letter which, in pursuance of arrangements made with a licence holder, does not require to be pre-paid ’ .

Stakeholders have asked Postcomm to clarify whether this exception might apply to mail conveyed to Royal Mail (or to any other licensed operator) for onward conveyance and delivery under an access agreement.

Postcomm does not, as a rule, provide guidance as to whether an individual's or company's activities require a licence. It is for those who carry on the activity, or who propose to carry on the activity, of conveying letters to decide whether a licence is required, or to assure themselves as to whether an exemption applies. However, the interaction between the formulation of the exemption provided by section 7(2)(h) and the operational practices of operators who have access agreements with Royal Mail<sup>1</sup> has caused some uncertainty and Postcomm believes that it is appropriate, in this case, to provide general guidance as to the application of the exemption.

#### Postcomm's understanding of Section 7(2)(h).

Postcomm considers that, **in some but not necessarily in all cases**, mail conveyed to Royal Mail for onward conveyance and delivery under an access agreement can lawfully be conveyed without a licence having been granted under the Act. Royal Mail's access contracts are arrangements which generally do not require a letter to be prepaid.

Postcomm considers that in assessing whether any given letter can be conveyed without a licence pursuant to the section 7(2)(h) exception, the following points should be considered:

- the arrangements may be made by the sender, a third party (for example an agency preparing a mailing for the sender), or the person conveying or delivering the letters to Royal Mail for subsequent conveyance and delivery of them, but for conveyance of a letter to fall within the exception the arrangements must be in place prior to the commencement of the collection or receipt of letters and their conveyance to Royal Mail.
- the 'arrangements', for the purposes of the exception, relate to the payment made to Royal Mail performing the final conveyance and delivery (and not to any payment made to the operator collecting or receiving the mail and undertaking the first part of the conveyance, to the licence holder).

A person whose business is only the conveyance and delivery of letters to Royal Mail for onward conveyance and delivery by Royal Mail, pursuant an access agreement under which the letters are regarded as pre-paid, does not require a licence for that business. Such a person may, nevertheless, have concerns, such as –

- the risk of committing an offence under section 6 of the Act as a result of unintentionally collecting a letter which is not to be conveyed and delivered by Royal Mail under an access agreement,
- the risk of committing an offence under section 6 of the Act as a result of inadvertent failure to comply with one of the provisions of the access agreement

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<sup>1</sup> As the market develops the conveyance and delivery of letters through an access arrangement could be with a licensee other than Royal Mail. The principles discussed in this letter in relation to letters conveyed to Royal Mail for onward conveyance and delivery would apply equally to letters conveyed to another licence operator for onward conveyance and delivery by that operator.

with Royal Mail, which must be complied with for a letter to be regarded as pre-paid, or

- the risk of committing an offence under sections 6(2) or the risk of civil proceedings being brought pursuant to 6(5) of the Act respectively as a result of circumstances arising from the unexpected termination of the access agreement before delivery to Royal Mail has occurred.

The conveyance of a single letter without a licence, in circumstances when a licence is required, is sufficient to give rise to a criminal offence. Where a person has such concerns, Postcomm will be prepared, subject to compliance with its licence application procedures, to grant that person a licence.

Finally, nothing in this communication is intended to suggest that there is any need for a licence to convey letters which weigh 350 grams or more or which are conveyed in consideration of £1 or more.<sup>1</sup>

Postcomm  
June 2007

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<sup>1</sup> Note: other exceptions are set out in sections 7(1A) and in other provisions in section 7(2) to the Postal Services Act 2000.