



Application for a  
Direction from Postcomm  
for exemption from  
Condition 7 for Branch  
Direct

**12th July 2007**

## Application seeking a Direction from Postcomm for exemption from Licence Condition 7 (2) & (3) for Royal Mail's Branch Direct Service

### 1. Overview

- 1.1 Royal Mail's Branch Direct Service is a launched, non-licensed service for which, (currently under Conditions 7(3) and 7(4) of the Licence modified in May 2006) Royal Mail is required to provide 3 months notice and publish changes to tariffs, standards of service and compensation (and other matters referred to in any statement submitted under Condition 7(2)) under which licensed and non-licensed services are provided. Branch Direct charges are based on a standard cost model for all customers. Branch Direct services are operationally independent from the rest of the Royal Mail operation, with Branch Direct using a distinct and discrete group of staff and vehicles, outside of the standard Royal Mail network. Branch Direct services are not however Regulated Services as defined under Condition 21 of Royal Mail's Licence, and hence are recognised by Postcomm to operate in a sufficiently competitive market for them to be neither regulated nor price controlled under Condition 21.
- 1.2 Conditions 7(2) & (3) provide the means for Royal Mail to apply for a Direction granting an exemption from the requirements of Conditions 7 (2) & (3), (and therefore, by implication also from the requirements of Condition 7 (4) & (5) also should the exemption be granted). Therefore Royal Mail applies herein for a Direction for existing and future Branch Direct services to be exempt from the obligations contained in Condition 7(2) & (3).
- 1.3 The application for an exemption from the requirements of Condition 7 is made in this case on the same basis as the Sameday service for which exemption was granted<sup>1</sup> i.e. that the services are offered in a highly competitive market. Postcomm has stated on several occasions that it will withdraw regulation from markets where there is sufficient competition. These statements are founded on the premise that there will be circumstances, as the postal services market develops, where Postcomm, regards Royal Mail, as having lost market share to competitors, in markets where it was previously considered to be in a dominant position. In contrast with the scenario Postcomm envisaged above however, Branch Direct operates in a market that was already open to competition well before Postcomm's drafting of Condition 11 or 7, and prior to the liberalisation timetable for the opening

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<sup>1</sup> Postcomm issued a Direction in relation to Royal Mail's Sameday Services on 30 January 2007

of other parts of the postal market to competition being set.

- 1.4 Royal Mail's view is that the Branch Direct service has a low share of the scheduled closed-user group market in which it operates. There are several other large service providers, and many other smaller providers, in the market. The market is therefore one in which there is effective competition and Royal Mail is not dominant. Consequently, Royal Mail feels that there are good arguments to assert that the remaining regulatory constraints under Condition 7 should be lifted completely from these services.
- 1.5 The application is therefore made for Royal Mail Branch Direct services to be deemed exempt from the obligations of Condition 7 (2) & (3), and for Royal Mail consequently not to be required to notify or publish its contract details, standards of service and compensation arrangements, whether those contracts are entered into under the normal course of business or following a competitive tendering process.

## 2. Background

- 2.1 As stated above in paragraph 1.2, the Licence makes provision for Royal Mail to apply for an exemption from Conditions 7 (2) & (3). Specifically, Royal Mail's Licence Conditions 7(2) & (3) state:

*"Except as Postcomm after consultation may by direction determine and subject to paragraph 5, the Licensee shall submit to Postcomm and to the Council a statement setting out -*

- (a) details of the tariffs (including discounts and credit facilities), standards of service and compensation arrangements under which the Licensee offers to provide licensed services and non-licensed services (other than postal services offered under the Parcelforce brand which were offered on 1 April 2006 or which may be offered subsequently and which are substantially similar to those services),*
- (b) details of the general conditions of, and the physical provisions for, access to such services offered by the Licensee,*
- (c) details of any services offered by the Licensee specifically for customers who are blind and partially sighted, disabled or chronically sick, of pensionable age, with low incomes or residing in rural areas,*
- (d) a summary of the Licensee's performance against its standards of service in the year for which it most recently has become due to submit an annual report to Postcomm under paragraph 16 of Condition 4 of this Licence. [Condition 7 (2)]*

*Except as Postcomm after consultation may by direction determine and subject to paragraph 5, the Licensee shall notify Postcomm and the Council promptly in writing of any changes to the matters referred to in any statement submitted pursuant to paragraph 2 not less than three months before any such changes come into effect. [Condition 7 (3)]*

- 2.2 This application for an exemption to the notification requirements of Condition 7 is made on the basis that Royal Mail's Branch Direct Service is offered within a highly competitive market. Postcomm has stated on many occasions that it will withdraw regulation from markets where there is sufficient competition. For example, in "Royal Mail Price Control and Quality of Service: Final Proposals for Consultation" (December 2005), Postcomm states its policy objectives as follows:

*"To promote the development of competition between Royal Mail and rival postal operators where such competition can be expected to protect the interests of users without the need for regulation."*

*"To regulate (price and quality of service) only where it is necessary to safeguard customers' interests. Regulation will be targeted at those parts of the market where competition can least be expected to protect and benefit customers. Once competition is sufficiently developed, Postcomm will seek to relax, or remove, regulation during the period of the control, having regard to the need to safeguard the universal service" (S32). [Emphasis added]*

### **3. Royal Mail's Branch Direct service**

- 3.1 The conveyance of mail items within scheduled closed-user networks generally involves courier and parcel carriers and providers of other mail services in the UK. The market includes large and small businesses, but not social customers. The Branch Direct service is currently a non-licensed service within the meaning of Condition 7 (2) and its annual contract values, which amount to tariffs, are notified and published under Conditions 7 (2) & (3). However, they fall outside the remit of Condition 21 and are not listed as Controlled Services.
- 3.2 The Royal Mail Branch Direct service provides the capability for customers to post urgent mail items including pouches, parcels and tote boxes within a closed-user network of defined addresses (known to RM as nodes), within the customer's own business address locations and those of its suppliers or partners. The service falls within the larger courier market comprising next day parcel carriers, couriers and same-day operators in the UK.

- 3.3 Branch Direct operates in a market in which there is strong competition between suppliers. As a result, information about the market is disseminated across many providers and customers and cannot be found from a single source or industry body. Royal Mail's Branch Direct service operates in a highly competitive market and it should no longer be constrained by the onus which Conditions 7 (2) & (3) places upon it in terms of notification and publication.
- 3.4 In the majority of cases Royal Mail has 'key holder' access to branches in order to attend out of hours to collect and deliver items.

#### **Market size and Royal Mail's market share**

- 3.5 Using a bottom-up approach to define the market where we know it exists from industry experience, Royal Mail estimates the size of the market at around £0.2bn.
- 3.6 Revenue from Branch Direct represents a very small proportion of Royal Mail's overall turnover. Effective competition does exist in this market.

#### **Ease of Access to Market**

- 3.7 Unlike the domestic market, postal operators do not require licences to operate scheduled closed-user group services. Indeed, there are no requirements to be met for other operators entering or exiting the market.

#### **Competitors**

- 3.8 In the UK the scheduled closed-user group market comprises several postal operators including Deutsche Post (DHL), TNT, Hays DX, and Lynx, who all offer scheduled courier services. In addition it comprises varying courier operators, same day service providers and in-house delivery staff.
- 3.9 Some operators have been established for many years. Indeed the main competitors to Royal Mail in this market have been established for longer than Royal Mail within this market.

#### **4. Summary**

Given the competitiveness of the scheduled closed-user group market, Royal Mail does not believe that there is a need for information to be provided to the market 3 months in advance of a contract commencing when no other company is required to do so. As highlighted earlier in the document, following modifications to its Licence in May 2006, Royal Mail is currently required to publish its Branch Direct standards of service and compensation and provide 3 months notice of any changes (including customer

renewals). This places Royal Mail at a distinct disadvantage in a market in which Royal Mail is far from dominant. Royal Mail's Licence provides the means to apply for an exemption from Condition 7 and Royal Mail has accepted this route. It is on this basis therefore that the application is made for a Direction from Postcomm for Royal Mail's Branch Direct service to be exempt from the application of Condition 7 in terms of notifying tariffs, standards of service and compensation arrangements.