

POSTAL SERVICES ACT 2000

Sections 11 and 13

Licence granted to Royal Mail Group Ltd

Schedule 2 Part 3 Condition 7

Direction in relation to international contract (bulk mail) services offered by Royal Mail

Whereas:

- (1) Royal Mail Group Ltd ("Royal Mail") is the holder of a licence ("the Licence") granted on 23 March 2001 by the Postal Services Commission ("Postcomm") under section 11 of the Postal Services Act 2000 ("the Act").
- (2) The Licence was amended on 1 April 2003, 2 November 2005 and 25 May 2006.
- (3) Paragraph 2 of Condition 7 in Part 3 of Schedule 2 to the Licence ("Condition 7") requires Royal Mail, except as Postcomm after consultation may by direction determine, to submit to Postcomm and to the Consumer Council for Postal Services ("Postwatch") a statement setting out details of the tariffs under which Royal Mail offers to provide, and other information relating to, licensed and non-licensed services.
- (4) Paragraph 3 of Condition 7 further requires Royal Mail, except as Postcomm after consultation may by direction determine, to notify Postcomm and the Council promptly in writing of any changes to the matters referred to in any statement submitted pursuant to paragraph 2 of Condition 7 not less than three months before any such changes come into effect.
- (5) Paragraph 4 of Condition 7 requires Royal Mail to publish the statements and notifications required to be submitted under paragraphs 2 and 3 of Condition 7 as soon as reasonably practicable after their submission and to ensure there is reasonable publicity for these statements and notifications. In addition, Royal Mail is required to a) not assert copyright for the statements and notifications, b) make copies available and c)

place the statement or notification on relevant websites controlled by Royal Mail.

- (6) Paragraph 5 of Condition 7 relates to the prices and terms applicable to contracts won for the conveyance of postal packets by Royal Mail through a competitive tendering process which is open to other postal operators and to which such operators can reasonably be expected to be capable of responding. In such a case paragraphs 2 and 3 of Condition 7 do not apply but Royal Mail is required to provide Postcomm a copy of the contract and a statement of the differences from the standard terms for the most closely comparable Controlled Service or Controlled Services within seven days of entering into the contract, or if a written contract has not been concluded a summary of the main terms followed by provision of the written contract.
- (7) Paragraph 5(b) of Condition 7 requires Royal Mail to submit to Postcomm and Postwatch within fourteen days after the expiry of the calendar month in which such contracts were entered into, a statement setting out the main terms of those contracts including contract duration, price, weight and format, volumes, sortation requirements, access times and points, delivery standards and requirements for postcode volume distribution. In addition, unless Postcomm by direction in writing provides otherwise, Royal Mail must publish each statement in a manner that will give reasonable publicity to it within seven days of its submission to Postcomm and Postwatch.
- (8) Royal Mail applied to Postcomm for an exemption from the three month pre-notification requirements of paragraphs 2 and 3 of Condition 7 for its international contract (bulk mail) services in April 2007. Royal Mail considered that any such application if granted would also apply to paragraphs 4 and 5 of Condition 7. This application was made on the basis that these services are offered in a highly competitive market.
- (9) Outbound international mail comprises single piece and bulk mail services. Single piece items to international destinations are predominantly conveyed under Royal Mail's public tariff services (Airmail and Surface Mail) which are price controlled and Royal Mail's application

for exemption did not cover these services. Royal Mail's international bulk mail services are not price controlled and cover five broad product areas which have been set out in the Annex to this Direction.

International bulk mail services' customers are contracted to spend at least £2,500 per annum.

- (10) On 1 August 2007, following discussions with Royal Mail, Postwatch and the Mail Competition Forum ("MCF"), Postcomm issued a consultation letter to Royal Mail, other holders of licences granted under the Act, Postwatch, Trade Associations and other interested parties ("the Consultation Letter"), regarding exempting Royal Mail from the three month pre-notification process set out paragraphs 2 and 3 of Condition 7 for international contract (bulk mail) services.
- (11) In the Consultation Letter Postcomm –
- set out the main aspects of the Royal Mail application including the fact that Royal Mail believe that its share of the international bulk mail sector was around 33% and stated that it could be said that Royal Mail hold a material influence over another participant in the sector, Spring, with which it has a non compete clause outside of the UK;
 - reflected stakeholder views that there was strong competition in the international bulk mail sector;
 - proposed to exempt Royal Mail from the three month pre-notification and publication requirements of paragraphs 2, 3 and 4 of Condition 7 for international contract (bulk mail) services; and
 - did not propose to exempt Royal Mail from the publication requirements in paragraph 5 of Condition 7 for contracts won through competitive tenders.
- (12) In the six week period provided by the Consultation Letter for the submission of responses, Postcomm received representations from Postwatch, the Mail Consolidators Association ("MCA") and Royal Mail, with two further responses received on a confidential basis. Postcomm has placed the non confidential responses to the Consultation Letter on its website.

- (13) The main non confidential points made in response to the Consultation Letter were –
- Postwatch, Royal Mail and the MCA agreed with Postcomm’s minded-to position to exempt Royal Mail from the pre-notification and publication requirements in paragraphs 2, 3 and 4 of Condition 7;
 - In addition, both Postwatch and the MCA did not believe that Royal Mail should be exempted from the publication requirements for contracts won through competitive tenders described in paragraph 5(b) of Condition 7. In particular the MCA felt that the transparency provided by this requirement was important in ensuring that Royal Mail operated “fairly and properly” in the market. It expressed concern that Royal Mail may offer discounts based on a customer’s mailing profile but not enforce this requirement with the customer (thereby giving an unwarranted discount); and
 - Royal Mail considered that it had put in place sufficient safeguards to ensure there is no bundling of services or anti-competitive behaviour and therefore ensure there is no breach of Condition 11. It consequently believes that Royal Mail should be exempt from the publication requirements in paragraph 5(b) of Condition 7.
- (14) Postcomm has reviewed its minded-to position set out in the Consultation Letter in the light of the points made by respondents. Royal Mail currently has an estimated 33% share of the international bulk mail sector but this has fallen (over a long period of time) from 100% which suggests that competition does exist in the sector. This loss of market share has occurred despite Royal Mail’s advantages in economies of scale and it’s exemption from VAT.
- (15) The concern expressed by competitors to Royal Mail and by Postwatch, regarding exempting Royal Mail from the publication requirements for contracts won through competitive tenders is related to the transparency the requirement for publication gives to these contracts. If the

publication requirements apply, the market is able to assess whether Royal Mail has acted in an anti-competitive manner (potentially through bundling international bulk mail products with other Royal Mail products and services) and to ensure the conditions for the specific customer are reasonable. However, it is important to balance these concerns with the detrimental impact on Royal Mail if they are required to publish details of contracts won for services in a sector where there is competition.

- (16) If Royal Mail won a contract through a competitive tender for international contract (bulk mail) services and published its prices as required under paragraph 5(b) of Condition 7, this would give their competitors an understanding of their pricing model and an advantage in the next competitive tendering situation.
- (17) If Royal Mail were exempt from the publication requirements for international contract (bulk mail) contracts won through competitive tenders, then it would still be required to provide Postcomm and Postwatch with a copy of the actual contract and a statement setting out the main terms of this contract under paragraph 5(a) of Condition 7. This will give Postcomm sight of the contract terms to protect against any anti-competitive activity. Royal Mail has also agreed to provide separate accounts for international contract (bulk mail) services as an additional safeguard against anti-competitive behaviour.
- (18) Postcomm, however, believes it is not appropriate to remove all Royal Mail's publication obligations in relation to international bulk mail services in respect of contracts won through competitive tenders for international bulk mail services combined with other mail services.
- (19) Therefore Postcomm has concluded that the underlying rationale for exempting Royal Mail's international contract (bulk mail) services from the pre-notification requirements of paragraphs 2, 3 and 4 of Condition 7 is sound and it has confirmed its minded-to position outlined in the Consultation Letter.
- (20) In addition, as the international bulk mail sector appears to be a developed sector of the market, Postcomm has determined that it is proportionate to exempt Royal Mail from the publication requirements of

contracts for international contract (bulk mail) services won through a competitive tendering process if the tender was for international contract (bulk mail) services alone, or international contract (bulk mail) services combined with another service or services which Postcomm has directed, in writing, as exempt from the publication requirement of paragraph 5(b) of Condition 7. Royal Mail has agreed to provide separate accounts for international contract (bulk mail) services from the start of the 2008/09 financial year.

Now, therefore, pursuant to and for the purposes of paragraphs 2, 3, 4 and 5 of Condition 7 in Part 3 of Schedule 2 to the Licence, Postcomm by this direction hereby directs as follows.

1. In this Direction –
 - (a) International contract (bulk mail) services means the conveyance of postal items from the UK to overseas destinations where the sender of the mail holds an account with Royal Mail and spends at least £2,500 on international contract (bulk mail) services per annum, and
 - (b) unless the context requires otherwise, words and expressions which are defined in the Licence shall have the same meaning as in the Licence.
2. Royal Mail is excepted from the requirement to provide Postcomm and Postwatch a statement setting out details of tariffs, standards of service and compensation arrangements under which it offers to provide, or any other information relating to, the provision of any international contract (bulk mail) service or product submitted under paragraph 2 of Condition 7.
3. Royal Mail is excepted from the requirement under paragraph 3 of Condition 7 to notify Postcomm and Postwatch three months in advance of any changes to any statement previously submitted pursuant to paragraph 2 of Condition 7 for international contract (bulk mail) services.
4. Therefore, Royal Mail is also excepted from the publication requirements of paragraph 4 of Condition 7 for statements and notifications required to be submitted under paragraphs 2 and 3.

5. Royal Mail is excepted from the publication requirement, set out in paragraph 5(b) of Condition 7, for details of international contract (bulk mail) services contracts won through a competitive tendering process for international contract (bulk mail) services alone, or international contract (bulk mail) services combined with another service or services which Postcomm has directed, in writing, as exempt from the publication requirement of paragraph 5(b) of Condition 7 provided that Royal Mail provides separate accounts for its international contract (bulk mail) services from the start of the 2008/09 financial year.

The seal of Postcomm hereunto
affixed is authenticated by –

Authorised for that purpose by
Postcomm

Date: 19 December 2007

Annex to Direction dated 19 December 2007

The following text describes Royal Mails four main international bulk mail product areas¹:

(a) Destination Sort

This service requires the maximum level of pre-sort and therefore represents the largest discount area. All streams of international mail (Priority, Standard and Economy) and sub-categories such as Bundle Sort & M-bags are included. Customers present mail sorted and bagged by destination with a minimum requirement of 3kg per destination. Where this minimum level cannot be reached a residue bundle can be presented and this is charged at the bundle rate reflecting Royal Mail's requirement to consolidate and bag this mail.

(b) Zone and Format

This service requires customers to segregate the mail by destination zone. There are several different price zones for the destination of mail items (e.g. Europe, Rest of the World) which reflect the different country cost groups. Customers present pre-sorted bundles which Royal Mail then sort and integrate with other international mail. Format sort is a further refinement where the mail is split by zone and then by format (e.g. letters, flats and packets). The pricing for this service was driven by the REIMS based format charging for delivery. Therefore the delivery costs are reflected in the pricing. 'No sort' is a derivative of Zone and Format where mail invoicing and preparation can be undertaken by Royal Mail.

(c) International Bulk Mail

This service is an extension of Mailsort, Presstream or Walksort that allows customers who have an international element in their domestic mail to present it as a dedicated selection. Royal Mail then sorts and integrates this mail with other international mail streams.

(d) Direct Entry

This is a dedicated bespoke service that allows customers to access the domestic services of other countries on the same basis as domestic customers

¹ Taken from Royal Mail's initial submission see www.psc.gov.uk

in these markets. The mail therefore looks 'local' which improves response rates.

(e) International Admail (including Stamped Response)

These are pre-paid response services whereby the overseas poster can send items to a local P O Box address within that country. The P O box contents are then repatriated to UK and the items delivered to the appropriate licence holders. Admail is where the licence holder pays the total cost for the return of goods and International Stamped Response is where the poster pays the local postage element.