

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 the Parts Express service 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 the contract was entered into, a statement setting out the main terms of these contracts. This includes 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, 3 and 4 and the publication aspects of paragraph 5 of Condition 7 for its Parts Express service on the 23 November 2007. This application was made on the basis that these services are offered in a highly competitive market.
- (9) Royal Mail's Parts Express service involves the conveyance of parts and other items such as tote boxes and loose items overnight to Royal Mail's Enquiry Offices (which are located within Delivery Offices). These items are then collected from the Enquiry Office by the customer representative, engineer or field service technician. This is an express

service in that Parts Express items are processed through the standard Royal Mail network which includes Regional Distribution Centres, Mail Centres and Delivery Offices. According to Royal Mail the Parts Express prices are based on a standard pricing model.

- (10) On the 19 February 2008, 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 in paragraphs 2, 3, 4 and the publication aspects of paragraph 5 of Condition 7 for its Parts Express service.
- (11) In the Consultation Letter Postcomm –
- set out the main aspects of the Royal Mail application including that Royal Mail believes its Parts Express service operates in the highly competitive field service and parts distribution sector which includes several other large service providers active in the overall courier and express market as well as more specialised distribution networks;
 - reflected stakeholder views that there is strong competition in the closed-user group sector notwithstanding fears by one respondent about a danger of cross-subsidisation of the service from the regulated area;
 - proposed to exempt Royal Mail from the three month pre-notification and publication requirements of paragraphs 2, 3, 4 and the publication aspect of paragraph 5 of Condition 7 for its Parts Express services; and
 - stated that Royal Mail had agreed to provide details of the Parts Express service separately in its regulated accounts from the start of the 2008/09 financial year to provide transparency to Postcomm and the market on the profitability of Parts Express.
- (12) In the four week period provided by the Consultation Letter for the submission of responses, Postcomm received representations from Postwatch, TNT Post, City Link and Royal Mail.

- (13) The main points made in response to the Consultation Letter were –
- Postwatch, City Link and Royal Mail agreed with Postcomm’s minded-to position to exempt Parts Express from the pre-notification and publication requirements in paragraphs 2, 3, 4 and the publication aspects of paragraph 5 of Condition 7;
 - TNT Post stated that the proposed statement in the regulatory accounts would go some way to ensuring no bundling if it identified Parts Express separately from other exempted services but that even in this case the failure to identify specific customer information would make it impossible to detect low pricing.
- (14) Postcomm has reviewed its minded-to position set out in the Consultation Letter in the light of the points made by respondents. The majority of stakeholders who either responded to the Consultation Letter or with whom Postcomm have consulted have agreed that Parts Express operates in a competitive sector. While Royal Mail’s VAT exempt status and economies of scale are advantages they do not appear to be restricting competition as Royal Mail has a low share of the sector.
- (15) Royal Mail stated that the Parts Express prices are based on a standard pricing model. Therefore if Royal Mail won a contract through a competitive tender for Parts Express services and published its prices as required under paragraph 5(b) in Condition 7, then their competitors would gain an understanding of their pricing model and an advantage in the next competitive tendering situation.
- (16) If Royal Mail were exempt from the publication requirements for Parts Express contracts won through competitive tenders, then it would still be required to provide Postcomm and Postwatch with a copy of this contract under paragraph 5(a) in Condition 7. This will give Postcomm sight of the contract terms to protect against any anti-competitive activity. Royal Mail also agreed to provide separate accounts for Parts Express as an additional safeguard against anti-competitive activity.
- (17) Therefore Postcomm has concluded that the underlying rationale for exempting Royal Mail’s Parts Express service from the pre-notification and publication requirements of paragraphs 2, 3 and 4 and the

publication requirements of paragraph 5 of Condition 7 is sound. However, it is not now considered appropriate to identify this service separately in the published version of the regulated accounts given that Royal Mail currently has only one major customer for this service. Postcomm confirms its minded-to position regarding Royal Mail's application for exemption outlined in the Consultation Letter provided that the Parts Express service is identified separately in the unpublished Regulatory Accounts from 2008/09.

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 determines as follows.

1. In this Direction –
 - (a) Parts Express services mean the conveyance of parts and other items such as tote boxes and loose items overnight to Royal Mail's Enquiry Offices (which are located within Delivery Offices). These items are then collected from the Enquiry Office by the customer representative, engineer or field service technician; 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 with 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 Parts Express 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 Parts Express 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 Parts Express contracts won

through a competitive tendering process for Parts Express services alone, or Parts Express 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 in the unpublished version of the Regulatory Accounts separate accounts for the Parts Express service 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: 20 June 2008