

POSTAL SERVICES ACT 2000
SECTIONS 11 AND 13
LICENCE GRANTED TO ROYAL MAIL GROUP PLC
CONDITION 21 PARAGRAPH 29
DIRECTION

Whereas –

- (1) Royal Mail Group Limited (“Royal Mail”), registered in England and Wales with company number 4138203 and having its registered office at 148 Old Street, London EC1V 9HQ, is the holder of a licence granted on 23 March 2001 (“the Licence”) by the Postal Services Commission (“Postcomm”) under section 11 of the Postal Services Act 2000 (the “Act”).
- (2) The Licence was modified on 1 April 2003, 2 November 2005 and 25 May 2006.
- (3) Condition 21 in Schedule 2 to the Licence (“Condition 21”) regulates the prices which may be charged by Royal Mail for Controlled Services.
- (4) Paragraph 28 of Condition 21 (“paragraph 28”) provides that Royal Mail shall, in respect of Controlled Services numbered 1 to 38, not later than 31 December and in respect of Controlled Services numbered 39 to 45 not later than 14 January, in each Formula Year after Formula Year $t = 0$, submit to Postcomm and to the Council schedules showing all the prices for all the Price Ranges or other pricing criteria for each of those Controlled Services proposed to be charged or applied by the Licensee from the commencement of the following Formula Year, $t + 1$, and shall publish such schedules in a reasonably prominent and accessible manner on its website.
- (5) Paragraph 29 of Condition 21 (“paragraph 29”) provides that, except as Postcomm on the application of Royal Mail may by direction approve otherwise, Royal Mail shall in each Formula Year t occurring after Formula Year $t = 0$ offer the Controlled

Services in Baskets A and B to users at the prices shown in, or determined in accordance with, the schedule submitted in accordance with paragraph 28 in Formula Year $t - 1$, subject to such changes as may result from variations permitted by paragraphs 15 to 22 of Condition 21.

- (6) On 17 December 2007 Royal Mail submitted to Postcomm and to the Council certain schedules (“the 17 December submission”) which satisfied Royal Mail’s obligations to submit schedules under paragraph 28 (in so far as the schedules showed all the prices for all the Price Ranges or other pricing criteria for certain of the Controlled Services, proposed to be charged or applied by Royal Mail with effect from 7 April 2008).
- (7) Postcomm expressed concern to Royal Mail about a number of elements of the 17 December submission including a new tariff called Term Contracts for, inter alia, certain Controlled Services which provides for reconciliation payments which may apply in the event that Term Contract arrangements are terminated by a customer earlier than the one year or two year period applicable to such customer’s agreement under the Term Contract tariff, or in the event that a customer under-achieves against their contracted mail volume.
- (8) Postcomm advised Royal Mail of its intention to investigate various aspects of the Term Contracts tariff and that it was considering whether a Provisional Order under section 23 of the Act was necessary.
- (9) Postcomm was particularly concerned that the level of the reconciliation payment payable under the Term Contract tariff as proposed in the 17 December submission had the potential to tie in customers to Royal Mail in a way which could unfairly penalise customers and adversely affect competition between postal operators.
- (10) On 7 March 2008 Royal Mail submitted to Postcomm a proposal for a revised form of reconciliation payment under the Term Contract tariff (“the 7 March submission”) under which reconciliation payments would be substantially reduced as compared with the 17 December submission, particularly in the early months of a Term Contract tariff agreement.

- (11) On 12 March, Royal Mail made an application under paragraph 29 for a direction which would have the effect of permitting the revised form of reconciliation payment as set out in the 7 March submission to be included in the Term Contract tariff with effect from 7 April 2008 in substitution for the form of reconciliation payment proposed in the 17 December submission.
- (12) Whilst Postcomm remains concerned about various aspects of the Term Contract tariff and intends to proceed with a full investigation of this tariff (including as to the principle of any reconciliation payment and its level), it appears to Postcomm that the 7 March submission addresses the most immediate concern that the reconciliation payment had been set at a level that exacerbates the potential tie-in effects of such payments and therefore alleviates (although it may not entirely eliminate) these potential tie-in effects.
- (13) Given that Postcomm intends to proceed with a full investigation and that it appears that the amendment is likely to benefit Royal Mail's customers, Postcomm considers that it would be inappropriate and disproportionate to restrict Royal Mail from proceeding to offer the Term Contract tariff for Controlled Services as amended, in respect of reconciliation payments, by the 7 March submission.

Now therefore, pursuant to paragraph 29, Postcomm hereby directs as follows.

1. To the extent that reconciliation payments are calculated in the manner set out in the 7 March submission Royal Mail may offer Controlled Services to users from 7 April 2008 at prices which differ from those shown in, or determined in accordance with, the 17 December submission.
2. This Direction is without prejudice to the duties and powers of Postcomm to investigate, and take such action as it deems to be appropriate in relation to, any aspect of any of the proposals set out in the 17 December submission as amended by the 7 March submission, including in respect of reconciliation payments.

3. Except where the context requires otherwise, words or expressions used in this Direction which are used in the Licence shall be construed for the purpose of this Direction in the same manner as they are construed for the purpose of the Licence.

The common seal of Postcomm
hereunto affixed is authenticated
by -

Sarah Chambers
Chief Executive
authorised by the Commission

Dated: 20 March 2008