

# POSTCOMM

THE POSTAL SERVICES COMMISSION

POSTAL SERVICES ACT 2000

SECTION 11

# LICENCE

GRANTED TO

DX Network Services Limited

ON

23 June 2004

# POSTCOMM

## THE POSTAL SERVICES COMMISSION

### POSTAL SERVICES ACT 2000

#### SECTION 11

#### LICENCE

1. The **Postal Services Commission** ("Postcomm"), in the exercise of its functions under section 11 of the Postal Services Act 2000 (c.26) ("the Act"), hereby grants to **DX Network Services Limited** registered in England and Wales as company number 05026914 and having its registered office at Hays House, Millmead, Guildford, Surrey GU2 4HJ ("the Licensee") a licence authorising the Licensee to convey letters from one place to another within the area specified in Schedule 1 subject to –
  - (a) the conditions set out in Schedule 2 and
  - (b) revocation in accordance with Schedule 3.
2. This licence shall come into effect on **23 June 2004** and, unless revoked in accordance with Schedule 3, shall continue in force until –
  - (a) determined by not less than three years' notice in writing served by Postcomm on the Licensee on a day not earlier than four years from the day when the Licence came into effect or,
  - (b) if earlier, section 6(1) of the Act ceasing permanently to have effect, or
  - (c) the grant of another licence to the Licensee under which the activities authorised by this Licence may be conducted.

## Licence

3. Condition 1 of Schedule 2 shall apply to the interpretation of terms and expressions used in this Licence.

The common seal of  
Postcomm hereunto affixed  
is authenticated by –

Authorised for that purpose by  
Postcomm

Date: 23 June 2004

## Contents

Licence	
Schedule 1 – Authorised Area	<u>5</u>
Schedule 2 – Conditions of Licence	<u>6</u>
<u>Part 1</u>	
<i>Interpretation</i>	
1. Interpretation and construction	<u>6</u>
<u>Part 2</u>	
<i>Restrictions on services</i>	
2. Service restrictions	<u>9</u>
<u>PART 3</u>	
<i>Furthering the interests of users of postal services</i>	
3. Service provision and complaint handling	<u>14</u>
4. Provision of information on licensed services	<u>16</u>
5. Protecting the integrity of mail	<u>17</u>

## Licence

### PART 4

#### *Promotion of effective competition between postal operators*

- 6. Competition law [20](#)
- 7. Mergers takeovers and change of control [21](#)

### PART 5

#### *Provision of information*

- 8. Provision of information to Postcomm [22](#)
- 9. Provision of information to the Council [23](#)

### PART 6

#### *Miscellaneous provisions*

- 10. Cessation of business as a postal operator [24](#)
- 11. Payment of amounts to Postcomm [27](#)

Schedule 3 – Revocation of Licence [30](#)

Annex – List of terms and expressions defined in the Act and used in the Licence [33](#)

**SCHEDULE 1**  
**AUTHORISED AREA**

It is a condition of this Licence that the area within which the Licensee may convey letters from one place to another is the area comprising the United Kingdom.

**SCHEDULE 2**  
**CONDITIONS OF LICENCE**  
**PART 1 – INTERPRETATION**

**Condition 1: Interpretation and construction**

1. The terms and expressions in the left hand column in the table below shall, unless the context otherwise requires, be interpreted in the manner set out next to them in the right hand column in that table –

"the Council"	means the Consumer Council for Postal Services established under section 2 of the Act and known at the date of grant of this Licence as Postwatch;
"financial year"	means the period of twelve months ending on 31 March in any year;
"information"	includes – (a) information recorded in any form, and (b) forecasts and estimates;
"interference"	in relation to any postal packet or mail bag means the commission of offences under sections 83(1) and 84(1) (subject to subsections 83(2) to (5)) of the Act;
"terms"	in relation to the conveyance of postal packets and the provision of any other services means all the terms on which the conveyance of postal packets or the provision of any other services is undertaken or offered or relevant to their evaluation, whether as respects charges, methods of payment or otherwise.

## Schedule 2 – Condition 1: Interpretation and construction

2. Unless the context otherwise requires, in this Licence words and expressions that are defined in Parts I, II and VII of the Act shall have the same meanings as in those Parts, notwithstanding that a definition in either of those Parts may be framed so as to apply only for the purposes of certain sections of those Parts<sup>1</sup>.
3. Any reference in a condition of this Licence to the purposes of that condition generally is a reference to the purposes of that condition as incorporated in this Licence and to the purposes of any condition in identical terms incorporated and having effect in any other licence under the Act whenever that licence may have been granted.
4. Unless otherwise specified any reference to a numbered condition or schedule is a reference to the condition or schedule bearing that number in this Licence and any reference to a numbered paragraph is a reference to the paragraph bearing that number in the condition, schedule or paragraph in which the reference occurs.
5. In construing this Licence the heading or title of any condition or paragraph shall be disregarded.
6. Where any obligation under or pursuant to this Licence is required to be performed by a specified date or within a specified period and where the Licensee has failed so to perform by such date or within such period, such obligation shall continue to be binding and enforceable after the specified date or after the expiry of the specified period, but without prejudice to all the rights and remedies available against the Licensee by reason of the Licensee's failure to perform by that date or within that period.
7. The provisions of section 121 of the Act shall apply for the purposes of the delivery or service of any documents, directions or notices to be delivered or served pursuant to any condition of this Licence.

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<sup>1</sup> The definitions of the terms that are defined in the Act and used in the Licence are reproduced for convenience in the Annex to this Licence.

## Schedule 2 – Condition 1: Interpretation and construction

8. Anything required by or under this Licence to be done in writing may be done by transmission of the instrument in question by facsimile or by other electronic means and, in such case –
  - (a) the original instrument or other confirmation in writing shall be delivered or sent by pre-paid post as soon as is reasonably practicable, and
  - (b) where the means of transmission had been agreed in advance between the parties concerned, in the absence of and pending such confirmation, there shall be a rebuttable presumption that what was received duly represented the original instrument.

## PART 2 – RESTRICTIONS ON SERVICES

### **Condition 2: Service restrictions**

#### ***Cessation of condition***

1. This condition shall cease to have effect on 31st March 2007.

#### ***Bulk, consolidation, enhanced document exchange and tracked business to business***

2. The Licensee shall not, pursuant to this Licence, convey any restricted letter other than –
  - (a) as part of a bulk mailing, or
  - (b) for the purpose of delivering it to a universal service provider for subsequent conveyance, or
  - (c) where its conveyance comprises an enhanced document exchange activity, or
  - (d) by means of a tracked business-to-business service.

#### ***Suspension of service restriction when universal service is disrupted***

3. This condition shall not apply in any period –
  - (a) commencing on any day on which any serious official industrial action starts and ending at the end of –
    - (i) the fourteenth day after the day on which that action starts, or, if later,
    - (ii) the earlier of –
      - (aa) the day concluding the period commencing on the day on which that action starts and lasting four times the duration of that action, and
      - (bb) the ninety second day after the date on which that action ends,

## Schedule 2 – Condition 2: Service restrictions

or

- (b) commencing on the date of a determination by Postcomm that there is a significant failure, as a result of industrial action, an emergency or natural disaster, on the part of a universal service provider, to convey letters and ending on –
  - (i) the fourteenth day after the date of that determination, or, if later,
  - (ii) the earlier of –
    - (aa) the day occurring three times as long after the date of making the determination as the date of its revocation, and
    - (bb) the ninety second day after that date of revocation.

### *Interpretation*

- 4. For the purposes of this condition –
  - (a) a universal service provider means the holder of a licence granted under the Act containing an obligation to provide a universal postal service,
  - (b) conveyance of a letter includes the performance of any of the incidental services of receiving, collecting and delivering a letter,
  - (c) a restricted letter is any letter –
    - (i) before 1 January 2006 conveyed in consideration of less than 80 pence made by or on behalf of the person for whom it is conveyed and which weighs less than 100 grams, and
    - (ii) on or after 1 January 2006 conveyed in consideration of less than 65 pence made by or on behalf of the person for whom it is conveyed and which weighs less than 50 grams,

## Schedule 2 – Condition 2: Service restrictions

- (d) a bulk mailing occurs when –
  - (i) a user of postal services makes available to a postal operator for conveyance from one address in any period of twenty four hours not less than 4,000 letters in one format which originate from that user or from a single client of that user, or
  - (ii) letters originating from a user of postal services are conveyed under a contract entered into not more than two years before the letters are conveyed between that user and a postal operator from an address at which the operator reasonably expected, at the time that the contract was entered into, that in each year of the contract, the average number of letters made available by the user to the operator in one format in any period of 24 hours in which letters were to be conveyed by the operator from that address pursuant to the contract would be not less than 4,000,
- (e) a letter shall be deemed to originate from a user or from a client of a user if –
  - (i) that person or one of his employees is the author of the letter, or
  - (ii) the contents of the letter were, prior to posting, the property of that person or of his sub-contractor held to his order,
- (f) a batch of letters shall be regarded as being in one format if it comprises letters that all have the same length and the same breadth with tolerances of  $\pm 1.5$  mm for dimensions up to 150mm and  $\pm 2$  mm for dimensions above 150 mm,
- (g) an enhanced document exchange activity is –
  - (i) the collection of letters from contracted members of a document exchange operated by the Licensee to any facility used for the

## Schedule 2 – Condition 2: Service restrictions

- purpose of that exchange for streaming into those which may be conveyed to members of that exchange or of other such exchanges or pursuant to sub-paragraph (iii) and those which are to be conveyed by a universal service provider, whether or not after consolidation,
- (ii) the onward conveyance of letters that have been collected pursuant to paragraph (i) to a universal service provider, or
  - (iii) the conveyance of letters from contracted members of a document exchange operated by the Licensee with a view to delivery to business premises before 8.00 am on the next working day after collection,
- (h) a contracted member of a document exchange is a person who has entered into a written contract with the operator of a document exchange for the conveyance of letters using that exchange over a period of not less than twelve months,
- (i) business premises are premises that are not occupied solely for domestic purposes,
- (j) a tracked business-to-business service means a postal service that conveys letters only between business premises and does not use at any stage the services of another holder of a licence granted under the Act and which offers and provides in respect of every letter carried by the service –
- (i) a guaranteed latest time of delivery,
  - (ii) tracking of individual letters whilst in transit, and
  - (iii) confirmation to sender of delivery,
- (k) guaranteed latest time of delivery means delivery under a contract providing for compensation of not less than two times the cost of postage in the event

## Schedule 2 – Condition 2: Service restrictions

of failure to deliver before the contractually stipulated delivery time which shall be not later than the next working day after collection or receipt by or on behalf of the licensee,

- (l) a letter is in transit from the moment it is collected or received by or on behalf of the Licensee until the moment when it is delivered to the person to whom or at the premises to which it is addressed,
- (m) tracking means the ability to record where a letter is in its passage through the Licensee's systems for the conveyance of letters with sufficient precision to identify its passage through at least three of the following processes –
  - (i) inward collection or receipt,
  - (ii) inward sorting,
  - (iii) outward sorting, and
  - (iv) its delivery,
- (n) official industrial action is industrial action called by a trade union which has applied the ballot procedures in Part V of the Trade Union and Labour Relations (Consolidation) Act 1992 with a view to being protected from liability in tort,
- (o) industrial action is serious if, at the time of its commencement, it is expected to cause interruption to operations –
  - (i) at any one universal service mail centre for not less than 24 hours, and
  - (ii) at not less than two other universal service mail centres for any period of time, and
- (p) a universal service mail centre is a facility operated by a universal service provider containing automatic mail sorting equipment or which concentrates on handling mailings that exceed 4,000 items and have been pre-sorted.

## **PART 3 – FURTHERING THE INTERESTS OF USERS OF POSTAL SERVICES**

### **Condition 3: Service provision- and complaint handling**

1. The Licensee shall use reasonable endeavours –
  - (a) to collect letters conveyed pursuant to this Licence from its customers as agreed with them, and
  - (b) appropriately to deliver or to procure the delivery of any such letters it receives in the course of its business as a postal operator within a reasonable time.
2. Within the period of three months from the commencement of conveyance of letters under this Licence the Licensee shall establish systems for –
  - (a) measuring (using sampling methods if appropriate) and recording its performance in achieving its contract targets, and
  - (b) recording, analysing and responding to complaints in respect of failure to achieve the contract targets and in respect of services provided by the Licensee generally.
3. The Licensee shall provide a written description of the system established under paragraph 2(b) to Postcomm and to the Council and of any modifications to that system within one month of the system being established or of the modifications being made.
4. The Licensee shall submit written half yearly reports on –
  - (a) the extent of its success or failure in achieving its contract targets, and
  - (b) the complaints it has receivedto Postcomm and to the Council, not later than two months from the end of the half year to which they relate, summarising the Licensee's performance against the contract targets and the number and nature of the complaints it has received.

## Schedule 2 – Condition 3: Service provision and complaint handling

5. The Licensee shall publish the reports required to be submitted under paragraph 4 in such manner as will ensure reasonable publicity for them.
6. In this condition the “contract targets” means such targets for service performance as are set out in the Licensee’s contracts with its customers.

**Condition 4: Provision of information on licensed services**

1. Within the period of six months from the grant of this Licence, the Licensee shall prepare and submit to Postcomm and to the Council a statement setting out –
  - (a) details of the tariffs (including discounts and credit facilities) and terms under which the Licensee offers to provide postal services pursuant to this licence,
  - (b) details of the general conditions of, and the physical provisions for, access to the postal services offered by the Licensee pursuant to this licence.
2. 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 1 occurring in the period from the submission of that statement until 31<sup>st</sup> March 2007.
3. The Licensee shall ensure that the full address and telephone number of the Council is displayed with reasonable prominence in all explanatory literature it produces for users of its postal services.

**Condition 5: Protecting the integrity of mail**

1. Within the period of one month from the commencement of conveyance of letters under this Licence the Licensee shall submit to Postcomm and to the Council a statement describing the procedures the Licensee has established in relation to the matters referred to in paragraph 2 for the purposes set out in paragraph 3.
2. The procedures to be established pursuant to paragraph 1 shall be known as “the Licensee’s mail protection procedures” and shall deal with the following matters –
  - (a) the selection, vetting, initial training, follow-up training, provision of incentives to and disciplining of its staff, agents, sub-contractors, directors and officials,
  - (b) the security of its buildings and vehicles,
  - (c) avoiding, identifying and taking action in respect of offences under sections 83 and 84 of the Act in relation to postal packets and mailbags conveyed by the Licensee,
  - (d) ensuring that its agents and sub-contractors have and apply appropriate procedures in relation to their staff, buildings and vehicles, and
  - (e) the collection and analysis of statistics on the achievement of the purposes set out in paragraph 3.
3. The Licensee’s mail protection procedures shall be established for the following purposes –
  - (a) minimising the exposure of postal packets conveyed by the Licensee to the risk of loss, theft, damage or interference,
  - (b) minimising the risk of offences under sections 83 and 84 of the Act occurring in relation to postal packets and mailbags conveyed by the Licensee, and

## Schedule 2 – Condition 5: Protecting the integrity of mail

- (c) improving the performance of the Licensee in relation to the matters referred to in paragraphs (a) and (b).
- 4. The Licensee shall use all reasonable endeavours at all times to apply its mail protection procedures.
- 5. The Licensee may make modifications to its mail protection procedures at any time provided that –
  - (a) the mail protection procedures, with the proposed modifications will, in the reasonable opinion of the Licensee, better facilitate the achievement of the purposes set out in paragraph 3,
  - (b) the Licensee has given not less than 3 months' notice in writing of the proposed modifications to Postcomm and to the Council, and
  - (c) Postcomm, within that period of notice, has not served notice in writing on the Licensee requiring that the proposed modifications be not made.
- 6. The Licensee shall offer to review its mail protection procedures with the Council not less than once in every second year ending on the anniversary of this Licence and shall cooperate with the Council in the conduct of any such review.
- 7. If the Council recommends to Postcomm following a review under paragraph 6 that the Licensee's mail protection procedures should be changed in order to better facilitate the achievement of the purposes set out in paragraph 3 and if Postcomm advises the Licensee in writing that it is of the view that the changes recommended by the Council should be made, or made with modifications, then the Licensee shall either –
  - (a) alter its mail protection procedures in the manner recommended by the Council with any modifications advised by Postcomm, or
  - (b) advise Postcomm in writing that it has declined to alter its mail protection procedures as aforesaid and

## Schedule 2 – Condition 5: Protecting the integrity of mail

provide to Postcomm a full explanation of its decision.

8. The Licensee shall submit annual reports on the operation of its mail protection procedures to Postcomm and to the Council, not later than three months from the end of each year, setting out its estimates of the number of postal packets –
  - (a) lost or stolen, and
  - (b) damaged or unlawfully interfered with.
9. The Licensee shall submit to Postcomm and to the Council, with each annual report submitted under paragraph 8, a statement of the measures that the Licensee intends to take, in the period of twelve months from the submission of the report, to remedy any patterns of failure in achieving the purposes set out in paragraph 3.
10. For the purpose of paragraph 8 of this Condition “year” shall mean a period of twelve months commencing on 1 April and ending on 31 March.

## **PART 4 – PROMOTION OF EFFECTIVE COMPETITION BETWEEN POSTAL OPERATORS**

### **Condition 6: Competition law**

1. The Licensee shall furnish to Postcomm full copies of any –
  - (a) notification for guidance under section 13 of the Competition Act 1998,
  - (b) notification for a decision under section 14 of the Competition Act 1998, including any request for an individual exemption,
  - (c) notification for guidance under section 21 of the Competition Act 1998,
  - (d) notification for a decision under section 22 of the Competition Act 1998, and
  - (e) any application to the European Commission for any form of clearance in relation to Articles 81 and 82 of the Treaty of Rome,which is relevant to the Licensee's business as a provider of postal services in the United Kingdom in each case within seven days of the submission of the notification or application.
2. The Licensee shall furnish to Postcomm full copies of any other written submissions to the Director General of Fair Trading or to the European Commission in relation to any of the matters referred to in paragraph 1 in each case within seven days of the making of the submission.
3. The Licensee shall furnish Postcomm with such information concerning any notifications, applications or submissions of the kinds referred to in paragraphs 1 or 2 as Postcomm may by notice in writing require.
4. Information required to be furnished under paragraph 3 shall be furnished in such manner, in such form, at such

## Schedule 2 – Condition 6: Competition law

place and at such times as Postcomm may reasonably require.

**Condition 7: Mergers takeovers and change of control**

1. The Licensee shall furnish to Postcomm full copies of any –
  - (a) notice given to the Director General of Fair Trading under section 75A of the Fair Trading Act 1973 or to the Office of Fair Trading under section 96 of the Enterprise Act 2002, and
  - (b) any notification made to the European Commission for the purposes of Council Regulation EEC 4064/89 as amended from time to time,

which is relevant to the Licensee’s business as a provider of postal services in the United Kingdom within seven days of the giving of the notice or the making of the notification.

2. The Licensee shall furnish to Postcomm a copy of any informal written submission made –
  - (a) to the Director General of Fair Trading in relation to proposed arrangements of the kind referred to in section 75A of the Fair Trading Act 1973 or to the Office of Fair Trading in relation to proposed arrangements of the kind referred to in section 96 of the Enterprise Act 2002, or
  - (b) to the European Commission in relation to the application or possible application of Council Regulation EEC 4064/89 as amended from time to time,

which is relevant to the Licensee’s business as a provider of postal services in the United Kingdom within seven days of the making of the submission.

3. The Licensee shall furnish Postcomm with such information concerning any notices, notifications or submissions of the kinds referred to in paragraphs 1 or 2 as Postcomm may by notice in writing require.
4. Information required to be furnished under paragraph 3 shall be furnished in such manner, in such form, at such

## Schedule 2 – Condition 7: Mergers takeovers and change of control

place and at such times as Postcomm may reasonably require.

5. The Licensee shall notify Postcomm of any change of control of the Licensee as soon as practicable after the occurrence of the change.

## **PART 5 – PROVISION OF INFORMATION**

### **Condition 8: Provision of information to Postcomm**

1. Subject to paragraph 3, the Licensee shall furnish to Postcomm such information as Postcomm may require or as may be necessary for the purpose of performing the functions assigned to Postcomm by or under the Act.
2. Information required to be furnished under this condition shall be furnished in such manner, in such form, at such place and at such times as Postcomm may require.
3. This condition shall not require the Licensee to produce any documents or supply any information which it could not be compelled to produce or supply in evidence in civil proceedings before the court on grounds other than that the information does not exist.
4. Subject to paragraph 3, nothing in this condition shall prejudice any right of Postcomm to require information under or pursuant to any other condition and the duty of the Licensee to furnish information pursuant to this condition shall not be affected by any obligation to furnish information under or pursuant to any other condition.

**Condition 9: Provision of information to the Council**

1. Subject to paragraph 3, the Licensee shall furnish to the Council such information as the Council may reasonably require or as may be reasonably necessary for the purpose of performing the functions assigned to the Council by or under the Act.
2. Information required to be furnished under this condition shall be furnished in such manner, in such form, at such place and at such times as the Council may require.
3. This condition shall not require the Licensee to produce any documents or supply any information which it could not be compelled to produce or supply in evidence in civil proceedings before the court on grounds other than that the information does not exist.
4. The Licensee shall accept the determination of Postcomm in relation to any question arising under paragraph 1 or 2 as to whether any information is reasonably required or is reasonably necessary for the purpose of performing the functions assigned to the Council by or under the Act.

## PART 6 – MISCELLANEOUS PROVISIONS

### **Condition 10: Cessation of business as a postal operator**

1. The Licensee shall establish and shall at all times during the term of this Licence maintain in force the arrangements described in paragraph 2 for the purpose of ensuring that if the Licensee ceases to carry on business as a postal operator postal packets in its care at the time of such cessation may be delivered to the places to which they are addressed.
2. The arrangements to be established for the purpose of paragraph 1 may comprise either –
  - (a) a contract with a postal operator that is –
    - (i) a universal service provider, or
    - (ii) an operator approved by Postcomm for the purposes of this paragraph  
under which that operator agrees that it will ensure, if the Licensee ceases to carry on business as a postal operator, that postal packets in the Licensee’s care at the time of such cessation will be delivered to the places to which they are addressed, or
  - (b) an irrevocable guarantee provided by a bank or other body authorised under the Financial Services and Markets Act 2000 to carry on banking or insurance business, for a maximum amount not less than the amount calculated in accordance with paragraph 3 providing that, if the Licensee ceases to carry on business as a postal operator, the bank or other body will, on receipt of a written demand from Postcomm, pay to a postal operator or postal operators nominated by Postcomm such sum or sums up to the maximum amount of such guarantee as Postcomm may require for the purpose of ensuring that postal packets in the

## Schedule 2 – Condition 10: Cessation of business as a postal operator

Licensee's care at the time of such cessation will be delivered as aforesaid, or

- (c) an irrevocable guarantee provided by such company as Postcomm may approve in writing ("the guarantor") for a maximum amount not less than the amount calculated in accordance with paragraph 3 providing that, if the Licensee ceases to carry on business as a postal operator, the guarantor will, on receipt of a written demand from Postcomm, pay to a postal operator or postal operators nominated by Postcomm such sum or sums up to the maximum amount of such guarantee as Postcomm may require for the purpose of ensuring that postal packets in the Licensee's care at the time of such cessation will be delivered as aforesaid.

- 3. The maximum amount of any guarantee provided for the purpose of paragraph 2 shall at any time be not less than the sum found by –

- (a) taking –
  - (i) until the conclusion of the first financial year occurring during the term of this Licence the estimate made by the Licensee at the time of applying for this Licence of the number of postal packets it expected to convey pursuant to this licence in that financial year, and thereafter
  - (ii) the number of postal packets conveyed by the Licensee pursuant to this licence, in the financial year which at the time of cessation of the Licensee's business as a postal operator most recently has ended,
- (b) dividing that number by 26,
- (c) multiplying the number so calculated by £0.50, and
- (d) multiplying the sum so found by the fraction –

$$\frac{Y}{X}$$

Schedule 2 – Condition 10: Cessation of business as a postal operator

where –

$Y$  is the level of the Index of Retail Prices at the end of the financial year which at the time of cessation of the Licensee's business as a postal operator most recently has ended, and

$X$  is the level of the Index of Retail Prices at 31 March 2002.

4. The Licensee shall use reasonable endeavours to give to Postcomm not less than three calendar months' notice in writing of any decision it may take to cease to carry on the activity of a postal operator.
5. The Licensee shall publish any notice served on Postcomm pursuant to paragraph 4 in such manner as Postcomm may direct for the purpose of bringing the notice to the attention of customers and potential customers of the Licensee.

**Condition 11: Payment of amounts to Postcomm**

1. The Licensee shall pay to Postcomm in any relevant year the amount determined in accordance with paragraph 2 at the times stipulated in paragraph 3.
2. (a) The amount payable under paragraph 1 in respect of a relevant year shall be –
  - (i) if the Licensee’s turnover excluding access payments in the preceding relevant year, from activities which apart from this Licence would be prohibited by section 6(1) of the Act, did not exceed £10 million, the minimum sum, or
  - (ii) in all other cases, the minimum sum plus the additional sum.
- (b) The additional sum shall be calculated by –
  - (i) taking the total recoverable costs,
  - (ii) adding to that amount the amount (if any) determined by Postcomm (in consultation with the Competition Commission) as having been incurred by the Competition Commission in the preceding relevant year in connection with references made to it under section 15 of the Act, and
  - (iii) multiplying the amount calculated as aforesaid by the factor –

$$\frac{A}{B}$$

where –

“A” is the Licensee’s turnover excluding access payments in the preceding relevant year, from activities which apart from this Licence would be

## Schedule 2 – Condition 11: Payment of amounts to Postcomm

prohibited by section 6(1) of the Act, and

“*B*” is the turnover excluding access payments in that year of all holders of licences granted under the Act, from activities which apart from those licences would be prohibited by section 6(1) of the Act.

3. The amount due under paragraph 1 shall be payable on 30 June in the relevant year, or, if later, on the expiry of one month from the day on which Postcomm serves notice on the Licensee of such amount.
4. The Licensee shall comply with any requirement by Postcomm by notice in writing to maintain and audit records and to furnish Postcomm with information as to the Licensee’s turnover in any relevant year from activities which apart from this Licence would be prohibited by section 6(1) of the Act.
5. In this condition –
  - “access payments” means payments made to any other holder of a Licence under the Act for the conveyance of letters conveyed by the Licensee from its customers to that other Licence holder,
  - “minimum sum” in relation to a relevant year, means £1,000,
  - “relevant year” means any year beginning on 1<sup>st</sup> April,
  - “total recoverable costs” means the aggregate of –
    - (a) the amount estimated by Postcomm as likely to be the costs incurred by it during the relevant year in the exercise of the functions assigned to it or arising by or under –
      - (i) the Act,
      - (ii) any other Act of Parliament,

## Schedule 2 – Condition 11: Payment of amounts to Postcomm

- (iii) any subordinate legislation made under any Act of Parliament, or
  - (iv) any Community obligation,
- (b) the amount so estimated by Postcomm after consulting the Secretary of State as likely to be the amounts to be paid by the Secretary of State during the relevant year in respect of the expenses of the Council in accordance with paragraph 17 of Schedule 2 to the Act or in relation to the establishment of the Council, and
- (c) the amount of the difference, if any, between the costs mentioned in sub-paragraph (a) or (b) which Postcomm considers were actually incurred during the previous relevant year and the estimate of the costs in question made by it for the purposes of this condition, where the latter exceeds the former the amount of the difference being treated as a negative amount.

### **SCHEDULE 3 REVOCATION OF LICENCE**

1. This Licence may be revoked at any time by Postcomm by not less than the requisite period of notice in writing given to the Licensee –
  - (a) if the Licensee in writing requests or agrees in writing with Postcomm that this Licence should be revoked,
  - (b) if the Licensee is found by Postcomm to have made any false, dishonest or misleading statement to Postcomm in connection with his application for this licence,
  - (c) if any amount payable under Condition 11 in Schedule 2 of this Licence is unpaid 30 days after it becomes due and remains unpaid for a period of 30 days after Postcomm has notified the Licensee in writing that the amount is overdue,
  - (d) if the Licensee fails to comply with a final order or a provisional order which has been confirmed under section 24 of the Act and (in either case) such failure is not rectified to the satisfaction of Postcomm after Postcomm has served notice in writing of such failure on the Licensee and before the expiry of three months from the latest of –
    - (i) the date of service of such notice, or
    - (ii) the date of expiration of the period within which an application under section 28 of the Act could be made questioning the validity of the final or provisional order, or
    - (iii) if any such application is made, the date it is finally adjudicated upon,
  - (e) if the Licensee fails to pay the whole or any portion of a penalty imposed by Postcomm under section 30 of the Act or any interest thereon by the date by which it is required to be paid and

### Schedule 3 – Revocation of licence

such failure is not rectified to the satisfaction of Postcomm after Postcomm has served notice in writing of such failure on the Licensee and before the expiry of 3 months from the latest of –

- (i) the date of service of such notice, or
  - (ii) the date of expiration of the period within which an application under section 36 of the Act could be made in relation to the penalty, or
  - (iii) if any such application is made, the date it is finally adjudicated upon,
- (f) if the Licensee –
- (i) is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraph 2 below) or any voluntary arrangement is proposed in relation to it under section 1 of that Act or it enters into any composition or scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by Postcomm),
  - (ii) has a receiver (which shall include an administrative receiver within the meaning of section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed,
  - (iii) has an administration order under section 8 of the Insolvency Act 1986 made in relation to it,
  - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by Postcomm, or
  - (v) becomes subject to an order by the High Court for winding-up.

2. For the purposes of paragraph 1(f)(i) above, section 123(1)(a) of the Insolvency Act 1986 shall have effect as

### Schedule 3 – Revocation of licence

if for “£750” there were substituted “£100,000” or such higher figure as Postcomm may from time to time by direction in writing determine and the said section 123(1)(a) shall not apply if the demand therein referred to is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if the demand is satisfied prior to the expiry of the notice to the Licensee given by Postcomm.

3. The requisite period of notice shall be –
  - (a) for the purposes of sub-paragraph 1(f), 24 hours,  
and
  - (b) for all other purposes, 30 days.

## ANNEX – List of terms and expressions defined in the Act and used in the Licence

### ANNEX

#### List of terms and expressions defined in the Act and used in the Licence

*This Annex is not part of the Licence and is included only for convenience. Reference should be made to the Act for the authoritative definition of the terms included in this Annex.*

<b>Term or Expression</b>	<b>Defining Section of Act</b>	<b>Definition</b>
Condition of a licence	13(5)	references to a condition of a licence are to a provision of a licence which is expressed as a condition;
Delivery to addressee	125(3)	the delivery of a postal packet – (i) at the premises to which it is addressed or redirected, unless they are a post office from which it is to be collected, (ii) to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered, or (iii) to the addressee’s agent or to any other person considered to be authorised to receive the packet, shall be a delivery to the addressee;
Employee	125(1)	in relation to a body corporate, includes any officer or director of the body corporate and any other person taking part in its management, and “employer” and other related expressions shall be construed accordingly;
Final order	22(5)	means an order under section 22;

## ANNEX – List of terms and expressions defined in the Act and used in the Licence

Letter	125(1) and (2)	<p>“letter” means any communication in written form on any kind of physical medium to be conveyed and delivered otherwise than electronically to the person or address indicated by the sender on the item itself or on its wrapping (excluding any book, catalogue, newspaper or periodical); and includes a postal packet containing any such communication;</p> <p>For the purposes of this definition of “letter” the reference to a communication to be conveyed and delivered otherwise than electronically shall be construed as a reference to a communication to be conveyed and delivered otherwise than –</p> <p>(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984), or</p> <p>(b) by other means but while in electronic form;</p>
Notice	125(1)	means notice in writing;
Post office	125(1)	includes any house, building, room, vehicle or place used for the provision of any postal service;
Postal operator	125(1)	means a person who provides the service of conveying postal packets from one place to another by post or any of the incidental services of receiving, collecting, sorting and delivering such packets;
Postal packet	125(1)	means a letter, parcel, packet or other article transmissible by post;
Postal services	125(1)	means the service of conveying postal packets from one place to another by post, the incidental services of receiving, collecting, sorting and delivering such packets and any other service which relates to any of those services and is provided in conjunction with any of them;
Provisional order	23(8)	means an order under section 23;
Public holiday	125(1)	means Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom;
Sender	125(1)	in relation to any letter or other communication, means the person whose communication it is;

## ANNEX – List of terms and expressions defined in the Act and used in the Licence

Subordinate legislation	125(1)	has the same meaning as in the Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament and an instrument made under Northern Ireland legislation (within the meaning of section 98(1) of the Northern Ireland Act 1998);
The Commission	1(1)	a body corporate to be known as the Postal Services Commission;
The Council	2(1)	a body corporate to be known as the Consumer Council for Postal Services;
The Postal Services Directive	125(1)	means the Directive of the European Parliament and the Council of the European Union of 15th December 1997 (No. 97/67/EC) on common rules for the development of the internal market of Community postal services and the implementation of quality of service;
Universal service provider	4(3) and (4)	<p>(3) References to a universal service provider shall be construed as references to any person –</p> <p>(a) whose identity is notified by the Secretary of State to the European Commission in accordance with Article 4 of the Postal Services Directive as that of a person providing a universal postal service or a part of such a service in the United Kingdom, and</p> <p>(b) on whom the Secretary of State has served a notice informing him of that fact and the fact that he will be treated as a universal service provider for the purposes of this Act.</p> <p>(4) If no-one falls within subsection (3) because there is no Community obligation to notify the European Commission of the identity of a person providing a universal postal service or a part of such a service in the United Kingdom, references in this Act to a universal service provider shall be construed as references to any person who is treated by the Secretary of State as a universal service provider for the purposes of this Act and on whom the Secretary of State has served a notice informing him of that fact.</p>
Users	125(1)	in relation to postal services, includes users as addressees and potential users;
Vehicle	125(1)	includes a railway vehicle;

## ANNEX – List of terms and expressions defined in the Act and used in the Licence

Working day	125(1)	Means – (a) in relation to the collection and delivery of letters, any day which is not a Sunday or a public holiday, (b) in relation to the collection and delivery of postal packets other than letters, any day which is not a Saturday, a Sunday or a public holiday.
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