

**LICENCES GRANTED TO  
HAYS COMMERCIAL SERVICES LIMITED  
AND  
TPG POST UK LIMITED**

**DECISION DOCUMENT**

**DECEMBER 2002**

## Summary

On 12 November 2002, the Postal Services Commission (“Postcomm”) issued consultation notices on the proposal to grant long term licences to Hays Commercial Services Limited (“Hays”), TNT UK Limited (“TNT”) and TPG Post UK Limited (“TPG”). Representations on the granting of the licences were requested by 11 December 2002. No representations were received about the issue of the licences, but TNT requested that no decision be taken at this stage on its application. Postcomm has decided to grant licences to Hays and TPG.

Changes have, however, been made to the licences as a result of other consultation exercises and reflection by Postcomm on the standard licence. This document summarises those changes.

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# 1. Introduction

## **Purpose of this document**

- 1.1 This document explains the outcome of the consultation process undertaken on the licence applications received from Hays and TPG and outlines the changes that have been made to the proposed licences.

## **Background**

- 1.2 At the end of May 2002 Postcomm published its decision on its market opening strategy. This described Postcomm's approach to introducing competition into the postal market over the four years from 1 January 2003, with the underlying aim of achieving full liberalisation by April 2007 through a phased transition plan.
- 1.3 A decision document issued in November 2002 ("Licences under the Postal Services Act 2000: standard conditions") set out the basis of the proposed standard licence. Postcomm noted in that decision document that the standard licence was subject to further changes in the light of the consultation on the implementation of the European Directive ("Implementation of the European Directive on Postal Services in the UK. Postcomm's advice to the Secretary of State". Published December 2002) and a consultation on the proposal to licence tracked business-to-business services as a "defined activity".
- 1.4 On 12 November 2002 Postcomm issued consultation notices on the proposals to grant standard licences to Hays, TNT and TPG under Section 11 of the Act. This sought views on Postcomm's proposals to grant these licences and noted that the form of the standard licence was subject to change. Under the terms of the statutory notice, representations regarding the draft licence were requested by 11 December 2002. TNT subsequently requested that no decision be taken on its application for the timebeing.
- 1.5 The proposed licences were for the provision of the same services:
- the conveyance of letters which originate from a single user at one address and which are mailings of 4,000 or more items;
  - consolidation of mailings of less than 4,000 items for conveyance to Royal Mail Group plc and subsequent conveyance by Royal Mail Group plc;
  - enhanced document exchange services; and
  - tracked business-to-business services.
- 1.6 Postcomm received three formal responses to the consultations, none of which were confidential. None made any substantive points about the

grant of the licences. A list of those who responded is attached at Appendix 1. Copies of the responses are held in Postcomm's library.

- 1.7 Postcomm is satisfied that the grant of the licences to Hays and TPG is a proper exercise of Postcomm's functions under the Act.
- 1.8 This decision document summarises the changes made to the licences which were issued for consultation. These changes take account of the results of three separate activities:
  - The consultation on tracked business-to-business services;
  - The consultation on the implementation of the European Postal Services Directive; and
  - A final review by Postcomm of the standard licence once all the consultation exercises were complete.

#### **Contact details at Postcomm**

- 1.9 If you have questions about any aspect of this document please contact Shahida Mukhtar at:

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## 2. Changes to the licences

### **Background**

- 2.1 Postcomm published the terms of its standard licence in November 2002. In doing so, it noted that the terms were subject to further changes as a result of consultations on the transposition of the European Postal Services Directive (the “European Directive”) and the proposal for a further defined activity of tracked business-to-business services. The results of these consultations are now known and Postcomm has made the necessary changes to the licence and conducted a final review of all the conditions.

### **European Directive**

- 2.2 In publishing the standard licence and the consultation notices for Hays and TPG, Postcomm assumed that its proposals for the transposition of the European Directive, insofar as they impacted on the drafting of the licence, would be accepted by the Secretary of State. This was the case and so no changes have been necessary to the licence to take account of the transposition.

### **Tracked business-to-business services**

- 2.3 The result of the consultation on the proposal to open tracked business-to-business services to competition has been published. The service restriction was altered to reflect the outcome of that consultation on what level of tracking is required and this change has been reflected in the licences for Hays and TPG.

### **Other changes**

- 2.4 Postcomm conducted a final review of the terms of the standard licence which has resulted in some minor changes to the terms, none of which are substantive. These are outlined below.

#### Condition 1

- 2.5 Terms which have already been defined have been removed and one cross reference has been amended.

#### Condition 2

- 2.6 Paragraph (9)(a)(ii)(aa) has been amended to clarify the wording. In paragraph 10(d)(ii) reference to “postal packets” has been amended to “letters” to bring it in line with the rest of the licence.

### Condition 3

- 2.7 Paragraphs (1) and (4) have been amended to clarify the wording.

### Condition 5

- 2.8 The word “calendar” has been removed from paragraph 6 and the wording of paragraph 8 has been amended to clarify. A definition of “year” has been included at paragraph 10.

### Condition 7

- 2.9 Paragraphs (1)(a) and 2(a) have been amended to include references to the Enterprise Act 2002.

### Condition 10

- 2.10 Paragraphs 2(b) and (c) have been amended to clarify the wording.

### Schedule 3

- 2.11 Paragraph 1(c) has been clarified.

### 3. Postcomm's decision

#### **Background**

- 3.1 In taking the decision to grant the licences to Hays and TPG, Postcomm considered the responses to the consultation, the results of other consultations which impacted on the terms of the licences and its own final review of the licence terms. None of the responses raised any objections to the grant of the licences.
- 3.2 There have been changes to the licence as a result of other consultation exercises but also as a result of Postcomm's own review of the terms of the standard licence. Postcomm's view is that it is not necessary to consult on the latter changes as none of these are substantive.

#### **Decision**

- 3.3 The grant of these licences is consistent with Postcomm's market opening strategy and the safeguards for the universal service contained therein.
- 3.4 Postcomm concluded that to grant the licences to Hays and TPG is a proper exercise of Postcomm's functions and duties under the Act. Postcomm therefore decided to grant the licences.

## Appendix 1

Responses to the consultation notice were received from the following bodies/individuals:

1. Belfast City Council
2. Department for Regional Development, Northern Ireland
3. The Northern Ireland administration