

# THE POSTAL SERVICES COMMISSION

## POSTAL SERVICES ACT 2000

### SECTION 26

## NOTICE IN RELATION TO A PROPOSED FINAL ORDER

#### **Whereas -**

A. On 23 March 2001 the Postal Services Commission (“the Commission”) granted a licence (“the licence”) to Consignia plc, company number 4138203, having its registered office at 148 Old Street London EC1V 9HQ (“Consignia”) under section 11 of the Postal Services Act 2000 (“the Act”);

B. It is a requirement of paragraph 6 of Condition 4 in Schedule 2 to the licence (“Condition 4”) that Consignia shall use all reasonable endeavours to provide the scheduled services and meet the scheduled standards;

C. The scheduled services and standards are those established by Consignia pursuant to paragraph 3 of Condition 4;

D. For the reasons set out in Attachment B to this notice, the Commission is satisfied that Consignia is likely to contravene paragraph 6 of Condition 4,

#### **Now therefore -**

1. The Commission gives notice under section 26 of the Act that it proposes to make a final order under section 22 of the Act as set out in the proposed order at Attachment A to this notice.

2. The effect of the order will be to require Consignia to take the steps more fully outlined in the draft enforcement order in order that it uses all

reasonable endeavours to achieve the March 2003 licence targets for its 1<sup>st</sup> Class "Response Service" and 1<sup>st</sup> Class "Postage Paid Impression (PPI)" products.

3. The Commission proposes to make this order for the purpose of ensuring that Consignia complies with paragraph 6 of Condition 4 of the licence.

4. The Commission considers that Consignia is likely to contravene paragraph 6 of Condition 4 of its licence, which requires Consignia to use all reasonable endeavours to provide the scheduled services and meet the scheduled standards, because it has failed to achieve a reasonable level of performance for 1<sup>st</sup> Class Response Services and 1<sup>st</sup> Class PPI products for the first quarter of the year ending 31 March 2003. The Commission's full reasons for its view are set out at Attachment B to this notice.

5. Representations in relation to the proposed order may be made by writing to

Marie Whitley  
Postal Services Commission  
Hercules House  
6 Hercules Road  
London  
SE1 7DB  
Tel: 020 7593 2139  
Fax: 020 7593 2142  
E-mail: [mwhitley@psc.gov.uk](mailto:mwhitley@psc.gov.uk)

On or before 12 noon on the 23<sup>rd</sup> day from the publication of this notice.

Martin Stanley  
Chief Executive  
Postal Services Commission  
Tuesday 22 October 2002

# POSTAL SERVICES ACT 2000

## SECTION 22

### FINAL ORDER

#### Whereas:

A The Postal Services Commission (“the Commission”) is satisfied that Consignia PLC (“Consignia”) is likely to contravene paragraph 6 of Condition 4 of the licence granted to it under section 11 of the Postal Services Act 2000 (“the Act”) on 23 March 2001 (“the licence”);

B The Commission is satisfied that the duties imposed on it by sections 3 and 5 of the Act do not preclude it from making this order;

C Consignia is not taking all the steps that the Commission considers appropriate to secure or facilitate compliance with that condition;

D The apprehended contravention is not trivial; and

E The Commission gave notice under section 26 of the Act of its proposal to make this order and has taken into consideration all representations made in relation to the proposed order;

#### Therefore:

Under section 22 of the Act, to the extent necessary to ensure that Consignia complies with its obligation under paragraph 6 of Condition 4 of the licence, the Commission orders Consignia to:

1. comply with the specifications in respect of Response Services set out in Annex 1; and
2. comply with the outward processing specifications in respect of PPI services set out in Annex 2.

Under section 22 of the Act, the Commission also orders Consignia to:

3. provide evidence of the steps taken to comply with the specifications in Annexes 1 and 2 and the effects thereof, by means of monthly progress reports as prescribed in Annex 3, to be supplied not later than two weeks after the end of each calendar month until the end of the year ending March 2003, without prejudice to the obligation imposed by the Licence to produce other reports, including quarterly reports.
4. This order shall have immediate effect.

Martin Stanley  
Chief Executive  
Postal Services Commission

## **Response Services Specification**

### **Specification No. 1**

All Response Service items must be delivered on the day of receipt at the Delivery Unit. Priority (fee paid) & Barcoded Response Service items must be delivered on the first delivery on the day of receipt. Standard Response Service items must be delivered on the second delivery. Where no second delivery coverage exists, then standard items must be delivered on the first delivery.

N.B. Should Priority (fee paid) & Barcoded Response Service items be received after the first delivery has departed from the unit, these items must be delivered by the second delivery time window. (The only exception to this is if a customer has provided written confirmation that they do not require a later delivery and OR&S have been notified. This circumstance must be recorded in the unit's operational workplan).

N.B. Should a customer confirm in writing that they do not require their Standard Response Service items to be delivered on the second delivery, these items must be delivered on the first delivery of the following day. This circumstance must be reported to OR&S and recorded in the unit's operational workplan.

### **Specification No. 2**

#### **Where the accounting process is performed in the Mail Centre**

All Bar-coded & unique Postcode (non bar coded) items to be Billed via the Inward Automation and despatched direct to Walk at DO's. All other Response Service items (Priority, Standard & suspect box items) must have been through the accounting procedures for billing purposes to ensure all Response Service items are despatched to delivery units on or before Wave 4c using the correct bundle labels.

### **Specification No. 3**

#### **Where the accounting process is performed in the Delivery Unit**

The accounting process other than the Bar-coded & unique Postcode (non bar coded) items that have been Billed via the Inward Automation and despatched direct to Walk at DO's, must be completed to ensure Priority Response Service items are delivered on the first delivery.

### **Specification No. 4**

#### **Where the accounting process is performed in the Delivery Unit**

The accounting process must be complete to ensure all none Priority Response Service items are delivered on the scheduled delivery, recorded in the Delivery Unit's Workplan.

## **Specification No. 5**

### **Where the accounting process is performed in the Delivery Unit**

Mech. selections for Response Service items (such as the suspect box items & non unique postcodes), where the accounting process for billing purposes is not undertaken at the Mail Centre, must be despatched to the Delivery Unit Response Service locker as per the National Workplan, i.e. throughout the Inward processing cycle.

## **Specification No. 6**

Non-accounted Response Service items received at the Delivery Office (other than items received in automated bundles), where the billing process is performed within the Mail Centre, must be delivered as per Specification 1 and not returned to the Mail Centre. These items must be recorded on the correct form. This form must be forwarded to the Mail Centre Response Service locker on a daily basis.

## **Specification No. 7**

Response Service must be identified on both Mail Centre Inward and Delivery Office workplans in the work areas where Response Service items are processed discrete from other products.

## **PPI Outward Processing Specification**

### **Specification No. 1**

PPI dockets must be handed over to Revenue Protection immediately after the mail collection vehicles have been unloaded. Any missing dockets must be reported by drivers to the collections manager who must forward a summary to Revenue Protection.

(The minimum requirement is 1 posting docket per customer per day)

### **Specification No. 2**

PPI mail processing must be a clearly identifiable element of the Mail Centre outward workplan and must not be subjected to unnecessary delay. This must include handover times by collection wave, between work areas where PPI is handled as discrete product.

This must include a Mech. utilisation plan showing correct PPI operating modes, which is clearly displayed and adhered to.

### **Specification No. 3**

Any PPI mailings delayed in Revenue Protection for financial and/or mail volume investigation and as a consequence released later than the Mail Centre workplan, must be reported to OR&S by the Revenue Protection Manager.

### **Specification No. 4**

There must be designated, clearly identifiable handover points for PPI mail. The minimum requirement is:

- PPI mail required for Revenue Protection. (Mails for this area must be clearly identified using the standard method as defined by Revenue Protection)
- PPI mail that does not require Revenue Protection procedures and therefore can be processed immediately.
- Mail that has been released by Revenue Protection.

### **Specification No 5**

From the loading bank, PPI mail must reach the next handover point detailed in Specification 4 within 10 minutes of arrival at the Mail Centre.

### **Specification No. 6**

Where a customer presents a combined posting of 1<sup>st</sup> and 2<sup>nd</sup> class PPI mail in identified 1<sup>st</sup> and 2<sup>nd</sup> class Yorks, the 2<sup>nd</sup> class Yorks must be checked. The 1<sup>st</sup> class PPI trays must be extracted and mail processed in accordance with the 1<sup>st</sup> class workplan.

**Specification No. 7**

Any customer non - compliance must be recorded using the standard PPI Customer Error Report.

	<b>Requirement to provide the Commission with monthly progress reports on performance against the March 2003 licence target for 1<sup>st</sup> Class Response Services and 1<sup>st</sup> Class PPI: the reports should contain the following information</b>
1.	Quality of service performance results to be provided at a postcode area and national level and on a calendar month basis for each scheduled standard referred to in the order
2.	A progress report on the deployment at postcode area level of each of the product specifications referred to in Annexes 1 and 2
3.	An explanation of the reasons for any failure by Consignia to implement any aspect of the product specifications, together with details of the postcode area locations where this has occurred
4.	Verification that the product specifications have been implemented in the form of signed statements from the Consignia staff responsible at postcode area level for ensuring the specifications are deployed
5.	The above requirements will be subject to an audit process administered by Consignia involving testing compliance at postcode area. This audit process, and the units to be audited, will be subject to agreement with the Commission.

## Decision to make enforcement order

### 1. Licence requirement

Paragraph 6 of Condition 4 of the licence requires Consignia to use all reasonable endeavours to meet the standards of service established under paragraph 3 of Condition 4 of the licence. The standards thereby established are those set out in the Annex to Condition 4. For 1st Class Response Services the target for the 2 months ending March 2003 is 92.5%. The corresponding target for 1<sup>st</sup> Class Postage Paid Impression (PPI) is also 92.5%.

Although there is not an absolute requirement that these targets are met, the Commission considers that if they are not met, there would be prima facie evidence of a breach. The Commission considers that this would be a reasonable view to reach in the light of its decision that Consignia was in breach of its licence following its failure to use all reasonable endeavours to achieve its March 2002 licence targets for Response Services, and in view of the nature of the Action Plan proposed by Consignia for this service this year. Although the Commission decided that Consignia had used reasonable endeavours to meet the March 2002 licence target in respect of the 1<sup>st</sup> Class PPI product, it had issued a strong warning to Consignia that it would expect to see more effective processes put in place to enable it to achieve the March 2003 licence target.

To establish whether there is likely to be an actual breach it is necessary to consider the endeavours that Consignia has made and is likely to make. Under paragraph 8(b) of Condition 4, Consignia was required to submit a statement of what it proposed to do to meet those targets. That statement ("the Action Plan") was received by the Commission on 30 May 2002 .

### 2. Requirement to make an order

In this case the Commission is satisfied that Consignia is likely to contravene paragraph 6 of Condition 4 of its licence and accordingly under section 22 of the Act, the Commission is required to by order make such provision as is needed for the purpose of securing compliance with that condition.

Section 25 of the Act requires the Commission not to make an order if its sections 3 and 5 duties preclude it from doing so, in that the licence holder has agreed to take and is taking all the steps that the Commission considers appropriate to secure or facilitate compliance with the condition concerned, or the apprehended contravention is trivial.

### 3. Likely contravention

- (i) **1<sup>st</sup> Class Response Services:** an overview of Consignia's performance against the licence target for 1<sup>st</sup> Class Response Services during the First Quarter, along with a comparison with the Quarter 4 and March 2002 results, is set out below.

## Performance figures for 1<sup>st</sup> Class Response Services

Standard	Q4	Exit performance for March 2002		Performance for April-June 2002/03				
		Exit %	Gap between Exit % & licence target	March 2003 Licence target	Q1 flightpath target	Q1%	Gap between Q1% & flightpath target	Gap between Q1% & 2003 licence tgt
1 <sup>st</sup> Class Response Services	78.3%	81.6%	-8.9%	92.5%	83.4%	70.3%	-13.1%	-22.2%

The rationale behind the Commission's decision to make an enforcement order for the Response Services product is set out below.

- a. The Commission considered whether Consignia had deployed its resources more effectively than last year to improve performance during Quarter 1 following the 8.9% shortfall against the March 2002 licence target.
- b. The steep decline in performance during Quarter 1 for 1<sup>st</sup> Class Response Services demonstrated to the Commission that Consignia had failed to do this. Whereas Consignia's own Flightpath Plan for achieving the March 2003 licence target predicted a performance level of 83.4%, the first quarter's results showed that Consignia had managed **only 70.3%**.
- c. The Commission considered the implications of this performance downturn. Not only had performance slipped back by 8.0% since Quarter 4 (and 11.3% on the March 2002 result), it also meant that Consignia had missed its own Flightpath Plan by 13.1%. More importantly in the Commission's view was the fact that this low performance had resulted in an unacceptable shortfall against the March 2003 licence target of **22.2%**.
- d. The Commission then reviewed the explanation provided in the Report associated with the Quarter 1 results to establish whether there were any mitigating factors such as adverse weather conditions and transport instability. There were none.
- e. The Commission also noted with concern that Consignia had also been unable to pinpoint any operational reasons for its poor performance. This was attributed to the lack of information yielded by the low sample levels provided by Research International, the company responsible for undertaking the quality of service end to end measurement surveys.

- f. Despite the poor March 2002 exit result, Consignia confirmed in the Quarter 1 report that no 'significant performance improvements' had been planned for the first quarter.
- g. The Commission weighed this statement against the decision it took in respect of the March 2002 licence failure for this product. The rationale behind that decision was explained in Postcomm's letter of 12 August 2002. One of the reasons for deciding that there was a licence breach was Consignia's failure to deploy additional resources to improve the performance of this product. The Commission considers that this disregard for achieving this particular licence target has continued into Quarter 1 and is unacceptable.
- h. Furthermore, the Commission reviewed Consignia's 2002/03 statement of intended actions to meet its Flightpath Plan for achieving the March 2003 licence target. The Commission noted that a similar approach to last year was adopted whereby the main focus was on reinforcing basic postal operational standards. Last year, reinforcing basic operational standards was not sufficient on its own to improve the standard of service for Response Services. Given the evidence of last year's performance, the Commission believed that Consignia's approach to achieving the March 2003 target was very likely to fail.
- i. The Commission noted that the same approach during 2001/02 resulted in a performance improvement between Quarter 2 and 4 for the 1<sup>st</sup> Class product of only 2.7%. Given that there was a 22% performance gap against the licence target at the end of Quarter 1, the Commission has no option but to conclude that this year's plans carry an inherently high risk of failure. There is a lack of detail in the Action Plans and Quarter 1's quality of service Report makes few specific references to them. The Action Plans contained only a brief outline of plans for specific product improvement initiatives.
- j. The Quarter 1 Report elaborated on the above initiatives by explaining that the first stage had got underway during the Quarter with a fundamental review of Response Services processes. Whilst the Commission welcomed this initiative, it did not believe it was sufficient to constitute reasonable endeavours. This view was reached on the basis that systemic failures with this product were identified early last year. Had Consignia used reasonable endeavours it would have instigated a fundamental review much earlier and not delayed it until Quarter 1. In addition, the Commission believed that Consignia should have deployed additional resources to maintain and improve upon the March 2002 result in tandem with this review.
- k. The Commission considered the Response Services product re-specification plans that were produced as a result of the review. As these are based on empirical evidence, it does not propose to press Consignia to provide anything else. However, it does not regard the deployment of this specification in itself as constituting reasonable endeavours. The question of whether it will secure compliance with the March 2003 licence target will hinge on strict adherence by Consignia staff to it. Failure to do this has been the cause of poor

performance in the past. The fact that Response Services' performance has declined so rapidly from that achieved at the end of March 2002 raises serious questions about the commitment of service delivery staff coupled with the effectiveness of Consignia's front line management.

- I. On the basis of the above evidence the Commission believes that Consignia is likely to contravene paragraph 6 of Condition 4 of its licence by not using all reasonable endeavours to meet its March 2003 licence targets. The Commission has decided as a result to make the order at Attachment A under section 22 of the Postal Services Act 2000.

(ii) **1<sup>st</sup> Class Postage Paid Impression:** an overview of Consignia's performance against the licence target for 1<sup>st</sup> Class Postage Paid Impression (PPI) during the First Quarter, along with a comparison with the Quarter 4 and March 2002 result, is set out below.

#### Performance figures for 1<sup>st</sup> Class Postage Paid Impression

Standard	Q4	Exit performance for March 2002		Performance for April-June 2002/03				
		Exit %	Gap between Exit % & licence target	2003 Licence target	Q1 flightpath target	Q1%	Gap between Q1% & flightpath target	Gap between Q1% & 2003 licence target
<b>1<sup>st</sup> Class Postage Paid Impression</b>	79.4%	81.7%	-8.3%	92.5%	79.9%	81.5%	1.6%	-11.0%

**The rationale behind the Commission's decision to make an enforcement order for the Postage Paid Impression (PPI) product is set out below.**

- a. The Commission considered whether Consignia had deployed more effective processes than last year to improve performance in Quarter 1 following the 8.3% shortfall against the March 2002 licence target.
- b. The Commission noted that Consignia plan to achieve what it considers to be an undemanding Flightpath Plan target of only 79.9% during this quarter against a licence target of 92.5%. Not surprisingly Consignia exceeded this target by achieving 81.1%. Although this demonstrated a 2.1% improvement on the Quarter 4 figure, it also represented a 0.2% decline on the March 2002 exit result. More importantly, it highlighted the fact that it left a performance gap of **11.0%** against the March 2003 licence target. Bearing in mind the evidence of

last year's performance, this did not inspire the Commission's confidence in Consignia's ability to achieve the March 2003 licence target.

- c. As with Response Services, the Commission reviewed the Quarter 1 quality of service report for an explanation of any mitigating factors such as adverse weather conditions and transport instability. There were none.
- d. The Commission then considered what additional improvement activities had been deployed during this quarter. The quality of service Quarter 1 Report confirmed that none had been deployed. Reliance had been placed solely on improvements flowing through from 'adherence to generic core standards'. Despite Consignia's claim that its performance had improved (when compared with the Quarter 4 result), the Commission is of the view that performance improvements did not materialise to a sufficient degree to support a case that reasonable endeavours are being made.
- e. The Commission also examined Consignia's 2002/03 Action and Flightpath Plan for achieving the March 2003 licence target for this product. The approach is similar to that used for Response Services. Consignia's main focus, whilst a review of PPI processes got underway, was to rely on the pipeline discipline approach for improvements. Bearing in mind a similar approach was deployed unsuccessfully last year, the Commission took the view that Consignia's strategy for achieving the March 2003 target was very likely to fail. During 2002, the reinforcement of basic operational standards was not sufficient on its own to improve the standard of service for the PPI product.
- f. The Commission balanced these plans against the evidence of last year, when a similar approach plus additional measures ie the revision of Latest Acceptance Times, resulted in a performance improvement of only 1.3% accrued between Quarter 2 and the end of Quarter 4. When viewed against the 11% performance gap at the end of Quarter 1, the Commission is of the view that they are not sufficiently robust to achieve the requisite performance improvement and that Consignia is not therefore using all reasonable endeavours.
- h. The Commission also dismissed Consignia's argument that the overall shape of the Flightpath target Plan (the same applies with Response Services) reflected seasonal variations. For example, Consignia contended the Flightpath took account of the Easter bank holiday during Quarter 1. The Commission found this explanation untenable given that Consignia had planned for a 12.6% performance gap by the end of Quarter 1.
- i. Brief details of plans to undertake the fundamental review of PPI processes were provided by Consignia in the 2002/03 Action Plans. But no indication was given of whether there were any parallel plans to deploy additional improvements activities whilst this work got underway. The First Quarter report confirmed that no additional activities occurred. Had Consignia used all reasonable endeavours, and bearing in mind the evidence of last year's

performance, it would have deployed additional resources to achieve a better service for its customers. The Commission's view is that this should have been done in parallel with the fundamental review of processes during the First Quarter.

- j. The Commission also considered the PPI product re-specification plans that were produced as a result of the review. As with Response Services, the Commission does not propose to press Consignia to provide more plans. Nor does it believe that the fact of its existence and deployment constitutes reasonable endeavours. The Commission is acutely aware that if the plans are not underpinned by strict adherence to the standards then Consignia is unlikely to achieve its March 2003 licence targets. All the evidence suggests that this has been the cause of poor performance in the past, and no new measures are proposed to ensure that deployment is effective.
- k. On the basis of the above evidence the Commission believes that Consignia is likely to contravene paragraph 6 of Condition 4 of its licence by not using all reasonable endeavours to meet its March 2003 licence target. The Commission has decided as a result to make the order at Attachment A under section 22 of the Postal Services Act 2000.

#### **4. Section 3 and 5 duties**

As indicated above, section 25 of the Act requires the Commission not to make an order if its sections 3 and 5 duties preclude it from doing so. Section 3 of the Act sets out the primary duty of the Commission, which is to exercise its functions in a manner which it considers best calculated to ensure the provision of a universal postal service. Subject to this duty, section 5 places a duty on the Commission to exercise its functions in a manner which it considers is best calculated to further the interests of users of postal services. Section 5 also provides for the Commission to have regard to the promotion of efficiency and economy on the part of postal operators and the need to ensure that they are able to finance activities authorised or required by their licences.

In this case the steps the Commission is requiring Consignia to take are steps that Consignia has proposed. Furthermore, the steps set out in Annex 1 and 2 are what Consignia has asserted it needs to do if it is going to meet its end of year targets. Those improvement steps have been adopted by Consignia and thus it explicitly accepts that they will achieve this objective. Accordingly, the Commission is satisfied that the taking of these steps will not jeopardise the provision of a universal postal service. Rather, the Commission believes that the deployment of these steps is an integral part of the obligations in the licence to provide a universal postal service. The principal objective of making this order is to ensure that such a universal postal service is provided.

In addition, the Commission considers that this order will further the interests of the users of the postal services to which the order relates by helping achieve a higher standard of performance of those services. The order is also aimed at making Consignia more efficient in the delivery of the services it provides.

The proposed specifications have been put forward by Consignia. Consignia has thereby indicated that it is willing to provide adequate resources to undertake these actions and achieve the targets. Thus the Commission does not believe that the order will prevent Consignia from financing the activities authorised or required by its licence.

#### **5. Is Consignia taking appropriate steps?**

As indicated above, section 25 of the Act also precludes the Commission from making an order if Consignia has agreed to take and is taking all the steps that the Commission considers appropriate to secure or facilitate compliance with the condition concerned. The Commission alerted Consignia in a letter of 12 August 2002 to the possibility of the making of an enforcement order if the Commission had cause to believe that Consignia was likely to breach its licence by failing to make reasonable endeavours to meet its end of year quality of service targets.

On 30 May 2002 the Commission received the First Quarter's quality of service results. These were considered in conjunction with the actions outlined in the associated report. The Commission also had regard to the steps Consignia proposed in its Action Plans for 2002/03.

There were also discussions between Commission staff and Consignia to establish what steps Consignia proposed to take to achieve the targets for the two months ending 31 March 2003. Consignia subsequently provided additional Action Plans for Response Services and PPI standards. These form the specifications that Consignia are required to achieve under this order.

Although these Action Plans exist and they are due to be implemented in October 2002, the question of whether they will secure compliance with the licence targets will hinge on strict adherence by Consignia staff to the revised procedures and guidelines contained in the specifications. Failure by Consignia to properly implement its proposals has been a major cause of poor performance in the past. Accordingly, the Commission is not satisfied that the existence of these Action Plans is sufficient and is not satisfied that without this order Consignia will take the appropriate steps to ensure that the Action Plans are properly implemented.

#### **6. Is the apprehended contravention trivial?**

Section 25 of the Act also requires the Commission not to make an order if the apprehended contravention is trivial. On the basis of all the evidence, the Commission took the view that the apprehended contravention with regard to the 1<sup>st</sup> Class Response Services and 1<sup>st</sup> Class PPI products was non-trivial. Consignia's obligation under its licence to meet its service standards is of fundamental importance to the customers who pay for that service and have no effective alternative or remedy if the company provides a poor service.

#### **7. Evidence of compliance with the licence**

Experience from last year has shown that unless Consignia's Action Plans are sufficiently robust, and it adheres to the proposed Action Plans, it is unlikely to meet the end of year targets. In order for the Commission to be satisfied that Consignia is taking the steps required under this order and is making reasonable endeavours, it has required Consignia to provide evidence of the steps taken and the effects thereof, by means of monthly progress reports to be provided as prescribed in Annex 3, not later than two weeks after the end of each calendar month until the end of the year ending March 2003, without prejudice to the obligation imposed by the Licence to produce other reports, including quarterly reports.