

POSTCOMM

(THE POSTAL SERVICES COMMISSION)

POSTAL SERVICES ACT 2000

SECTIONS 30, 32 AND 33

NOTICE OF VARIATION OF PROPOSED FINANCIAL PENALTY

TO BE PAID BY

ROYAL MAIL GROUP PLC

16 JUNE 2006

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(THE POSTAL SERVICES COMMISSION)
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SECTIONS 30, 32 AND 33
NOTICE OF PROPOSED FINANCIAL PENALTY
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Whereas –

- (1) Royal Mail Group plc, company number 4138203, having its registered office at 148 Old Street London EC 1V 9HQ (“Royal Mail”) is the holder of a licence (“the Licence”) granted by the Postal Services Commission (“Postcomm”) under section 11 of the Postal Services Act 2000 (“the Act”) on 23 March 2001 and amended on 31 March 2003, 2 November 2005 and 25 May 2006.
- (2) The version of the Licence to which this Notice refers is that which was extant prior to 1 January 2006 (“the 2005 Licence”).
- (3) It was a requirement of paragraph 1 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(1)”) that Royal Mail shall at all times maintain mail protection procedures for the purposes set out in paragraph 2 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(2)”).
- (4) The purposes for the establishment and maintenance of the mail protection procedures referred to in Condition 8(2) were –
 - a) minimising the exposure of postal packets conveyed by Royal Mail to the risk of loss, theft, damage and 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 Royal Mail, and
 - c) improving the performance of Royal Mail in relation to the matters referred to in sub-paragraphs (a) and (b) above.
- (4) Royal Mail could have made modifications to its mail protection procedures at any time provided that –

- a) the mail protection procedures with the proposed modifications would, in the reasonable opinion of Royal Mail, better facilitate the achievement of the purposes set out in paragraph (3) above,
 - b) Royal Mail had given not less than 3 months notice in writing of the proposed modifications to Postcomm and the Consumer Council for Postal Services (“the Council”), and
 - c) Postcomm, within that notice period, had not served notice in writing on Royal Mail requiring that the proposed modifications be not made.
- (5) It was a requirement of paragraph 4 of Condition 8 in Schedule 2 to the 2005 Licence (“Condition 8(4)”) that Royal Mail use all reasonable endeavours at all times to apply its mail protection procedures.
- (6) During 2004 and 2005 Postcomm conducted a review of Royal Mail’s endeavours to apply its mail protection procedures.
- (7) In the course of its review, Postcomm became aware of a possible failure by Royal Mail to comply with Condition 8(5) of the 2005 Licence.
- (8) On the basis of information obtained in the course of Postcomm’s review, Postcomm concluded in January 2006 that Royal Mail had contravened Conditions 8(4) and 8(5) of the 2005 Licence and that it should propose the imposition of a financial penalty.
- (9) In a report published on 10 February 2006 (“the Report”) Postcomm set out the facts it relied upon in reaching its decision as to the contraventions of the 2005 Licence and formally gave notice of its proposal to impose a financial penalty in the sum of £11,380,000.
- (10) Postcomm received a number of representations in response to its formal notice proposing to impose a financial penalty.
- (11) Having considered those representations, Postcomm is still satisfied that Royal Mail had contravened Conditions 8(4) and 8(5) of the Licence and it has decided that the proposed penalty should be varied to the sum of £9,620,000 in accordance with section 33 of the Act.

Now therefore pursuant to section 33 of the Act Postcomm hereby gives notice as follows –

1. Postcomm proposes to vary the proposed financial penalty to be imposed on Royal Mail.
2. The amount of the proposed penalty, as varied, is £9,620,000.
3. The conditions which Postcomm is satisfied have been contravened are Conditions 8(4) and 8(5).
5. The reasons for the variation to the proposed penalty are -
 - i) to enable Postcomm to give effect to its assessment of the representations it received in response to its Notice to propose a penalty in the sum of £11,380,000,
 - ii) to facilitate the better achievement by Postcomm of its statutory duties in the context of a decision to propose a penalty by the use of a revised penalty calculation methodology, and
 - iii) the reasons set out in full in the decision document published on 16 June 2006 which accompanies this Notice and Postcomm relies on the totality of the decision document and the Report insofar as facts contained in it are not referred to in this Notice.
6. It is proposed to require the penalty to be paid in one instalment by bankers draft payable to Postcomm at Hercules House, 6 Hercules Road, London SE1 7DB.
7. The period within which representations may be made in relation to the proposed penalty is the period commencing the date of this Notice and ending at 5p.m. on 30 June 2006.
8. This Notice shall be construed in the same manner as the Licence or the 2005 Licence as the context so requires.

The Seal of the
Commission
hereunto affixed is
authenticated by –

Authorised for that purpose
by the Commission

Dated 16 June 2006