

RESPONSE BY THE MAIL COMPETITION FORUM TO POSTCOMM'S CONSULTATION ON THE LICENSING FRAMEWORK

1. The Mail Competition Forum (MCF) welcomes the opportunity to comment on Postcomm's consultation document dated 18th May 2007 concerning its proposals to revise the existing licensing framework.
2. Current membership of the MCF consists of Citipost AMP Ltd, City Link, DHL Global Mail (DHL), DX Network Services (DX), Racer Consultancy Management Services Ltd (Racer), Secure Mail Services Ltd (SMS), TNT Post UK Ltd (TNT Post) and UK Mail Ltd (UK Mail).
3. Our first major concern regards Postcomm's proposals to dilute the requirement for a prospective licensee to produce detailed plans as to how they will comply with the Mails Integrity Code of Practice. Instead Postcomm are now indicating that they will accept a declaration that the new market entrant has read and understood the Code.
4. We regard this a serious weakening of the process, that could leave the market open to entry from non-credible suppliers who would just play lip-service to the Code. At a time when the market is possibly on the verge of long-term decline, it could be seriously counter-productive to increase the risk of the mail becoming subject to heightened security risks.
5. We were greatly encouraged by the views expressed by recent market entrants at the seminar back in June. They indicated that they found the need to comply with MI Code standards helped them to address process issues that they might not otherwise have considered when establishing their operation. As one recent licensee suggested, complying with the MI Code is about ensuring that licensees operate in the mail business in the right way.
6. All licensees (either established companies or recent entrants) have worked towards complying with the standards set down by the Code. We therefore do not see why Postcomm should open up the opportunity for some future market entrants to avoid this. Whether mail security is breached as a result of ignorance, poor deployment of security procedures or by actual intent, it is the industry as a whole that will lose face, and not just the company concerned. Postcomm therefore should continue to ensure that new entrants fully embrace their mail security responsibilities. Post-licensing checks for conformance are not sufficient.

7. We also do not see the need to reduce the licence application fee. In this day and age £1000 is not a huge amount of money, although it is sufficient to indicate that new entrants are serious about entering the market, and are not entering simply to make a fast buck. We note that Postcomm are keen to reduce the barriers to entry, but this should not come at the expense of undermining the credibility or trust in the industry that all existing participants have sought to build up.
8. In fact we do not believe that the application fee is a serious barrier to entry at all. There are far greater and more important issues that Postcomm should look at addressing if they want to encourage wider participation. Price control, for example, has the effect of suppressing mail margins not only for Royal Mail, but for all market entrants. If potential new entrants can only see the opportunity to realise low single-figure margins (or worse), why would they consider mail over other investment opportunities? We believe that the lack of attractiveness of the market itself is a far greater deterrent than any nominal entrance fee. We would however agree that there is no need to charge both an application fee and an annual fee in the first year.
9. Some of our members are concerned about the escalation of annual fees once they reach the £10m turnover threshold, as this could be regarded as a disincentive to growth. A possible alternative to this could be the system operated in Jersey, whereby only those market players with 'Significant Market Power' (nominally adjudged as having a market share of 25% or more of the national market) are charged a different, and considerably larger, licence fee. Postcomm may wish to consider this as an alternative and simpler means of determining appropriate annual charges.
10. We would be happy to see the removal of the need to provide financial guarantees. This is an expensive process to go through, and is unnecessary given that other parties can be sourced to deliver customers' mail.
11. In summary, we do not believe that there is much wrong with the existing licensing process already operated by Postcomm, and would only suggest that some consideration is given to the annual fee structure, and that the requirement to provide financial guarantees is removed. We do not believe that the licence process itself presents significant barriers to market entry. On that basis we would strongly urge Postcomm not to consider lessening the need for new entrants to prove adherence to the Mails Integrity code, or to significantly reduce the licence application fee. These changes run the risk of decreasing mail integrity and market confidence while failing to stimulate competition.



The DX Group is the leading alternative provider of end-to-end postal services in the UK

**Amendment of the 2006 Licensing Framework
Consultation Document, May 2007**

To the Postal Services Commission,

Thank you for the opportunity to contribute to your thinking about the licensing framework for the UK postal market. As members of the Mail Competition Forum we (DX Network Services and Secure Mail Services) have been closely involved in the formulation of its response to this consultation, which we wholeheartedly support and to which we would like to refer you. This submission illuminates and reinforces some of the issues raised in that response.

In view of your commitment to undertake a fundamental review of the licensing framework to begin in January 2008 which will consider whether a licensing regime remains appropriate we believe that the currently proposed amendments are mostly both premature and unnecessary and that this current consultation has consumed resources that would have been better employed elsewhere. The only welcome proposal in this consultation is the removal of the requirement for a guarantee or other arrangements to ensure that mail is delivered in the event that the (licence) applicant ceases to be a postal operator. We have always felt that this requirement is unnecessary and unduly burdensome.

Furthermore, we agree with the MCF's conclusion that, the guarantee aside, "These changes run the risk of decreasing mail integrity and market confidence while failing to stimulate competition".

We welcome Postcomm's efforts to study and draw lessons from regulatory experience in other countries. However, we must question whether you have drawn the correct conclusions from developments in the German market and would like to contribute the following analysis to your decision-making process:

- The licensed area in Germany has a considerably wider scope than its UK equivalent. In Germany a licence is required for the carriage of all postal items weighing less than 1000g (350g in the UK) and there is no revenue threshold (£1 in the UK). Some services that are exempt in the UK (e.g. document exchange) require a licence in Germany as do some services that do not exist in the UK. It is unsurprising, therefore, that there are more licences in Germany than in the UK;
- German postal services are very expensive (7th most expensive in Europe) compared with the UK (15th most expensive). The German incumbent,

Deutsche Post, has benefited from a resultant high level of ROCE which it has used to fund its expansion. An analysis by NERA in 2003 pointed out that Deutsche Post's cost of capital in 2001 was between 10.2% and 11.8% before tax. ROCE in its mail division was consistently above 20% and was 45% in 2000 and 50% in 2001. German prices do now appear to be falling but this fall is from a higher starting point and proceeding at a more leisurely pace than is the case in the UK. Neither the incumbent nor the regulator has adopted the aggressive pricing seen in the UK. A major barrier to entry in the UK market, low incumbent prices, is therefore much less significant in Germany.

- Market liberalisation started in Germany in 1997/8 and there has therefore been more time for the number of licensees to grow. This has also been a period of relatively high unemployment in Germany which has probably led to a higher level of entry into the courier/mail market.
- Postal deliveries in Germany are typically made later in the day than in the UK, even to medium-sized businesses. This means that many people rent boxes at their local post offices and collect their mail themselves in order to get their mail early. There is a reasonably sized, licensed business for couriers to collect from these boxes.
- Statute stipulates that many official documents such as summons, parking and speeding fines must be delivered using a postal service known as a Postzustellungsauftrag (formal delivery order). This market sector is open to licensed competition and entrants had about 40% market share in 2005, delivering 27m items with total revenue of €112m.
- The German regulator awards different geographic licences. It is possible to hold local, regional or national licence variants. Some licensees hold several licences.
- DSA competition is almost wholly absent from the German market. Because of this there are a large number of competitors providing end-to-end competition. This must be preferable to the DSA model because it applies price pressure on the incumbent's entire value chain, not just its upstream element.

Whilst these observations are certainly interesting, we question the value of placing too much weight on translating to current UK market conditions experiences from a different market with a different history and at a different stage of development. Thus, in trying to increase competition in the UK market, you might be tempted to derive the following actions from the preceding observations of the German market:

1. Start the process of deregulation earlier
2. Reduce the emphasis on DSA
3. Expand the size of the licensed area
4. Encourage high levels of unemployment
5. Reduce the incumbent's quality of service
6. Make the use of certain postal services statutory
7. Encourage operators to hold several licences
8. Raise the prices of the incumbent operator

Of these, the prices of the incumbent operator are of direct relevance because Royal Mail's artificially depressed prices are undoubtedly hindering market entry and competition. In addition, an emphasis on DSA distorts the market away from the benefits of end-to-end competition and towards an oligopoly of express operators providing limited, less beneficial upstream competition. In regard to prices and DSA you do clearly have the ability to influence the future development of valuable end-to-end competition by judicious operation of the regulatory policy levers at your disposal. Equally clearly, however, the remaining actions are impractical, irrelevant or undeliverable in the context of Postcomm's regulation of the UK postal market.

Yours sincerely,

Michael MacClancy
Head of Regulation, The DX Group (DX Network Services and Secure Mail Services)

Secure Mail Services delivers to 99.7% of UK business and residential addresses

From: "Marcus Stockwell" <marcus.stockwell@zip-mail.co.uk> 06/08/2007 15:47

To: Richard Chandler

Subject: Consultation response - licensing review

Dear Richard,

In response to your consultation document "Amendment of the 2006 Licensing Framework" dated May 2007 Zip Mail has the following comments:

In principle Zip Mail supports the reduction of the burden of the licensing process. However, we believe that any such reduction should be done without risk to the integrity of the mail industry as a whole.

Specifically we feel that the requirements for applicants to detail their procedures for complying with the Mail Integrity Code of Practice and Common Operational Code of Practice must remain, since without this requirement, and Postcomm's assistance in meeting this requirement, operators may enter the market without realising the difficulties involved and the severity of the consequences of being inadequately equipped to deal with them. This in turn could damage the image of mail as a medium, and hence the whole industry.

We support the removal of the requirement for a guarantee. Our experience is that the guarantee is a significant cost to a new applicant in both time and money and has not been of visible benefit to the industry or to consumers.

At the workshop you held on Licensing it was mooted that the 28 day period of public consultation on any applicant could be moved to run concurrently with the rest of the application process, rather than as a separate period after the application has been otherwise finalised. We would support such a change, as we found this period an unnecessary additional delay in obtaining the licence.

We agree that the combination of Application fee and Annual fee constitute a significant barrier to entry for SMEs, and would support a reduction in the level of financial contribution required.

I hope that you will take these comments into consideration, and look forward to seeing the results of the consultation.

Kind regards,

Marcus Stockwell
Zip Mail Ltd
47 Chancery Lane
London WC2A 1RF
tel. 020 7405 7547

