



**Australian Government**  

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**Department of Communications**

**SUBMISSION TO  
SENATE STANDING COMMITTEE ON ENVIRONMENT  
AND COMMUNICATIONS**

**INQUIRY INTO THE PERFORMANCE OF  
AUSTRALIA POST AND LICENSED POST OFFICES**

**25 November 2013**

## **TERMS OF REFERENCE**

That the following matters be referred to the Environment and Communications Legislation Committee for inquiry and report by 11 December 2013:

- a) the overall performance, importance and role of Australia Post in Australian communities, and the challenges it faces in the immediate and longer term;
- b) the operations of Australia Post in relation to Licensed Post Offices (LPOs), with particular reference to:
  - i) the importance and role of the LPO network in the Australian postal system, with particular reference to regional and remote areas
  - ii) the licensing and trading conditions applicable to LPOs, including the Community Service Obligations, and any effects these may have on operating an LPO business, and
  - iii) marketing, retail and trading arrangements between Australia Post and LPOs and other entities; and
- c) any related matters.

## INTRODUCTION

1. In response to the invitation of the Senate Standing Committee on Environment and Communications, the Department of Communications provides this submission against the terms of reference of the *Inquiry into the performance of Australia Post and Licensed Post Offices*. The Department of Finance is putting forward a submission focusing on Australia Post's financial performance and associated challenges. The Department supports the material provided by the Department of Finance and this submission does not canvass those matters that their submission addresses.
2. Licensed Post Offices (LPOs) play a critical role in enabling Australia Post to meet its regulatory obligations with regards to the accessibility and delivery of letter services. Of the 4,429 retail outlets as at 30 June 2013, 2,895 are LPOs (around 65%). In rural and remote areas, LPOs form over 90% of the network. As such, LPOs are an essential part of Australia Post's network and to be successful, LPO's clearly need to be profitable. Without them, Australia Post would not be able to meet its service standards. Further, the Department of Communications acknowledges that LPOs, particularly in rural and remote areas, are valued by the community beyond their provision of letter services. Many are the key point of contact for their communities and deliver services, such as banking and identity verification, not otherwise accessible face-to-face.
3. The challenges facing Australia Post and its LPOs apply to most postal companies globally. In the face of accelerating declines in letter volumes and corresponding decreases in revenue in the traditional letters business, associated company and LPO profits are declining. Australia Post reports a decline of 6.4 per cent in addressed letter volumes in the last financial year and a loss of \$218.4 million in its regulated letters business. This trend is expected to continue as electronic alternatives to letters (such as email, social networking and SMS) address the communications needs of Australians.
4. The decline in letters is primarily driven by the growing importance of the digital economy. This is an inevitable shift and one that is, on the whole, desirable. It is reducing the cost of doing business and increasing opportunities for citizens and businesses to participate in a global economy, regardless of their location. It is also bringing many new opportunities for Australia Post and potentially for LPOs. For example, the growing importance of parcel delivery as a core part of ecommerce delivery models affords opportunities for Australia Post and LPOs to offer valuable new services.
5. While most LPOs provide letter services in conjunction with other business activities, a decline in letter services is currently placing pressure on their revenue. With some elements of their remuneration linked to a percentage of the basic postage rate, the setting of stamp prices below a level that would recover costs has had a direct effect on the profitability of that segment of each LPO's business.
6. Australia Post is required to perform its functions in a manner consistent with sound commercial practice, including maintaining the viability of the letter services while continuing to meet its regulatory obligations. Australia Post must comply with the terms and conditions of its Licensed Post Office Agreement, negotiated with the LPOs

representative agency, Post Office Agents Association Limited (POAAL), as part of its meeting this requirement.

### **Background**

7. To provide context, this submission outlines Australia Post's presents universal and community service obligations, and international treaty obligations.
8. Australia Post is a Government Business Enterprise (GBE) responsible for providing postal services within Australia. Australia Post is established by the *Australian Postal Corporation Act 1989* (the APC Act) as a statutory corporation operating on a commercial basis at arm's length from Government. Australia Post is accountable to two shareholder Ministers: the Minister for Communications, as portfolio Minister, and the Minister for Finance.
9. Australia Post's principal function is to supply postal services within Australia and between Australia and places outside Australia (s 14 of the APC Act). A subsidiary function is to carry on, outside Australia, any business or activity relating to postal services (s 15). Australia Post is also permitted to conduct other business within or outside Australia that is incidental to its role of supplying postal services, or can be undertaken in the course of fulfilling its principal role of providing a postal service (s16).
10. Subordinate legislation applying to Australia Post includes the *Australian Postal Corporation Regulations 1996* and the *Australian Postal Corporation (Performance Standards) Regulations 1998*. As a Commonwealth Authority, Australia Post is also governed by the *Commonwealth Authorities and Companies Act 1997* (the CAC Act).

### Universal service obligation

11. Australia Post must provide postal services to everyone in Australia, no matter where they reside, at an affordable price. It does so to meet the social and commercial needs of the community and because it has international treaty obligations as a member of the Universal Postal Union (UPU) of the United Nations. The UPU universal service obligation requires signatories to provide an affordable but viable service to all points in their territory, to a standard that meets the needs of the population (Attachment A).

### Community service obligations

12. Australia Post's universal service obligation gives rise to its legislated community service obligations. Community service obligations are requirements imposed by government on a public enterprise to carry out activities which it would not otherwise elect to do on a commercial basis, and which the government does not require other business in the public or private sectors to generally undertake, or which it would only do commercially at a higher price.
13. Australia Post's community service obligations are prescribed in s27 of the APC Act (Attachment B). They are to provide a letter service for both domestic and international traffic that:
  - a. is reasonably accessible to everyone on an equitable basis
  - b. operates to performance standards that ensure the service meets the social, industrial and commercial needs of the community, and
  - c. makes available a letter service at a uniform rate Australia-wide.

14. Australia Post's performance standards are set down in the *Australian Postal Corporation (Performance Standards) Regulations 1998* (Attachment C). They cover:
  - a. frequency, speed and accuracy of mail delivery, and
  - b. accessibility of services, such as mail lodgment points and retail outlets.

These performance standards are particularly important to the Committee's considerations as LPOs play a key role in meeting these standards.

15. Australia Post's community service obligations are partially funded by the uniform postage rate and its letters monopoly. The latter is the 'reserved service' prescribed in s29 of the APC Act. Australia Post estimates the cost of providing the community service obligations in 2012-13 was \$177.5 million.

#### Other Australia Post obligations

16. Part 3 of the APC Act specifies Australia Post's other obligations. These are:
  - a. a commercial obligation to, "as far as practicable, perform its functions in a manner consistent with sound commercial practice" (s26), and
  - b. general governmental obligations to:
    - i. comply with general policies of the Commonwealth of which the directors (members of the Board) are notified under s28 of the CAC Act,
    - ii. any directions given by the Minister under s49 of the APC Act, and
    - iii. Australia's obligations under any convention (such as the UPU convention).
17. Finally, a principal objective of each GBE is that it adds to shareholder value by, among other things, operating and pricing efficiently, and earning at least a commercial rate of return. The *Commonwealth Government Business Enterprise Governance and Oversight Guidelines 2011* stipulates a commercial rate of return to include fully recovering costs and working towards a financial target and a dividend policy agreed with shareholder Ministers. The rate of return should be at least sufficient to justify the long-term retention of assets in the business, and to pay commercial dividends from those returns.

#### ***The overall performance, importance and role of Australia Post in Australian communities, and the challenges it faces in the immediate and longer term***

18. Australia Post is meeting its regulatory obligation to deliver postal services. See Australia Post's 2012-13 Annual Report (Attachment D).
19. In 2012-13, over 3,323 million letters were sent, of which less than 5% were social mail (non-business mail). While letters are still important to some Australians, volumes have declined over 18% since 2007-08, and continue to steadily decline (6.4% in 2012-13). For many individuals, electronic communications through email, SMS and social networking increasingly meet their social communications needs. Changes in the

communication preferences of Australians present a growing challenge to the rationale for monopoly letter services.

20. The Competition Principles Agreement, signed in 1995 (and amended in 2007), by Commonwealth, State and Territory Governments specifies that legislation restricting competition should be reviewed at least once every ten years. The last review of the APC Act conducted in accordance with this agreement was in 1998, by the National Competition Council (NCC). While a follow-up review of the APC Act is therefore overdue, the findings of the 1998 NCC Review provide a relevant benchmark against which to consider change. The NCC noted that the universal service obligation for letters had traditionally been supported on the basis that it assists in the “...social, industrial and commercial needs of communities and the development of the nation” (Vol 1, pg 43). After undertaking its review, the NCC recommended retention of the universal service obligation because the costs incurred were fully justified by the social benefits, and there was (at that time) no effective alternative means of providing those social benefits (Vol 2, pg 137). The NCC was strongly of the view that it was in the public interest for the universal service obligation to continue.
21. Now some fifteen years later, it is clear that the relevance of letters to the nation’s social, industrial and commercial needs has changed. Australians still need an affordable, easily accessible, service—of some kind—that provides a means of social and commercial communication. Given changes to consumer preferences and technology there is a case for re-examining how this service is most effectively provided to the community.
22. Nevertheless, replacing physical letters with an electronic service would not yet be appropriate for all communities and businesses, in particular those which do not have ready access to an electronic service that could act as a replacement.
23. While electronic services are increasingly an option for many, there are consumers who prefer to use letters for other reasons, such as security or familiarity (such as among the aged). Alongside this, the role of Australia Post in Australian communities continues, but the importance of physical letter services is diminishing.
24. As evidenced in Australia Post’s annual reports to the Parliament over the last five years, declining letter volumes and rising fixed costs have led to financial losses for Australia Post’s reserved letter services. These losses are currently being funded by profits from Australia Post’s commercial (non-reserved) activities but forecasts show this is unsustainable. Australia Post will require additional flexibility in the way it provides the letters service for it to be sustained.
25. For LPOs, the reduced demand for letter services has a direct impact on their revenue flow. Like Australia Post, LPOs rely on revenue generated from business activities outside the reserved letter services to remain viable. As with many retail businesses in Australia where the market is rapidly changing, revenue from all streams is under pressure.
26. The Government’s digital economy priorities, together with consumer and market changes give rise to emerging opportunities to make greater use of the extensive physical footprint of the postal network. Australia Post and its LPOs are well placed to provide services such as identity verification, digital mail and payment systems, in

particular where service delivery continues to require face-to-face transactions. Further, Australia Post is the most significant gateway provider for all items moving into and out of Australia. This gateway function extends throughout its network, with parcels dispatched and delivered through its retail network. While LPOs face challenges to their traditional operating models, they also share the opportunities arising from the growth in the digital economy.

***The operations of Australia Post in relation to Licensed Post Offices (LPOs), with particular reference to:***

- ***the importance and role of the LPO network in the Australian postal system, with particular reference to regional and remote areas.***

27. The *Australian Postal Corporation (Performance Standards) Regulations 1998* include the requirement for Australia Post to:

- a. maintain at least 4,000 offices (retail outlets) at which persons can purchase Australia Post products and services
- b. maintain at least 50% of all retail outlets in a rural or remote zone and, in any event, not fewer than 2,500 retail outlets

They further stipulate requirements for frequency, accuracy and speed of delivery.

28. These Regulations set the standards that benchmark compliance with universal service obligation.

29. The NCC Review found that the universal service obligation had greater significance in rural and remote areas, creating a delivery network through which Australia Post delivers parcels, food, spare parts, educational and health materials. (Vol 2, pg 136). While the NCC Review is dated, this finding appears to remain substantially the same.

30. While ever the universal service obligation remains relevant, LPOs will be important to the Australian postal system, particularly in regional and remote areas. Representing some 65% of the network, LPOs enable Australia Post to meet its universal and community service obligations, and international treaty obligations (see [Background](#)). As a small business, LPOs are well placed to diversify and tailor services to local needs. However, like many Australian small businesses, they face a difficult trading environment.

***The operations of Australia Post in relation to Licensed Post Offices (LPOs), with particular reference to:***

- ***the licensing and trading conditions applicable to LPOs, including the Community Service Obligations, and any effects these may have on operating an LPO business and***
- ***marketing, retail and trading arrangements between Australia Post and LPOs and other entities.***

31. It is not in the normal purview of the Minister of Communications to direct the operations of Australia Post in relation to LPOs.

32. Australia Post is a statutory corporation operating on a commercial basis at arm's length from Government. It is bound to operate in accordance with all Australian laws, including the *Competition and Consumer Act 2010* (the CCA) and its associated Franchising Code of Conduct, the latter having mandatory application to Australia Post. It must also abide by the terms and conditions of its Licensed Post Office Agreement, negotiated with the representative agency for LPOs, POAAL.
33. It is the role of the Australian Competition and Consumer Commission (the ACCC) to administer the CCA and it does this in two key ways:
  - a. by preventing or halting anti-competitive behaviour so that all businesses have the opportunity to survive and thrive, and to conduct their business in a manner consistent with the interests of the Australian public, the Australian consumer, and
  - b. by protecting consumers against misleading and deceptive conduct.
34. The ACCC may take action against any corporation which it believes has broken the law and has acted in an anti-competitive or unfair manner against the interests of consumers or other businesses. The ACCC takes on cases on behalf of small business when there are allegations from those businesses concerning unconscionable conduct, misleading or deceptive conduct or breaches of the Franchising Code.
35. In his speech to the 2004 POAAL National Conference, the then ACCC Commissioner John Martin stated that 'given Australia Post's dominant position [with regards to market power] any allegation of conduct by it which deliberately damages the competitive process would be investigated by the ACCC'.
36. The Franchising Code of Conduct is a mandatory code that applies to Australia Post franchisees, including LPOs. The Code provides a dispute resolution process, including the option of mediation. The Office of the Franchising Mediation Adviser was established under the Franchising Code of Conduct, to regulate the conduct of franchisees and franchisors towards each other and provide a cost-effective dispute resolution solution to the industry. The Licensed Post Office Agreement emphasises the use of dispute resolution services.
37. The Department has received communications from LPOs, expressing concerns with the viability of their businesses and other matters. Many of the concerns raised have long standing and have been considered in numerous reviews. In 2000, 2006 and most recently in mid 2013, the Office of Small Business conducted reviews of the Franchising Code of Conduct. LPO issues were raised in each of these reviews. Likewise in 2002 and 2007 there were reviews of the competition provisions of the then *Trade Practices Act 1974*. These reviews considered the rights and remedies available to small businesses, including LPOs.
38. The Department of Communications considers it appropriate that, in the case of dispute, LPOs avail themselves of the protections of the CCA and the opportunities for redress and resolution afforded by the Franchising Code of Conduct.