

I. GENERAL PROVISIONS

Head of State

Act 43/2010, of 30 December, on the universal postal service, user rights and the postal market.

TEXT

JUAN CARLOS I

KING OF SPAIN

To all those who read and understand this Act,

Be it known that Parliament has passed and I have signed the following Act

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PREAMBLE

The present Act responds to a legal obligation and to a singular opportunity for postal services in Spain.

The obligation is born from the need to transpose by 31 December 2010 Directive 2008/6/CE, of 20 February 2008, which amends Directive 97/67/CE of the European Parliament and of the Council, of 15 December 1997, relating to the common legislation for the development of the internal market of Community postal services and the improvement of quality of service.

This very fact offers the opportunity. Therefore, now is the time to provide ourselves with a complete, coherent model which guarantees an effective, efficient and universal service of quality which is in tune with the needs of our citizens and businesses; a model which guarantees the rights of users of postal services effectively, whatever the nature of their provider may be; and finally, which affords the market a fair and balanced framework for the exercise of free concurrence based on protection of the public interest and on the consideration of the interests of the different public and private agents operating in this market.

The existence of postal services with wide territorial coverage together with high quality and trustworthiness is a necessary condition for the promotion of the harmonious, balanced and sustainable development of economic activity in Spain and throughout the European Union. As Community legislation itself acknowledges, postal services are an essential means of communication, trade and social, economic and territorial cohesion and in complying with its general interest function they help to realise the aims of equity, employment and social protection, while fostering the competitiveness of companies and enhancing citizens' quality of life.

Act 24/1998, of 13 July, on the Universal Service and the Liberalisation of Postal Services undertook a regulation of the Spanish postal sector which was inspired in Directive 97/67/CE. Since its entry into force, this Act has undergone various amendments, such as those introduced by Article 95 of Act 50/1998, of 30 December, by the twenty-first additional provision of Act 14/2000, of 29 December, by Article 81 of Act 24/2001, of 27 December, and by Article 106 of Act 53/2002, of 30 December, all of which concerned Fiscal, Administrative and Social Order Measures, or those more recently introduced by Act 25/2009, of 23 December, on the amendment of various Acts for their amendment to Act 17/2009, of 22 November, on free access to service activities and their exercise. Together with all these amendments, mention should also be made of the recent regulation of one of the national regulatory bodies in the postal sector, which has been incorporated into our legal system through Act 23/2007, of 8 October, on the creation of the National Postal Sector Commission.

Equally, beyond the provisions of Directive 97/67/CE, the European Union has continued to promote the postal sector reform process which has resulted in the adoption of a new regulatory framework for EU postal services through Directive 2002/39/CE of the European Parliament and of the Council, of 10 June 2002, by which Directive 97/67/CE was amended with the aim of pursuing the opening up of Community postal services to competition and of the aforementioned Directive 2008/6/CE, of 20 February 2008, by which the same directive was also amended with the aim of fully achieving the internal market of Community postal services.

These Directives, just as they reiterate that postal services represent a general economic interest service of great social and economic importance, emphasise that in recent years they have gained in quality and efficiency and have geared themselves better to user needs while maintaining their role in promoting social and territorial cohesion. Moreover, the European directives reiterate that Member States must ensure that postal market reform is fully compatible with the maintaining of a high-quality universal service which is offered throughout the territory at affordable prices, in an efficient manner and with the guarantee of financial sufficiency.

The present Act aims to provide a new legal framework which, while incorporating the above Postal Directive 2008/6/CE into our internal legislation, guarantees the rights of citizens to receive a universal service of wide territorial coverage, high quality and efficiency and strengthens the financial sustainability of a service which is entrusted to the state company Correos y Telégrafos, S.A.

With respect to the quality of services included in the scope of the universal service, the Act aims to guarantee that the operator designated in Spain to provide this service attains quality standards similar to the most advanced of the 27 EU Member States in this matter.

II

The Act is structured into seven Titles, ten additional provisions, one transitory provision, one repealing provision and seven final provisions.

The seven Titles regulate respectively the general aspects; the rights of postal service users; the universal service and its prices and associated conditions; the general system of postal service provision in Spain; access to the network and other postal infrastructures and the resolution of disputes between operators; the national regulatory authority; and finally, issues related to inspection, infringements and penalties.

The Act configures three well-defined areas of postal services in accordance with the Directive it transposes.

Firstly, at the heart of the system, the universal service, whose material scope and formal demands appear under Title III and which is entrusted under the public-service obligation system to the public undertaking Correos y Telégrafos, S. A. Secondly, the services which come under the material scope of the universal service are provided in free-market conditions removed from the public-service obligations imposed on the universal service provider. To provide these services, the corresponding individual licence is necessary.

Thirdly, in accordance with Recital 18 of Directive 97/67/CE, those postal services which are different from traditional ones may be provided through a mere statement of responsibility with respect to the essential requisites forming the condition for the new Spanish postal model to work. These requisites, together with the protection of fundamental rights like the secrecy of postal communications, include respect for regulations which protect employee and user rights and tax and immigration legislation.

In Title I the Act defines its target area of application, which is to regulate the universal service, the rights of postal service users understood as the mirror of the State's obligation to guarantee that service in accordance with certain parameters of quality and a postal market which is fully adapted to Community legislation. Therefore, it defines the character, content and status of postal service provision, and excludes from its regulatory scope the services provided through a self-provision system and those relating to postal items which lack the addressee's address. The current text has improved the delimitation of this item with the aim of preventing it from becoming a potentially destabilising element for the postal model, preventing self-provision leading to genuine postal service provision outside the scope of the Act.

Title II is concerned with user rights, delimiting with sufficient exactitude their legal position in order to guarantee the maximum transparency of the postal market and achieve the required level of quality. The allocation of these rights operates as a parameter of the State's obligation to guarantee universal service provision and to define the quality demanded of it. The rights covered here are therefore closely connected to the State's obligation to guarantee a universal service which adapts its organisation and system to the successive demands of quality according to the technical methods available. The pioneering role of Spain's Correos service at the heart of the Universal Postal Union is thereby maintained.

Title II addresses the need to systemise user rights and in consequence it incorporates a genuine charter of rights, recognising as such those relating to the secrecy of communications, inviolability of correspondence, protection of personal data, denunciation, compensation, the ownership of postal items, submission of documents to Public Administrations, proof of deposit and delivery of registered post, redirecting and refusal of postal items and protection of undelivered postal items. The following new features are added to the above; the right to information on postal services, to complaint, which involves the correlative obligation on the part of postal service providers to establish simple, free and non-discriminatory procedures so that the complaint may be dealt with in a maximum period of one month, and the chance for users to subject disputes with postal service providers to Consumer Arbitration Boards, and those which occur within the scope of the universal service to the National Postal Sector Commission, and to the identification of the postal service provider.

This task has been completed by strengthening the exercise of such rights effectively through the corresponding classification of the infringements according to their non-compliance.

Title III, structured into four chapters, regulates the universal service, defined as the aggregate of postal services of quality determined by law, provided permanently throughout national territory and at an affordable price for all users.

Chapter I together with the concept lists the activities included in the universal service's material scope. This listing respects the limits established in the transposed Directive. It has been decided to increase the weight limit for parcels within the scope of universal service to 20 kg.

Chapter II establishes the principles of equity, non-discrimination and continuity as the tenets of universal service provision, it defines the basic conditions of clearance and distribution of postal items for provision by the designated provider and refers the realising of the detailed conditions for its provision to the plan for universal service provision, in accordance with what is established by Agreement of the Council of Ministers. This plan sets out the network's minimum area and density, the criteria and the procedure for determining net cost and the measures which ensure the permanent improvement of effectiveness and efficiency in its provision.

There can be no ignoring the important commitments which Public Administrations must adopt in accordance with the provisions of Act 11/2007, of 22 June, on citizens' electronic access to Public Services, which determines that as the information society develops fully, a time for physical and telematic notification to coexist, the term "postal" has to evolve towards something broader than its traditional concept.

Title III imposes the obligation of analytical accounting and separation of accounts, it regulates the cost and financing of the public-service obligations of the universal service, heeding the concepts of net cost and unfair financial burden, it creates the financing fund of the universal service aimed at compensating for this burden and it regulates various additional sources of financing which are, together with that of the State, the postal tax, the fee for granting individual licences and the guarantees granted to the designated provider to guarantee the universal service and its efficiency.

The system for financing the public-service obligations imposed on the designated universal service provider is the guarantee of the financial equilibrium of the provider given that it configures a set of sources of finance which share out the effort of contributing to the sustaining of a quality service among the holders of the individual licences and the universal service provider, while taking into account the annual contribution of the Spanish national budget as the complement used to defray the difference between the financing needs and the limits of the contributions proceeding from the postal market itself.

The regulation of the respective accounts of the universal service provider and of the other postal service providers with individual licences in no way interferes with the general obligations stemming from the provisions of mercantile law and these are only created strictly for the purposes envisaged in the present Act.

Chapter IV regulates the prices and associated conditions of the postal services provided under public service obligations, which should be affordable, transparent, non-discriminatory and be set by considering the real costs of the service so that they encourage efficient provision. It allows for the possible setting of minimum and maximum prices to ensure their affordability and that they adapt to the financing of the service.

Title IV covers various aspects of the preceding Act, amending its content to Directive 2008/6/CE, relating to the full achieving of the internal market of community postal services, for which it regulates the General Register of Companies Providing Postal Services, statements of responsibility and individual licences respectively.

Its Chapter I sets out the principle of free competition for postal service provision in the terms established by Act, heeding the necessary differentiation between services included and not included in the scope of the universal service, and allows for the entry of the information and acts relating to all postal service providers into the above Register

Chapter II establishes the conditions which enable the provision of those services not included in the scope of the universal service and for that purpose require the submission of a statement of responsibility and compliance with what have been denominated the essential requisites for the exercise of postal activity, among which are included, heeding the provisions of the above Directive, respect for the stipulations of the employment and social security systems established by law, regulation, administrative decision or collective agreement negotiated by national social partners in accordance with national or community law of which a serious or repeated breach is deemed a very serious infringement in Title VII of the present Act and causes the statement's loss of validity and effectiveness.

Chapter III regulates the individual licence required to provide postal services included in the scope of the universal service but provided under market conditions, this being without the imposition of public-service obligations. The granting of the licence shall require prior confirmation of compliance by the postal service provider of the essential requisites of the preceding chapter and shall involve the adopting of the commitment to comply with the obligations of quality, territorial area

and material scope which it voluntarily offers its customers, together with express legal obligations. With regard to the public-service obligations in Article 43, outside of those which under exceptional circumstances would be imposed in accordance with the fifth section of Article 22, they are designed within the limits set by Article 9.2 of Directive 97/67/CE.

Title V is structured into two chapters devoted respectively to regulating access to the postal network and to other postal infrastructures and to the resolution of disputes between postal service providers.

Postal service providers are guaranteed access to the network and to other postal infrastructures for the providing of the services referred to by the individual licence which they hold, in accordance with the principles of transparency, proportionality and non-discrimination which are expressly defined for those purposes and the necessary measures established so that the exercise of this right is compatible with the guarantee of integrity, effectiveness and efficiency of the postal network. The universal service provider must negotiate the conditions of access which shall appear either in the standard contract authorised by the National Postal Sector Commission or in singular contracts about whose signing the Commission shall be informed in order for the latter to verify if the prices set in them reflect the principles of transparency, non-discrimination and coverage of the real cost caused to the network holder. It establishes the obligation to publish an announcement of the signing of each contract on the universal service provider's official website and declares the invalidity of those which contravene these principles or the exact compliance with the plan for universal service provision.

In this new regulation of the important topic of access to the network of the universal service provider extreme care has been taken to ensure that the provision carried out in benefit of postal operators is performed under market conditions, i.e. outside the subsidised prices enjoyed by ordinary users of the universal service.

Chapter II of this Title regulates the disputes between postal service providers and the universal service provider, which shall be heard by the National Postal Sector Commission, and those between providers different from the universal service provider, which may be subjected to Commission arbitration.

Title VI is concerned with the institutional framework and, in consequence, the administrative bodies competent to implement this Act. It establishes that the Government, the higher and administrative bodies of the Ministry of Development competent in this matter and the National Postal Sector Commission itself shall be considered as the National Regulatory Authority. Moreover, the Higher Postal Council is recognised as the highest body, in which Public Administrations, operators, users, trades unions and stamp associations shall participate and to which the consultancy functions assigned to it shall correspond.

Finally, Title VII regulates inspection, infringements and penalties in the postal sphere. Inspection lies with the National Postal Sector Commission, whose officials shall be deemed the authority's agents and shall be invested with the power of enquiry characteristic of their role, which is none other than to investigate and correct the conduct of offenders. The strengthening of the regulation of the inspection function which the Act addresses corresponds directly to its content in terms of the classifying of infringements and the penalty system, where the Act makes major progress in legal security and in equity as it states the criteria for grading the infringements it classifies while indicating the maximum penalties for each type of infringement, which is in line with current European trends.

As new features in this area, it is also important to note the declaration of joint liability of postal service providers with respect to postal infringements committed by their employees, by those who succeed the postal service provider in the exercise of activity, and of their de facto or legal administrators, and the possibility of imposing coercive fines intended to correct wrongdoing in the case of there being no voluntary compliance once the disciplinary procedure is completed.

The first additional provision affords a period of 15 years to the «Sociedad Estatal Correos y Telégrafos, Sociedad Anónima» as the undertaking to which universal service provision is entrusted, on its being the only entity in a position to provide this service with the required quality and territorial area. It establishes a contract which regulates the provision of this service and shall be concluded in successive five-year periods between the Ministry of Economy and Finance, the Ministry of Development and the universal service provider and in which the rights and obligations assigned to the parties shall be determined. The second additional provision allows for the periodic valuation by the Government Representative for Economic Affairs of the universal service provider's compliance with its obligations.

Moreover, the third to seventh additional provisions regulate, more relevantly, the competences of the Under-Secretary of Development in relation to the setting of minimum services in the scope of the universal service, the issue and distribution of stamps and franking marks, the postal awards system and the designation of honorary postmen and women, the references made in other regulations to the aforementioned Act 24/1998, of 13 July, which shall be understood to be made for the present Act, and the sustainable postal company seal of excellence, which is created to encourage business endeavour in the postal sector in improving aspects related to environmental sustainability and the improvement of social and labour conditions at the workplace in the Spanish postal market. This is a mechanism which in a positive light, i.e. as a counterpoint to the penalty system, aims to encourage competition between postal companies by endeavouring to comply with the values characterised by the new Spanish postal system.

With regard to the final provisions, it should be noted that the first provides for the amendment of certain sections of various articles of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission; the second refers to the adoption within a year of the entry into force of the present Act of the measure needed to guarantee effective compliance with the promotional census; the third regulates the services which are additional or complementary to postal services; and finally, the fourth and fifth final provisions are devoted to the incorporation into Spanish Law of Directive 2008/6/CE and to expressing the jurisdiction upon which the State's legislative initiative contained in Article 149.1.21.^a of the Constitution is based.

Title I

General Provisions

Article 1. Purpose and Scope of Application of the Act.

1. The purpose of the present Act is the regulation of postal services in order to guarantee universal service provision, to satisfy the needs of postal communication within Spain and between Spain and abroad, and to ensure free competition in the sector under the proper conditions of quality, effectiveness, efficiency and full respect for the rights of users and of postal service providers and their employees.

2. All users who send or receive postal items have the right to a universal service of quality under affordable prices in accordance with European and national implementing legislation.

3. The following shall be governed by the provisions of this Act:

a) The services of clearance and distribution of postal items.

b) Money order services through which payments to physical or juridical persons are ordered on behalf of and at the request of others, through the public postal network and any other service which is or may be of a postal nature, in accordance with the regulations of the European Union and of the Universal Postal Union.

Article 2. Characteristics and status of postal services provided.

Postal services are general economic interest services which are provided under free competition.

The services included in the universal service entrusted to the universal service provider in accordance with the first additional provision and those imposed on the holders of individual licences in the terms provided by this Act are subject to public-service obligations .

Article 3. Definitions.

For the purposes of the present Act, the terms are defined as follows:

1. «Postal services»: any services comprising the clearance and distribution of postal items.

2. «Postal item»: every item intended for dispatch to the address indicated by the sender on the object itself or on its wrapping, once presented in the definitive manner in which it should be cleared and distributed. In addition to items of correspondence, such items shall include direct advertisements, books, catalogues, newspapers, periodicals and postal parcels which contain merchandise with or without commercial value, irrespective of weight.

Items containing objects whose circulation is prohibited or is an offence, in accordance with the international Acts and agreements in force in Spain, shall not be considered as postal items nor shall be accepted as such. The cases which constitute prohibited postal items shall be duly determined.

The maximum and minimum dimensions of the postal items considered shall be those established by the relevant provisions adopted by the Universal Postal Union.

3. «Item of correspondence»: communication appearing in written form on a physical medium of any nature, which shall be conveyed and delivered at the address indicated by the sender on the postal items itself or on its wrapping. Direct advertisements, books, catalogues, newspapers, periodicals shall not be regarded as items of correspondence.

4. «Registered item»: that which, following payment of a predetermined amount in a lump sum, involves a flat-rate guarantee against the risks of loss, theft or damage, and which provides the sender, when appropriate and at his request, proof of the handing in of the postal item or its delivery to the addressee.

5. «Declared value service»: that which enables the postal item to be insured for the value declared by the sender, in the case of loss, theft or damage.

6. «Cross-border mail»: mail from or to another EU Member State or a third country.

7. «Franking marks»: those stamps or markings which accredit payment for the postal services to the postal service providers which provide services included in the universal service.

Such methods shall include postage stamps, which may only be used by the universal service provider with a discharging effect; envelopes; cards and card-envelopes with stamps or previously stamped distinctive markings; stamps from a franking machine; and franking labels issued by automatic dispensers installed by the universal service provider, together with those articles or products which are defined by the corresponding provisions as franking instruments.

8. «Postal service provider»: the natural or juridical person who, in accordance with this Act, provides one or more postal services. The third party providing postal services exclusively for a sole sender who acts in a self-provision system is excluded from this definition.

9. «universal service provider»: the undertaking to whom the State has entrusted universal service provision in accordance with the provisions of the present Act.

10. «Administrative authorisation»: that which allows the providing of postal services in accordance with the provisions of this Act.

11. «Essential requisites»: these are general-interest and non-economic reasons referred to in section 2 of Article 40 which serve as a foundation for determining the conditions for providing postal services.

12. «Postal network»: for the purposes of the present Act, the postal network is understood to be the sum of the organisation and measures of all kinds which is employed by the universal service provider and allows in particular:

- a) The clearance of postal items from access points throughout national territory.
- b) The acceptance by the postal service provider of the postal items which are entrusted to it by the sender to perform the full postal process for which it is responsible.
- c) The routing and handling of these postal items from the access point to the postal network up to the distribution centre.
- d) The transporting of postal items by any means until its final distribution.

e) The distribution performed in the postal service provider's sorting office, which is the location from where the postal item is transported immediately before its final delivery to the addressee.

f) The delivery at the addresses indicated on postal items, unless duly established.

13. «Access points to the postal network»: the physical facilities of the universal service provider where senders may deposit postal items, such as mass admission centres, offices, sub-post offices and letter boxes available to the public.

14. «User»: the natural or juridical person or entity without legal status who benefits from postal service provision as sender or addressee and holder of the rights to which Title II of this Act refers.

15. «Postal address»: the identification of senders or addressees by their forename and surname, if they are natural persons, or their company or trade name if they are juridical persons or entities without legal status, together with the address of a domicile, which shall contain the name of the thoroughfare and the number of the building, together with the number of the flat if there is one, or the details provided for delivery of postal items at the offices of the postal network.

16. «National Regulatory Authority»: the Government, the higher bodies and administrations of the Ministry of Development and the National Postal Sector Commission, which are competent to exercise the functions and powers which this or other Acts or regulations assign them in the postal sphere. These authorities shall exercise their functions with total organic and functional independence from postal service providers and the universal service provider.

17. «Services provided at a single-piece tariff»: postal services whose tariff for individual items appears on the general terms and conditions of the universal service provider or postal service providers acting in the scope of the universal postal service.

18. «Sender»: the physical, juridical person or entity without legal status from whom the postal items originate.

Article 4. Services excluded.

The services performed in a self-provision system and services relating to unaddressed postal items are excluded from the scope of application of this Act.

A self-provision system is understood to exist when postal services are provided directly by the sender of postal items himself, or when he uses a third party to act exclusively for him. In the latter case, the services provided by the third party to the sender must comprise all the clearance and distribution process of postal items.

Title II

Rights of postal service users

Article 5. Secrecy of postal communications.

Postal service providers must fully guarantee the secrecy of postal communications, in accordance with the provisions of Articles 18.3 y 55.2 of the Spanish Constitution and of Article 579 of the Criminal Justice Act.

Postal service providers shall not provide any information relating to the existence of postal items, to their type, to their external circumstances, to the identity of the sender and addressee or their addresses, without prejudice to the provisions of Article 6.

Article 6. Inviolability of postal items.

1. Postal service providers must comply with the obligation of loyalty in the custody and administering of postal items.

The intentional use of an unusual route, illegal opening, removal, destruction, undue retention and concealment of the aforementioned postal items shall be regarded as non-compliance with this obligation.

2. Without prejudice to the right of ownership of postal items recognised in Article 13, postal items may only be halted or intercepted and, when appropriate, opened through a reasonable request by the judicial authority in accordance with the Act.

3. National Postal Sector Commission personnel who perform postal inspection work may only intercept a postal item, in duly defined terms, when well-founded suspicions exist that it contains a prohibited object or that it is different from the content stated on its envelope or cover, on condition of a prior statement.

The scope of this intervention shall be limited to external inspection, either visual or using machines, both of the postal items and of their accompanying documentation and shall not in any circumstances affect the secrecy and inviolability of postal items. The immediate destruction of the images taken shall be guaranteed.

Postal items which do not contain documents of a current and personal nature, whose content enables the personalisation, directly or indirectly, of their addressees, are excepted from the provisions of the preceding paragraph.

4. The provisions of this Article shall be applied without prejudice to the exercise of the legally recognised powers of control by certain officials within the exercise of their inspection duties, such as health, Customs, money-laundering prevention, security or any other established in sectoral regulations, with the aim of detecting the presence of prohibited products.

Article 7. Data protection.

1. In accordance with Organic Act 15/1999, of 13 December, on Protection of Personal Information, postal service providers may not supply any information relating to the existence of postal items, its type, its external circumstances, the identity of the sender and addressee, or their addresses.

2. The obligation to protect information shall include the necessity for secrecy of a personal nature, the confidentiality of information transmitted or stored and the protection of intimacy.

Article 8. Right to a universal service of quality.

Users shall enjoy the right to a permanent universal service of quality throughout national territory and at affordable prices.

The scope and effective provision of the universal service must respond to the principles of social and territorial cohesion, non-discrimination on account of any personal, social or geographical circumstance or condition, continuity, effectiveness and efficiency in the service, and must be permanently adapted to technical, economic, social and territorial conditions and to the needs of users, in particular in the matter of density of access points and of accessibility to them, without prejudice to its quality.

The universal service shall be provided in accordance with the rules established in Title III of this Act. For these purposes, the State shall guarantee proper compliance with the public-service obligations of the universal service through the designation of an provider and the establishing of measures and sufficient guarantees.

Article 9. Right of information about postal services.

1. Every postal service provider, including the universal service provider, must supply users with full, true and detailed information about the postal services they provide and put at their disposal all the information relating to conditions of access, price, level of quality and compensations and the time period for them to be satisfied, together with the technical regulations where applicable. Moreover, they shall provide information about the complaint procedures and measures they have put in place and the appeals which are applicable.

2. The information to which this Article refers shall be published in any event on the website of the National Postal Sector Commission. Moreover, operators may publish it on their own website or in the offices or user service points. This information shall be provided in writing or through any other duly established method at the request of the users of the services.

Article 10. Right of complaint.

1. Postal service providers must deal with complaints and statements of dissatisfaction presented to them by users in the cases of loss, theft, destruction, damage or non-compliance with service quality regulations or any other failure to comply with postal service provision.

2. For the processing of user complaints, postal operators shall establish simple, free and non-discriminatory procedures based on the principles of proportionality and promptness. In any event, complaints must be resolved in accordance with the Act and notified to the interested parties in a maximum period of one month from the date of their submission, for which the service provider must always supply the interested party with a receipt.

All offices and user service points of postal service providers shall display, in a visible and detailed manner, information about the processes to be followed in order to exercise the right of complaint referred to in this Article.

3. Moreover, users shall submit information about disputes with postal service providers related to service provision to the Consumer Arbitration Boards in accordance with Royal Legislative Decree 1/2007, of 16 November, by which the redrawn text of the General Act for the Defence of Consumers and Users and other complementary Acts is approved.

4. The National Postal Sector Commission shall learn of the disputes between users and postal service providers in the scope of the universal service, whenever they have not been submitted to the Consumer Arbitration Boards. The complaint may be made within one month of the provider's response or from the end of the response period and must be resolved in a maximum of three months of its submission.

For that purpose, the National Postal Sector Commission shall place the appropriate forms at the disposal of users. The procedure to be followed for their processing shall be based on the principles of promptness and gratuitousness, without prejudice to the right of the National Postal Sector Commission to exact the cost of the procedure from the complainant when bad faith or folly is detected in the submission of the complaint. An administrative appeal may be lodged against the decision issued.

Article 11. Right of denunciation.

Non-compliance with the obligations of postal operators referred to by Articles 9 and 10 of the present Act may be denounced by interested users before the National Postal Sector Commission for the purposes envisaged in Title VII of this Act.

Article 12. Right to receive compensation.

1. Users shall have the right, other than in the case of force majeure, to receive compensation from postal service providers, in the case of loss, theft, destruction or damage of registered or declared value items, through the payment of a predetermined sum to the postal service provider in the former case and of a sum proportional to that declared by the sender in the latter.

2. By order of the Ministry of Development, the minimum and maximum sum of compensation shall be set for loss, theft, destruction or damage of the registered items for the universal service provider together with the minimum and maximum sum for which declared value items may be insured. The provider must, within the maximum or minimum limits indicated, determine the compensation which corresponds to both cases in compliance with the criteria set by the Ministry of Development.

3. Failure to pay the recognised compensation to the user, in accordance with the provisions of this Article, may give rise, at the request of one party, to the National Postal Sector Commission initiating disciplinary proceedings against the corresponding postal service provider.

Article 13. Right of ownership of postal items.

The sender shall for postal purposes own postal items until they reach the possession of the addressee and may, by paying the corresponding tariff, recover them or modify their address, except in the cases of material impossibility and without prejudice to the rights of third parties over their content.

Article 14. Right to submit documents to Public Administrations.

Users shall hold the right to submit requests, documents and communications to Public Administrations in the terms and for the purposes provided for in Article 38.4.c) of Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure, solely through the offices of the universal service provider, which must receive them and direct them to the addressee on a preferential basis and accredit, at the request of the interested party, both their submission at these offices and their delivery to their destination, with express mention of the date and time both these events occurred.

This submission shall have equal effect as in the registration at the administrative body to which they are directed.

Users shall also hold the right to submit requests, documents and communications to Public Administrations through postal service providers which are different to the universal service provider in the terms established in Article 38.4.e) of Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure.

Article 15. Right to identification of the postal service provider.

Users shall hold the right to the identification on the cover of the postal item of the postal operator which takes charge of it, as well as the date on which it is produced.

Article 16. Right to proof of deposit and delivery of registered items.

The universal service provider must provide the sender of any registered item, on request and following payment of the corresponding sum, with the accrediting receipt of its admission, where the time and date of its submission is recorded, and also of its receipt by the addressee.

Other postal service providers, when voluntarily offering users registered services, must do so under the conditions established in the preceding paragraph.

Article 17. Right to redirect and refuse postal items.

The addressee may request the redirecting of an postal item by paying the corresponding financial sum or may refuse it before opening it, which the service provider shall record in writing and shall inform the sender, who may claim the returning of the item or order it to be withdrawn in the terms which are duly established.

The rights of redirecting and refusal provided for in this Article shall not be heeded in the cases of material impossibility.

In any event, the service provider shall hold the right to demand payment from the sender for the expense caused.

Article 18. Right to the protection of undelivered postal items.

The rules to be followed shall be duly established for the cases in which postal items, for any reason, cannot be delivered to the addressee or returned to the sender. Such rules shall include those relating to the procedure for verifying the domicile, origin and destination, hearing or summoning the senders and possible temporary deposit, complaint and destruction of postal items.

Article 19. Rights to information and submission of complaints, denunciations and claims by the disabled.

It shall be guaranteed, in the terms which are duly established in the implementing legislation of Act 51/2003, of 2 December, on equality of opportunity, non-discrimination and universal access to disabled persons, that the rights of information and submission of complaints, denunciations and claims with regard to postal services are fully accessible to the disabled. This especially includes the removal of architectural and communication barriers at the offices where the service is provided, of those which limit the exercise of the right by those persons with hearing or visual impairment or any others which hinder or restrict them, together with the universal accessibility of websites.

Title III

The Universal Service

CHAPTER I

Concept and scope

Article 20. Concept.

Universal service is understood to be the set of postal services of quality determined in the Act and its implementing regulations, provided on a regular and permanent basis throughout the national territory and at an affordable price for all users.

Article 21. Scope.

1. Included in the scope of the universal service are the activities of clearance and distribution of national and cross-border postal items on a regular basis of:

- a) Letters and postcards which contain written communications in any type of medium of up to two kilograms in weight.
- b) Postal parcels, with or without commercial value, of up to twenty kilograms in weight.

The universal service shall include equally the providing of registered and declared value services, in addition to the items provided for in this section.

2. National and cross-border direct advertising, books, catalogues, periodical publications and others whose circulation is not prohibited shall be admitted for their dispatch into the universal service system whenever this occurs in accordance with any of the ways provided for in the preceding section.

CHAPTER II

Conditions required of the universal service provider

Article 22. Principles and requisites of universal service provision.

1. Universal service provision and the relationship of users with the universal service provider shall be governed by the principles of equity, non-discrimination, continuity, good faith and adaptation to user needs.

For these purposes, the terms are defined as follows:

- a) Equity: offering users in similar conditions the same treatment and identical services.
- b) Non-discrimination: providing the service without differentiation of any type between users in analogous conditions, especially those derived from considerations of politics, religion, race, sex, culture, ideology or disability.

c) Continuity: Not interrupting or suspending the service except in cases of force majeure and informing in advance the National Postal Sector Commission, which may refuse it.

2. Once the 15-year period referred to in the first additional provision of this Act has elapsed, one or several companies may be designated to provide the universal service so as to provide coverage throughout national territory. Moreover, different companies may be designated to provide diverse elements of the universal service or cover different areas of national territory. The conditions for granting the universal service shall be based on the principles of transparency, non-discrimination and proportionality so as to guarantee the continuity of universal service provision, out of consideration for the important role it plays in social and territorial cohesion.

The universal service provider shall be exempt from the taxes which are levied on its universal service activities, except Corporate Tax.

3. Universal service provision shall be in accordance with legally established provisions and those contained in the Plan for Universal Service Provision approved by the Government and in the regulatory contract, following a report by the National Postal Sector Commission and the Higher Postal Council. This contract shall be of a special administrative nature.

In any event, the Plan must include the conditions for universal service provision, particularly in zones where there is a very low population density, the procedure for evaluating the cost of this service and its form of financing and the criteria which must be considered to determine the State's contribution to it, in accordance with the provisions of Article 29.

Furthermore, the Plan shall consider the Fund for financing the universal service, covered in Article 29.

4. The actions of the universal service provider shall be presumed to be true and reliable in the distribution, delivery and receipt or the refusal or impossibility of delivery of official notifications, either physical or electronic, from administrative and judicial bodies and without prejudice to the implementation, to the different scenarios of notification, of the provisions of Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure.

Official notifications effected by the other postal operators shall take effect in accordance with general rules and shall be effected in conformity with the provisions of Article 59 of Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure.

5. The Government may impose on the universal service provider some other public-service obligations, when required to do so for reasons of general interest or social or territorial cohesion, the improvement in the quality of education and civil protection, or when they are necessary to safeguard the electoral process, in accordance with the rules of the general electoral system. Similarly, it may impose on this operator and the operators who provide postal services under the protection of a individual licence some public-service obligations in extraordinary circumstances to guarantee public security or national defence.

The impositions of additional public-service obligations must be the object of compensation.

Article 23. Conditions of clearance of postal items.

The universal service provider or providers must:

a) Perform at least one clearance at the access points to the postal network every working day, from Monday to Friday, irrespective of the population density and including rural areas.

All the zones referred to in the preceding paragraph shall be duly defined.

b) Possess the appropriate territorial coverage for which it has been designated and in particular ensure the density of access points to the postal services established in the provision plan and the accessibility to these points by disabled persons of all types together with those with reduced mobility in accordance with what is duly established.

c) Not reject postal items when these meet the regulatory requirements and satisfy the corresponding tariff.

The maximum and minimum dimensions of postal items admissible in the postal network shall be those established in the regulations which incorporate into Spanish Law those approved by the Universal Postal Union.

Article 24. Conditions of distribution of postal items.

The universal service provider must deliver postal items at the postal address which appears on the covering. Moreover, it shall attempt to deliver those postal items whose address which, despite being incomplete, allows the addressee to be identified.

Deliveries shall take place at least every working day, from Monday to Friday, except in the case of special geographical circumstances or conditions, in accordance with the provisions of this Act and its implementing regulations. Notably, a delivery shall be made at suitable installations which are different to the postal address, following authorisation by the National Postal Sector Commission, when there is concurrence of the conditions set out in the implementing regulations of the present Act, in accordance with the provisions of Directive 97/67/CE.

For the purposes of the preceding paragraph, zones of low population density, which shall not include rural zones, shall be duly defined.

Postal items to be distributed at a postal address shall be deposited in the pigeon-holes installed for this purpose and obliged to meet the duly established conditions. Set among these conditions are those relating to the manner in which one of these pigeon-holes should be reserved at each postal address for the redirecting of postal items.

Postal items, according to the type, shall be delivered to the addressee or to an authorised person or shall be deposited in the pigeon-holes or in the letter boxes of the domicile, either individual or collective.

Those persons authorised by the addressee to receive postal items at their domicile shall be understood as persons who are found there, can prove their identity and take charge of them, except when the addressee expresses opposition in writing to the universal service provider.

Article 25. Time limits for distribution of postal items.

The Provision Plan referred to in Article 22.3 shall set the universal service provider or providers the aims for delivery times together with the financial consequences of non-compliance.

Without prejudice to the above, non-compliance with set aims may be penalised in conformity with the provisions of Title VII of the present Act.

For the purposes of this Article, those which appear in the rules approved in the scope of the European Union for intra-community cross-border services shall have an equivalent value to the parameters set by the aforementioned Agreement of the Council of Ministers.

CHAPTER III

Cost and financing of the public-service obligations of the universal service provider

Article 26. Obligation of analytical accounting and separation of accounts.

1. The universal service provider must conduct analytical accounting, which provides information on the cost of providing the different services. This provider shall keep separate accounts in its internal accounting systems so as to differentiate clearly between each of the services and products which form part of the universal service and those services and products which do not. These internal accounting systems shall be based on consistently applied and objectively justifiable accounting principles.

Separate accounts shall exist for at least each of the services included in the scope of the universal service.

2. Without prejudice to the provisions of section 3, the accounting system to which section 1 refers shall allocate the costs as follows:

a) the costs which may be allocated directly to a concrete service or product shall be allocated to this service or product;

b) common costs, i.e. those which may not be directly allocated to a specific service or product, shall be allocated as follows:

b1) whenever possible, common costs shall be allocated in relation to a direct analysis of their origin.

b2) when it is impossible to carry out a direct analysis, the categories of common costs shall be allocated in relation to an indirect linkage with another category or group of cost categories for those which it is possible to carry out a direct assignment or allocation; the indirect linkage shall be based on comparable cost structures.

b3) when neither direct or nor indirect cost allocation measures may be found, the cost category shall be allocated on the basis of a general allocator, computed by using the ratio between all expenses directly or indirectly assigned or allocated, on the one hand, to each of the universal services and, on the other, to the other services.

b4) common costs, which are necessary to provide each of the universal services and each of the non-universal services shall be allocated appropriately; the same cost parameters must be applied to the universal and to the non-universal services.

3. The universal service provider may apply other accounting systems provided that they at least clearly differentiate the services and products which form part of the universal service from those which do not and are based on consistently applied and objectively justifiable accounting principles.

4. The rest of the operators which provide services included in the scope of the universal service must conduct separate accounting of income in such a way that income obtained for the providing of services included in this scope may be differentiated from income obtained for the providing of other services. Operators shall be obliged to audit their annual accounts in conformity with the provisions of Act 19/1988, of 12 July, on Auditing of Accounts.

5. The Institute of Accounting and Auditing of Accounts shall draw up and develop the principles, criteria and system of cost allocation which the analytical accounting must observe as referred to by section 1 of this Article, which, following a report by the National Postal Sector Commission, the Higher Postal Council and the General Comptroller of the State Administration, shall be approved by order of the Ministry of the Presidency, at the joint proposal of the Ministries of Development and of Economy and Finance.

Similarly, the rules on the accounting to which section 4 refers shall be determined in this order and the scenarios in which individual licence holders must contribute financial information on their activity, including the audits to which they are obliged, and the form and the scenarios in which information may be supplied to third parties, including the European Union Commission, shall be set, guaranteeing data confidentiality, trade and industrial secrecy and the principle of minimum intervention.

6. Without prejudice to the public auditing functions allocated by the General Budgetary Act 47/2003, of 26 November, to the General Comptroller of the State Administration, the National Postal Sector Commission shall oversee the correct application of the regulations on analytical accounting and separation of accounts of postal operators and shall verify annually, itself or through an independent entity of the universal service provider, the analytical accounts of the universal provider.

Similarly and without prejudice to tax inspection, the National Postal Sector Commission may verify the correct application of the rules for separation of accounts to which this Article refers.

This verification may be directly performed by the services of the National Postal Sector Commission or through an independent company.

Article 27. Net cost of the public-service obligations of the universal service.

1. The National Postal Sector Commission shall verify annually the net cost of the public-service obligations imposed on the universal service provider, in accordance with the contract for its provision.

2. The net cost shall be determined by considering the following criteria:

a) The net cost of the universal service obligations shall be computed as the difference between the net cost which it represents to the universal service provider operating with public-service obligations and the corresponding one to the same provider of postal services if it were to operate without these obligations.

b) This calculation takes account of any other relevant element, such as guarantees together with immaterial and market advantages which the universal service provider may enjoy, the right to obtain a reasonable profit and the incentives aimed at cost efficiency. The computation of the net cost must be based on the cost incurred in accordance with Annex I of Directive 97/67/CE.

The Provision Plan referred to in Article 22.3 of the present Act shall set the technical criteria and the procedure for determining the net cost, to be previously indicated by the Higher Postal Council.

3. The universal service provider shall submit the computation of net cost for each financial year for verification by the National Postal Service Commission in accordance with the criteria and the procedure indicated in the preceding section. For these purposes, the universal service provider shall provide any complementary information which is required or deemed convenient.

Article 28. Financing of the public-service obligations of the universal service provider.

The National Postal Sector Commission shall determine, following the mandatory report by the Ministry of Economy and Finance, the amount of the unfair financial burden which the public-service obligations of the universal service involve for the universal service provider.

For this purpose, unfair financial burden shall mean the result of reducing the net cost by the amount in which the adjustments derived from non-compliance with the conditions of efficiency established in the Provision Plan are quantified, as referred to in Article 22 of the present Act. The amount of the unfair financial burden shall be offset by the Financing Fund created in the following Article.

Article 29. Financing fund.

1. A fund to finance the universal service is created with the aim of administering the necessary funding to offset the unfair financial burden to which the preceding Article refers.

The fund shall be administered and independently accounted by the National Postal Sector Commission. Without its own legal status or the nature of those provided for in section 2 of Article 2 of General Budgetary Act 47/2003, of 26 November, it shall benefit from the following contributions:

a) Transfers in favour of the fund assigned in the State's general budgets, in accordance with the provisions of the following Article.

b) Public economic benefits established in Articles 31 and 32, which are made available for this purpose.

c) Donations or bequests by any natural or juridical person who wishes to help finance the universal service.

d) Yields from the deposits in which the fund's assets are held.

The National Postal Sector Commission shall oversee that the various sums which benefit the fund suffice to meet the needs for which it is created. For this purpose it shall propose to the Ministries of Development and of Economy and Finance the measures it deems convenient, both in policy and in administration,.

2. The National Postal Sector Commission must make quarterly transfers to the universal service provider of the sums available in the Fund on account of what results from the annual settlement of the financial burden.

The Commission shall conduct accounting of the Fund which covers the sums deposited and the transfers made to the provider

Once the net cost and the unfair financial burden for the corresponding financial year have been determined, the payment to be made to the provider shall be set, or that which the provider must pay back into the fund, as applicable, following an interview with the provider. The decision by which these sums are determined shall be published on the Commission website.

Article 30. State financing.

The State shall help finance the universal service in accordance with the Provision Plan approved by the Government to which Article 22 refers by paying into the financing fund the sum which is allocated in the budgetary section of the Ministry of Development for that purpose.

Article 31. Postal tax.

1. Individual licence holders and the universal service provider shall be obliged to pay an annual tax, whose taxable event is postal service provision in the scope of the universal service by means of an individual licence. This payment shall be fully devoted to meeting the financing needs of the unfair financial burden referred to in Article 28 of the present Act.

2. The passive subjects of this tax are those individual licence holders whose annual turnover from activities in the scope of the universal service exceeds 50,000 euros or that which corresponds proportionally to the number of years since the activity started or ended.

3. The tax base of the payment is the net sum of the turnover obtained in each tax period by the licence holder for providing the postal services in the area authorised.

4. Unless the State General Budget Act for each year determines otherwise, the tax rate shall be 0.5 per cent. The sum to be paid shall be determined by applying the current rate in each year to the corresponding tax base.

5. The payment shall be due on 31 December each year, unless the provider halts activity or loses the licence through a cause attributable to him at a preceding date, in which case it shall be due the date of such an occurrence.

6. Individual licence holders to whom universal service obligations are imposed in accordance with Article 43.2.a) of this Act shall be exempt from this tax.

7. The passive subjects of this tax must pay and deposit the sum in July of the year after it is due.

8. Administration of the tax and its inspection corresponds to the National Postal Service Commission.

For these purposes, this Commission may enter into cooperation agreements with the National Tax Administration Agency for the latter to carry out tax inspection on its behalf.

9. A postal service provider lacking the corresponding individual licence shall be obliged to pay the corresponding tax for all the period of effective activity prior to the granting of this licence, without prejudice to time-barring.

10. The settlement model and procedure shall be duly established.

Article 32. Fee for the granting of individual licences.

1. To obtain the individual licence which entitles the providing of postal services included in the scope of the universal service, the persons and entities requesting it must pay a fee which shall be fully devoted to the financing of the unfair financial burden referred to in Article 28 of the present Act.

2. The National Postal Service Commission shall be charged with administering this tax.

3. The granting of individual licences to provide services within the scope of the universal service constitutes the taxable event.

4. The sum to be deposited, which must take place prior to the granting of the licence, shall be 1,500 euros, without prejudice to updates in annual State General Budget Acts.

5. The levy procedure and the standard payment form shall be duly established.

Article 33. Guarantees.

With the aim of guaranteeing universal service provision and its proper functioning, the universal service provider shall be guaranteed:

a) The right to the exclusive use of the title «Correos», of the term «España», of the emblem consisting of a hunting horn in which the Spanish crown also appears or any other sign which identifies the universal service provider or the nature of its services within this scope.

b) Occupation of the public domain to establish the postal network through the installing of letter boxes for depositing postal items, following authorisation by the Administration body responsible. Holders of the public domain may not for these purposes give preferential treatment to the above provider, with respect to what is granted to other operators.

c) The status of beneficiary in the procedure of compulsory purchase in the public interest, which shall be subject to the special urgency procedure regulated in Article 52 of the Compulsory Purchase Act, of 16 December 1954, for the undertaking of works and installations necessary to organise universal service provision.

d) The transfer of space devoted to the activities and provisions of the universal service by the entities which administer the railway, port and airport networks.

e) The distribution of postage stamps or other franking marks and the freedom to undertake retail sale through the postal network or third parties.

CHAPTER IV

Prices and other tariff conditions of postal services

Article 34. Prices.

1. The prices of the postal services provided under the public-service obligation system must be affordable, transparent and non-discriminatory and be set in accord with the real costs of the service, so that they offer incentives for its efficient provision.

2. The universal service provider must inform the National Postal Sector Commission both of the setting of new prices and of the amendment of the current prices for the services provided with public-service obligations at least three months in advance of their introduction. This information shall be accompanied by a justificatory report on compliance with the principles of the present Article.

If price verification leads to the assumption that these principles have not been observed, the National Postal Sector Commission shall give the provider 15 days to state what it deems convenient and shall issue the corresponding decision declaring whatever is appropriate, for the purposes of its consideration in calculating the burden to which Article 28 refers. The prices shall be published on the websites of the Commission and the universal service provider.

3. The following services provided by the universal service provider shall be exempt from payment:

a) The sending of cecogrammes.

b) Postal items to which the Universal Postal Union confers such a right, with the scope established in the international instruments which have been ratified by Spain.

4. For services subject to public-service obligations within the universal service, the Government Representative for Economic Affairs, at the proposal of the Ministry of Development and following a

report by the National Postal Sector Commission, may establish maximum and minimum prices in order to guarantee compliance with the principles indicated in section 1 of the present Article. Similarly, for this scope, the application of uniform prices throughout national territory may be determined.

Article 35. Discounts and special prices for users.

1. When the universal service provider applies discounts to the senders of mass postal items, in the provision of services for which it has been designated, it must respect the principles of transparency and non-discrimination, both in terms of prices and associated conditions. The provider shall offer the same discounts or special prices, together with associated conditions, to other users, such as individuals and small and medium companies or foundations and associative entities declared as public interest, provided they send postal items under similar conditions.

2. The National Postal Sector Commission may require from the universal service provider the submission of the contracts to which the preceding section refers in order to verify compliance with the principles and obligations indicated in the present Article.

3. The National Postal Sector Commission shall verify that special prices and discounts do not suppose an increase in the financing needs of the universal service and the unfair financial burden compensable to the universal service provider.

Article 36. Franking systems and payment for services.

The universal service provider must admit all the postal items if they are submitted with the franking marks described in the present Act. Furthermore, it may agree with its clients any other system of payment, such as deferred payment, postage paid by addressee and prepayment, together with any other legally acceptable method.

Title IV

General system for postal service provision

CHAPTER I

General provisions

Article 37. System of postal service provision.

1. Postal service provision shall be carried out under free competition with no more limitations than those established in this Act and its implementing regulations.

2. Postal services, in terms of the required conditions, are classified in the following categories:

a) Services included in the scope of the universal service, in accordance with the provisions of Article 21 of the present Act.

b) Services not included in the scope of the universal service.

Article 38. Conditions for postal service provision.

1. Postal service provision shall require compliance with the conditions established in this Act, including for those operators which act on behalf of one or more other postal service providers.

2. Eligibility to set up and provide postal services in Spanish territory is afforded to those natural persons with EU Member State nationality or any juridical person of those laid down in Article 48 of the Treaty of the European Community and established in a Member State, or with another nationality when this is provided for by international agreements of which the Spanish State forms part. In any event, the operator must at least be permanently established in Spanish territory and

inform the General Register of Postal Service Companies of the electronic and postal addresses and identification data of its representative for the purposes of communications and notifications, without prejudice to the authorisations which are applicable.

Article 39. General Register of Postal Service Companies.

1. All administrative circumstances, together with information relating to those who provide postal services, must be entered in the General Register of Postal Service Companies which shall depend on the National Postal Sector Commission and shall be public.

2. Entry in this Register, in common with its annual renewal, shall be made ex-officio by the National Postal Sector Commission, starting from the information contained in the statement of responsibility or, when appropriate, in the individual licence, according to the system applicable to the service provided.

3. The functioning of the Register and the procedure for entering new registrations, withdrawals and variations shall be duly regulated.

CHAPTER II

Statements of responsibility

Article 40. Scope and conditions of statements of responsibility.

1. Those who intend to provide postal services which are not included in the scope of the universal service must present in advance to the National Postal Sector Commission a statement of responsibility in accordance with the provisions of this chapter.

2. In accordance with Article 18.3 of the Spanish Constitution, respect for the inviolability of correspondence and the obligation of data protection and privacy are viewed as essential requisites for postal service provision as are those established by sectoral regulations on the safe functioning of the network in the matter of the transportation of dangerous substances, public health, animal health, environmental protection and territorial order, together with respect for the stipulations of the systems of employment and social security established by law, regulation or administrative decision or collective agreement negotiated between national social partners in accordance with national and Community law.

Article 41. Content of the statement.

1. The statement of responsibility must be presented prior to the start of activity and shall expressly declare the following:

a) That it recognises and respects its obligation to comply with the requisites of access and of the exercise of postal activity at all times, the essential requisites of Article 40.2 and particularly that it undertakes to respect fully the rights to which Title II of this Act refers, excluding those of Article 8, together with those established, in general terms, in legislation on labour, tax, aliens, and consumer and user rights protection.

b) That it complies with the requisites established in the preceding paragraph and that it possesses the documents accrediting it when the statement is made.

c) The commitment to maintain the requisites established while the activity remains valid and to inform the General Register of any change to them.

d) The commitment to contribute all the necessary information to clearly delimit the service whose provision is proposed and any other complementary information requested by the National Postal Sector Commission.

2. The submission of the statement of responsibility authorises the exercise of this activity throughout Spanish territory, without prejudice to the payment of the registration fee to the General Register of Postal Service Companies and which, following an interview with the interested party and

a substantiated ruling, may be deprived of validity and effectiveness if it is proven that the requisites have not been complied with. The adoption of this ruling may entail the cancellation of the registration and its publication in the manner deemed sufficient by the National Postal Sector Commission.

By order of the Ministry of Development, the standard statement of responsibility shall be approved and may be submitted by electronic means.

3. For the purposes of this Act, entry in the Register regulated in Article 53 of Act 16/1987, of 30 July, on Land Transport Planning, shall also entitle the provision of postal services not included in the scope of the universal service, without prejudice to the submission before the National Postal Sector Commission of the corresponding statement of responsibility.

For these purposes, the Ministry of Development and the National Postal Sector Commission shall agree the measures necessary for the link-up of the General Register for Postal Service Companies with the Register of Hauliers and companies engaged in auxiliary and complementary transport activities.

CHAPTER III

Individual licences

Article 42. Scope of individual licences.

Individual licences shall be required for the implementation of any provisions related to the services included in the scope of the universal service, in the terms set forth in Article 21.1.

Article 43. Requisites for obtaining individual licences and obligations of holders.

1. Individual licences shall be granted in a regulated manner, following the accreditation of compliance with the requisites by the applicant in accordance with this Title for the provision of this service of those within the scope of the universal service and the applicant's acceptance of the conditions to which Article 41.1 refers, together with those concerning quality, territorial area and the material scope of the service it voluntarily offers its customers.

2. Similarly, the applicant must agree to comply with the following obligations:

a) Those regarding public service which, in accordance with the provisions of the present Act, are imposed on the applicant, when appropriate, and with the obligation to abide by the provisions of Title III of this Act, as determined in the corresponding ruling. The imposing of these obligations shall be in accordance with the limitations established in Article 9.2 of Directive 97/67/CE.

b) To avoid disruption, in the provision of postal services, of the rights established to compensate the universal service provider.

c) To provide the National Postal Sector Commission with all the information which is required of it, with the aim of overseeing compliance with the provisions of the present Act or for statistical purposes, without prejudice to the powers of other administrative bodies or organisations.

d) To publish an annual report on the number of complaints presented by postal service users included in the scope of the universal service it provides and the manner in which they have been processed and resolved.

Article 44. Procedure for granting individual licences.

1. Those interested in providing a postal service for which an individual licence is necessary shall address their applications with the required documentation to the National Postal Sector Commission.

2. The requests must contain the information indicated in Article 70.1 of Act 30/1992, of 28 November, on Legal Framework for Public Administrations and of Common Administrative Procedure, and shall be processed according to the procedure established in this Act and its implementing rules.

3. If the period of three months passes without an express decision being issued and served, the request may be understood as having been granted. An administrative appeal may be lodged against the decision.

Title V

Access to the postal network by service providers and resolution of disputes between them

CHAPTER I

Access to the postal network and other postal infrastructures

Article 45. Access to the postal network by service providers.

1. Access by postal service providers to the network is guaranteed, with respect to the services covered by their individual licence, in conformity with the principles of transparency, proportionality and non-discrimination. For these purposes, transparency means the prior publicising of the conditions of access; proportionality is the adaptation between the resources of the universal service provider and the needs of the interested party; and non-discrimination means the access without differentiation of any type between providers and the subsidiaries of the universal service provider or its partly-owned entities, provided they are in analogous conditions, in particular those deriving from political, religious, racial, sexual, cultural or ideological considerations.

With the aim of maintaining the integrity, effectiveness and efficiency of the network, postal items must be presented at the mass admission centres and continue in the network until final distribution in non-discriminatory conditions with respect to those applied by the universal service provider to its subsidiaries or its partly-owned entities.

2. The universal service provider must draw up a standard contract of access to the postal network, which shall be approved in advance by the National Postal Sector Commission and published on the website of the operator and the Commission itself. This contract must respect the provisions of Act 7/1998, of 13 April, on general contract conditions.

3. Without prejudice to the preceding section, operators holding individual licences may negotiate conditions with the universal service provider which are different to those established in the standard contract of access to the postal network which, in any event, must guarantee the quality of service and respect for the the general conditions published.

If these negotiations are not concluded in a contract due to lack of agreement between the parties, either may ask the National Postal Service Commission to establish the conditions of access, which shall be binding for both parties.

To this purpose, the National Postal Service Commission shall decide on the conditions of access in accordance with the principles of proportionality, transparency, non-discrimination and guaranteeing of the right of access to the network of the incoming operator, together with that of non-disruption of the rights established to compensate the universal service provider and the maintenance of compliance with the public-service obligations which devolve upon it. An administrative appeal may be lodged against the decision.

4. The universal service provider shall inform the National Postal Sector Commission about the contracts being agreed which do not conform with the standard contract. When the Commission considers that these contracts contravene the right of competition it shall inform the National Competition Commission.

When these contracts contravene the principles, requisites or conditions referred to Chapter II of Title III or full compliance with the plan of universal service provision, they shall be automatically void.

In this case, the Commission shall in a ruling declare the contract invalid, following a hearing with the parties.

5. In any event, both for individual contracts and for the standard contract, the Commission shall verify that the fees set in them meet the principles of transparency, non-discrimination and coverage of the cost to the network holder and shall verify that these fees do not suppose an increase in the financing needs of the universal service and of the unfair financial burden compensable to the service provider.

The National Postal Sector Commission may develop the criteria for determining the fees of the contracts by abiding by the principles stated in the preceding paragraph. These criteria may include the granting of discounts in network access which are linked to the volume and characteristics of postal items.

Article 46. Fees for access to the postal network by operators.

Tariffs for access to the postal network may take into consideration, among other elements, the timetable for presenting postal items, their volume, distribution destination, degree of sorting and preparation, and may not represent financial losses for the network holder.

Moreover, for fee-setting consideration shall be given to the cost to the universal service provider and, when appropriate, that avoided by the same provider.

Article 47. Access to other infrastructures.

Conditions of access of individual licence holders to other postal infrastructures such as postcode system, address data base, post office boxes, delivery boxes, information on change of address, redirection service or the redirect to sender service, shall be duly determined in a transparent and non-discriminatory manner provided that this is necessary to protect user interests or to promote real competition, according to the technical and pricing arrangements set forth in the agreements signed with the universal service provider for this purpose, all this without prejudice to data protection regulations.

The National Postal Sector Commission shall oversee the observance of transparency and non-discrimination principles in this access.

CHAPTER II

Resolution of disputes between postal service providers

Article 48. Resolution of disputes between postal service providers and the universal service provider.

1. The National Postal Sector Commission shall resolve disputes which arise between the universal service provider and other postal service providers which carry out services within the scope of the universal service, in relation to access both to the postal network and to other elements of infrastructure and postal services, in particular under the provisions in the second paragraph of section 3 of Article 45, all in accordance with the provisions of Article 16 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission.

2. The procedure for resolving these disputes must respect the principles of hearing, contradiction and equality between the parties.

When the Commission detects folly or bad faith it may impose a fine of up to 5 per cent of the sum demanded or, on this being indeterminate, a minimum of 2,000 euros, plus payment of the costs occasioned.

Fines and expenses occasioned shall take the form of public-law claims and shall be demandable by the administrative procedure of enforcement.

Article 49. Disputes between providers not designated to provide the universal service.

Postal service providers may subject the disputes arising between them to the arbitration of the National Postal Sector Commission, subject to the rules of procedure established in the general implementation regulations of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission.

Title VI

National Regulatory Authority

Article 50. National Regulatory Authority.

1. The National Postal Regulatory Authority shall be considered to be:
 - a) The Government, in the exercise of regulatory power.
 - b) The higher and administrative bodies of the Ministry of Development, in accordance with the functions conferred on them by existing legislation.
 - c) The National Postal Sector Commission, in accordance with the Act of its creation.
2. Original regulatory power in postal matters lies with the Government. Similarly, regulatory ordinance and the implementation of postal policy corresponds to the Ministry of Development, and postal market supervision and regulation to the National Postal Sector Commission, all conforming with specific regulations and without prejudice to the competences which correspond to the EU Commission in accordance with Community legislation.
3. The entities supplying documents, information, reports and background to the National Regulatory Authority may justifiably indicate which part they consider to be of commercial or industrial importance and whose dissemination may harm them, to the effect that their confidentiality is declared with respect to any persons or entities removed from the National Regulatory Authority. The National Regulatory Authority shall decide in a substantiated ruling on the information which, according to existing legislation, is excepted from commercial or industrial secrecy or protected by confidentiality.

Article 51. The Higher Postal Council.

1. The Higher Postal Council is the highest body in postal matters, with the participation of Public Administrations, users, providers of postal services, trades unions, which are considered to be most representative both at state and autonomous regional level, and stamp associations.
2. The Council shall be presided by the Under-Secretary of Development or the person he delegates and shall be assigned the consultative functions of the Government in postal matters to determine its implementing rules.

Title VII

Inspection, infringements and penalties.

Article 52. Area of Responsibility.

The National Postal Sector Commission shall exercise authority over inspection and penalties in relation to the postal market in accordance with the provisions of its specific regulations and under this Title.

Article 53. Powers of inspection and the duty to cooperate.

1. National Postal Sector Commission officials performing postal inspection work shall be regarded as the authority's agents in their acts of service or as a reason for them and must accredit their position if required to do so when not in their public offices.

The public authorities shall provide the necessary protection and assistance to these officials for the exercise of their work when required.

2. Those subject to investigation must comply with the inspection and cooperate as it develops. When required, they must appear in person or through a representative, at the place, day and time indicated for the implementation of action and must bring for inspection the documents and other information requested or make them available.

3. Those providing postal services and those at their service must provide inspectors with access to their facilities and anywhere in which evidence related to the investigation exists or may exist and allow these inspectors to examine the elements connected with their services or activities and as many pieces of information, reports and background in their possession which are related to the investigation without prejudice to constitutionally recognised rights.

Postal inspection officials may, moreover, gain access to anywhere in which evidence related to the postal infringement pursued is to be found, with the inhabitant or any person at such a place obliged to provide them with access.

If the person under whose custody the locations mentioned in the preceding paragraph are found resists the entry of the officials the written authorisation of the president of the National Postal Sector Commission shall be required. This may only be issued when there is a reasonable assumption that it is not a constitutionally protected domicile.

Whenever during the inspection it is necessary to enter the constitutionally protected domicile of the subject being investigated, the National Postal Service Commission must obtain the subject's consent or the corresponding judicial authorisation.

4. Natural or juridical persons contained in this article are obliged to place at the disposal of inspection personnel any required book, register or other document related to the postal activity exercised.

Article 54. Disciplinary procedure and recording of inspections.

The procedure followed for determining infringements and imposition of penalties must be subject to the general principles of the administrative sanctioning procedure and, in particular, those regarding hearing of the interested party and protection of the accuser.

The inspectors shall record their actions through documents, statements and reports in accordance with regulations.

Article 55. Location for inspections.

1. At the choice of the actuary, postal Inspection may take place:

- a) At the office, department or building of the inspected person or entity or of their representative.
- b) At the offices of the National Postal Sector Commission itself. .

2. When verification or investigation occurs at the locations indicated in the preceding paragraph a), their working day shall be adhered to, without prejudice to action taking place at other times or days by joint agreement.

Article 56. Infringements and persons responsible.

1. Actions or omissions classified as such in the present Act are administrative infringements in the postal system.

2. Administrative responsibility for administrative infringements in the postal system established in the present Act shall be required from natural or juridical persons together with unclaimed estates,

jointly-owned entities and other entities without legal personality which commit any of the infringements classified, without prejudice to the responsibilities they may have incurred with respect to social, tax, alien, criminal and other civil regulations.

Article 57. Joint liability.

1. Joint liability for postal infringements committed by employees, within the scope of the employer's authority, shall be held by the postal service providers upon which they depend.

2. The owner of a particular brand shall be held jointly liable for infringements committed in the provision of postal services using this brand if an action between the owner and the offender is detected.

3. Also jointly liable are the participants or joint proprietors of entities without legal personality referred to in the preceding Article, together with those who succeed the offender on whatever basis in the exercise of postal activity in whose scope the infringement has been committed, unless the offender has not influenced in this succession, insofar as they had some managerial or administrative authority in such entities.

4. Similarly, the de facto or legal administrators of juridical persons are jointly liable except those who voted against the agreement which the infringement caused.

Article 58. Classification of infringements.

Infringements of the rules governing postal services are classified as very serious, serious and minor.

Article 59. Very serious infringements.

Very serious infringements are as follows:

a) Non-compliance with the obligations derived from the rights covered by Articles 5 and sections 1 and 2 of Article 7 of this Act. Moreover, non-compliance with the obligations covered by Article 6, in the case of items of correspondence.

b) Non-compliance with the principles, requisites and conditions related to universal service provision or non-compliance with the plan for universal service provision which seriously jeopardises it.

c) The provision of postal services without meeting the requisites of this Act or without possessing the individual licence required for such services, whenever it seriously jeopardises compliance with public-service obligations or universal service provision.

d) Non-compliance with the provisions of Article 38.2, when it may seriously jeopardise the way the universal service is carried out.

e) Serious or repeated non-compliance with the essential requisites for providing postal services referred to Article 40.2, in particular the respect for the stipulations of the employment and social security systems or when it substantially jeopardises universal service provision either through illegitimate interference in the latter or indirectly or any other way.

f) Non-compliance with any of the obligations covered in Section 2 of Article 43 or those concerning quality, territorial area or material scope which the operator would have voluntarily assumed to obtain the authorisation, when it is serious or repeated and substantially jeopardises universal service provision.

g) Repeated non-compliance with the instructions or circulars issued by the National Postal Sector Commission.

h) Incorrect keeping of separate accounts in such a way that is impossible to differentiate between income or the misrepresentation of entries, the omission of transactions or accounting in incorrect accounts.

i) The serious or repeated contravention of other user rights, different from those covered in the preceding letter a).

j) Repeated infringement of the guarantees granted to the universal service provider.

k) Refusal, or serious or repeated obstruction, to undergo an inspection.

l) Repeated supplying of the National Postal Sector Commission with any false, falsified or incomplete documents, pieces of information, reports or background, or which contain false, falsified or incomplete pieces of information.

m) Committing two or more serious infringements within a period of one year.

Article 60. Serious infringements.

Serious infringements are:

a) Those classified in letters b) to l) of the preceding Article but without the circumstances which would enable the infringement to be deemed as very serious.

b) Repeated non-compliance with the obligations to supply information to the National Regulatory Authority whether they be required by general rules or individual request.

c) Non-compliance with instructions or circulars from the National Postal Sector Commission.

d) Lack of cooperation with the National Regulatory Authority.

e) Committing two or more minor infringements in the period of one year.

Article 61. Minor infringements.

Minor infringements are:

a) Lack of communication or the refusal to provide, in the period allowed for this purpose, the documents, pieces of information, reports or background required by the National Regulatory Authority, whenever they are not of a serious nature.

b) Providing postal services not included in the scope of the universal service without the relevant statement of responsibility having been submitted.

c) Any other non-compliance with the present Act or other postal regulations unless this has been considered as a very serious or serious infringement.

Article 62. Penalties.

1. Minor infringements are penalised with a fine of 200 to 8,000 euros, serious ones with a fine of 8,001 to 80,000 euros and very serious ones with a fine of 80,001 a 400,000 euros.

2. Very serious infringements, considering the circumstances in which they are committed, may give rise to the repeal of the individual licence for the provision of the service by the offender. Moreover, they may be accompanied with the sealing off, confiscating of equipment or vehicles or shutting installations until such time as the proper administrative authorisation is obtained.

3. The final penalty for the infringement classified in Article 59.e) shall be accompanied, since it takes place, by the disqualification of the offender for the exercise of postal activity for the period of one year.

4. The sums indicated in this Article may be updated by the General State Budget Act.

5. The amount of the final penalty imposed on the postal operator in accordance with personal data protection legislation for deeds which in turn represent a postal infringement, shall be discounted from the corresponding penalty of this nature, with a 50% limit.

Article 63. Criteria for grading penalties.

To determine the corresponding penalties, within the limits indicated in the preceding Article, the following circumstances shall be considered:

- a) The importance of the damage caused and its social or economic repercussions.
- b) The level of benefit obtained illicitly.
- c) The degree of participation of the offender in the infringement committed.
- d) The intentionality in committing the infringements.
- e) The repetition in committing infringements in a period exceeding one year and less than five years.

Article 64. Reduction of penalties.

1. The level of the financial penalties imposed shall be reduced by 25 per cent when the offender accepts the proposed decision.

2. The amount of the reduction effected shall be requested without further requirement than the notification to the person involved when he has lodged an appeal or a complaint against the penalty .

Article 65. Collection of penalties.

For collecting the penalties established in this Act the National Postal Sector Commission shall enjoy the prerogatives established in the first Section of Article 10 of the General Budgetary Act 47/2003, of 26 November.

Article 66. Coercive fines.

The National Postal Sector Commission, independently of the penalising fines, may impose, following the repeated requirement for the offender to comply, coercive fines in accordance with Act 30/1992, of 26 November, on the Legal Framework for Public Administrations and the Common Administrative Procedure.

The coercive fine shall be imposed at least every month and shall not exceed 25 per cent of the maximum penalty for the infringement committed.

Article 67. Provisional measures.

1. While the sanctioning procedure is under examination, measures which are strictly necessary may be adopted at the request of the parties to ensure the effectiveness of the decision which may be taken, to avoid the effects of the infringement continuing and to safeguard general interests.

2. Provisional measures may include halting postal items, shutting installations where activities have taken place, or sealing off the medium used.

3. Measures must be proportionate and respect the principle of minimum intervention and only be of a duration which is strictly necessary.

Article 68. Extinction of responsibility.

1. The responsibility derived from postal infringements shall be extinguished on the death of the offender and the completion of the limitation period for imposing the corresponding penalties.

2. The limitation period for very serious infringements of this Act is three years; for serious ones it is two years and for minor ones it is six months.

The limitation period for infringements shall be counted from the day the infringement was committed. The limitation shall be interrupted, with the knowledge of the interested party, by the

initiation of disciplinary proceedings and shall be renewed if these proceedings are paralysed for over six months due to a cause which is unconnected to the alleged perpetrator.

In the case of continued infringements, the limitation period shall start when the activity ends or from the final action which concluded the infringement.

Penalties imposed for very serious infringements are limited to three years; those imposed for serious infringements to two years and those imposed for minor infringements to one year. The limitation period shall be counted from the day after the decision imposed becomes final and shall be interrupted in accordance with the provisions of the second section of Article 68 of the General Tax Act 58/2003, of 17 December.

First additional provision. Universal service provider.

The «Sociedad Estatal Correos y Telégrafos, Sociedad Anónima» holds the status of universal service provider for a period of 15 years from the entry into force of the present Act and by virtue thereof it is subject to public-service obligations comprising the provision of the services covered by Title III which must comply with the principles, requisites and conditions established in this Act and in the Plan referred to in Article 22.

The Sociedad Estatal Correos y Telégrafos, Sociedad Anónima must adapt its strategic planning and its administration and functioning to the provisions of the preceding paragraph for which it shall sign a regulatory contract for universal service provision with the Ministries of Economy and Finance and Development. This contract shall be concluded in successive quinquennial periods and the rights and obligations assigned to the parties shall be determined within it.

In any event, the contract shall specify in detail the measures guaranteeing the permanent improvement in quality, effectiveness and efficiency of provision, and the consequences of non-compliance, together with the corresponding control and monitoring mechanisms as well as the causes and the procedure for terminating the contract including the conditions for universal service provision during the period of transition to the effective start of provision by the universal service provider or providers.

Without prejudice to the above, the public operator shall maintain strict structural and functional separation with respect to the National Regulation Authority.

Second additional provision. Monitoring of the conditions for universal service provision.

Periodically and at a maximum of every five years, the Government Representative for Economic Affairs, following a report by the National Postal Sector Commission, shall evaluate the compliance with the conditions for universal service provision by the operator designated to do so.

Third additional provision. Obligatory minimum services.

By order of the Ministry of Development, obligatory minimum services shall be set to ensure universal service provision.

Fourth additional provision. Issue and distribution of postage stamps and other franking marks.

1. The issue of postage stamps and other franking marks, together with their programming, shall be authorised through joint decision by the Under-Secretaries of Economy and Finance and of Development in the terms which are duly developed.

2. The State Philatelic Commission, a consultative body of the Ministries of Economy and Finance and of Development, is created and attached to the Ministry of Development in a consultancy, advisory and recommendatory capacity in the sphere of the issue of stamps and other franking marks.

The composition of this Commission shall guarantee the participation of the most representative philatelic associations.

Its composition, area of responsibility and mode of functioning shall be duly established.

3. The functions of distribution and sale of postage stamps by the «Sociedad Estatal Correos y Telégrafos, Sociedad Anónima» shall be understood without prejudice to the obligation of the tobacco and stamp retailers' network to sell postage stamps in accordance with the provisions established by Act 13/1998, of 4 May, on Regulation of the Tobacco Market and Tax Legislation and its implementing regulations.

Fifth additional provision. Postal awards and honorary postmen and postwomen

1. The Civil Order of Postal Merit and the Medal of Philatelic Merit are the awards which, in the scope of postal services, may be bestowed in accordance with regulations.

2. The President of the Sociedad Estatal Correos y Telégrafos, S.A., may name honorary postmen and postwomen among those who have been outstanding in supporting the organisation's postal service. The naming of honorary postmen or postwomen shall be accompanied by the treatment and regard which the Company chooses.

Sixth additional provision. Sustainable postal company stamp of excellence.

The creation of the sustainable postal company stamp of excellence devoted to distinguishing those postal service providers which stand out for the excellence of their management in environmental, social, labour matters and, in general, corporate social responsibility.

Seventh additional provision. References.

References made in Act 23/2007, of 8 October, on creation of the National Postal Sector Commission in its implementing regulations and in other rules to Act 24/1998, of 13 July, on the Universal Service and on Liberalisation of Postal Services shall be construed as references to the present Act.

Eighth additional provision. Additional and complementary measures to those defined in the forty-first and forty-second provisions of Act 26/2009, of 23 December, on the General National Budget for 2010. (without content).

Ninth additional provision. Amendment of the period granted in the seventh final provision of Act 33/2010, of 5 August, on amendment of Act 48/2003, of 26 November, on economic system and provision of services in ports of general interest. (without content)

Tenth additional provision. Authorisation to undertake filling work at the port public domain area of the Port of Bilbao provided for in the projects for the Urban Development of Zorrotzaurre. (without content)

Sole transitory provision. Conditions for provision

The conditions for universal service provision and its financing system shall be governed by the legislation predating the entry into force of the present Act until the Government approves the Plan of Universal Service Provision and its regulatory contract.

The National Postal Sector Commission shall establish a calendar for effecting the renewals of registrations of the companies in the General Register of Companies Providing Postal Services upon the entry into force of the present Act and shall inform each company of the procedure and the requisites necessary for the updating of the registration together with the time period to do so.

In any event, all renewed registrations in the aforementioned Register must be made before 1 January 2012.

Sole repealing provision. Repeal provision.

Act 24/1998, of 13 July, on the Universal Service and Liberalisation of Postal Services and those other provisions of the same or lower status which oppose, contradict or are incompatible with the provisions of the present Act are repealed.

First final provision. amendment of Act 23/2007, of 8 de October, on creation of the National Postal Sector Commission.

1. Article 7 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission, is amended and shall be redrawn in the following terms:

«1. For compliance with the aims established in the preceding Article the National Postal Sector Commission shall exercise the authority assigned to it in postal regulations and those of regulatory bodies.

Moreover, it shall be responsible for administering and monitoring the use of the promotional census in conformity with Article 31 of the Organic Data Protection Act, together with its implementation in accordance with what is duly determined.

Decisions issued by the Council in the exercise of its public functions shall conclude administrative proceedings and may be appealed within the jurisdiction of the administrative courts.

2. The National Postal Sector Commission must prepare an annual report on the development of the postal market and this shall be submitted to the Ministry of Development and presented before Parliament.

This report shall be presented to the Government, through the Ministry of Development in the terms which are duly implemented.

3. The National Postal Sector Commission shall submit an annual report on quality, cost and financing of the universal service and on the evolution of access to the postal network. This report shall be transferred to the Ministry of Development which shall present it to the Government Representative for Economic Affairs.

4. The National Postal Sector Commission must submit, in the terms which are established by Act, the Reports, Action Plans and Economic Reports which, on a general basis, are required for the Regulatory Bodies. »

2. Section 2 of Article 11 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission is amended and shall be redrawn as follows:

«2. The Commission's resources are comprised of:

a) Properties and securities which represent its assets, together with the products and income from the latter.

b) Income obtained from settlement of the fees which are intended to finance the functioning of the Commission.

c) The amount of the penalties and coercive fines provided for in this Act.

d) Transfers, when appropriate, to be charged to the General State Budgets.

e) Donations and bequests it receives.»

3. Article 13 in sections 1 and 5 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission is amended and shall be redrawn as follows:

«1. Persons and entities which appear in the General Register of Postal Service Companies are obliged to pay an annual fee, devoted to financing the cost derived from the operations of the National Postal Sector Commission.»

«5. The sum to be paid shall be 400 euros, without prejudice to the updates which the General State Budgets Act may effect in future financial years.»

4. Sections 1, 2 and 4 of Article 16 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission are amended and shall be redrawn as follows:

«1. The National Postal Sector Commission shall resolve disputes which arise between the universal service provider and other postal service providers which carry out services included in this scope, in relation with the right of access to the postal network and to other elements of the infrastructure and postal services offered by the aforementioned operator in the scope of the universal service.

2. The procedure for dispute resolution must respect the principles of hearing, contradiction and equality.»

«4. After the submission of the request by the interested person or by his representative, the Commission will send a copy of the complaint to the party against which it has been formulated, in order for it to reply within twenty days and propose, when appropriate, the evidence it considers opportune.»

5. Section 2 of Article 17 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission is amended and shall be redrawn as follows:

«2. The investigation shall be approved by the Council, it shall be duly justified and a prior hearing shall be given to the legally-recognised organisations and associations which group or represent the holders of rights or legitimate interests which possess a direct relationship with the aim of the investigation.»

6. Section 2 of Article 19 of Act 23/2007, of 8 October, on creation of the National Postal Sector Commission is amended and shall be redrawn as follows:

«The authority for investigating the disciplinary procedure shall correspond to the officials of the Commission's inspection service and the power of decision to the President of the Council in the case of minor infringements and to the Council in the case of serious or very serious infringements.»

Second final provision. Initiating the promotional census.

The National Postal Sector Commission, in cooperation with the competent bodies, shall adopt within a year of the entry into force of the present Act the necessary measures to guarantee the effective functioning of the promotional census referred to by Article 31 of the Organic Data Protection Act.

Third final provision. Services additional or complementary to postal services..

Without prejudice to the Government's ability to establish other additional services, the money order service is considered as a complementary service, through which payments are ordered to physical or juridical persons on behalf of and at the request of others through the postal network, as stated by the present Act.

This service is considered as a financial service of general economic interest which must be provided directly or through third parties by the universal service provider in accordance with all that is applicable, with Act 16/2009, of 13 November, on payment services and its implementing regulations.

The territorial area, with special attention to rural areas, the mode of provision and the system for financing this service shall be determined in the corresponding contract which is signed with the aforementioned provider for these purposes, in accordance with duly determined requisites.

Fourth final provision. Jurisdiction.

This Act is issued under the exclusive authority of the State in the postal sphere provided for in Article 149.1.21.^a of the Constitution.

Article 30 of the present Act, which is also issued under the protection of Article 149.1.14.^a of the Constitution, which grants the State exclusive competence with regard to the State General Treasury, is excepted from the provision in the preceding paragraph.

Fifth final provision. Incorporation of Community Act.

This Act incorporates into Spanish Law Directive 2008/6/CE, of the European Parliament and of the Council, of 20 February 2008, by which there is amendment of Directive 97/67/CE in relation to the full realisation of the internal market of community postal services.

Sixth final provision. Regulatory enablement.

The Government may issue those regulatory provisions which may be necessary for its implementation.

Seventh final provision. Entry into force.

Without prejudice to what is established by the eighth additional provision, the present Act shall enter into force the day after it is published in the «Official State Gazette».

Therefore,

I order all Spaniards, individuals and authorities to obey and uphold this Act.

Madrid, 30 December 2010.

KING JUAN CARLOS I

The Prime Minister,
JOSÉ LUIS RODRÍGUEZ ZAPATERO