



Our ref: 63388  
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15 February 2021

Ms Rebecca Rush  
Assistant Secretary  
Post and ACMA Branch  
Department of Infrastructure, Transport, Regional Development and Communications  
GPO Box 594  
Canberra ACT 2601

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Dear Ms Rush,

### **Proposed remaking of the Australian Postal Corporation Regulations 1996**

Thank you for your letter of 25 January 2021 to Rod Sims seeking the ACCC's input on the proposed remaking of Part 3 of the Australian Postal Corporation Regulations 1996 (the Regulations). This Part allows the ACCC to inquire into access disputes and make recommendations to the responsible Minister about terms and conditions for bulk mail services.

The ACCC welcomes this opportunity to contribute to the Department's review of the Regulations. The ACCC supports the periodic review of regulatory arrangements to improve their efficacy and where appropriate to remove redundant regulations.

The ACCC considers that Part 3 of the Regulations should be remade if it delivers a net benefit. In this regard, the ACCC's past costs of considering complaints about the terms and conditions for bulk mail services are low at around \$3,000 a year on average.

We have published a Guide to ACCC inquiries into bulk mail disputes<sup>1</sup> and provided this information to bulk mail users that have raised concerns with the ACCC regarding Australia Post's terms and conditions for these services. To date bulk mail users have not proceeded to a formal dispute under the Regulations, instead choosing to pursue a suitable commercial outcome with Australia Post, with the threat of proceeding to a formal dispute if an agreement cannot be reached.

To the extent that those provisions provide a discipline on Australia Post's market power in relation to bulk mail handling, this would provide benefits to bulk mail users. We note that bulk mail services are still a major part of Australia Post's legislated letter service monopoly,

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<sup>1</sup> <https://www.accc.gov.au/regulated-infrastructure/postal-services/inquiries-into-disputes-about-bulk-mail-services/final-guide>

notwithstanding the general decline in demand for mail services over the past decade. Bulk mail remains an important service supporting the operations of businesses, government agencies, educational institutions and charities.

We note that the Department has contacted key stakeholders for input to its review. The views of bulk mail users and Australia Post will be important for understanding the efficiency and effectiveness of the Regulations. In particular, the Department should explore the benefits that arise from Part 3 to ensure that they exceed the relatively low costs of this Part.

Although the ACCC is unable to draw on practical experience in applying the Regulations, we consider that there is scope to improve the Regulations' processes and procedures if they are to be remade. For example, the Regulations could take a less prescriptive approach to timeframes and cost methodology given that the ACCC has published a Guide to its inquiries into bulk mail dispute inquiries. This would recognise that there could be benefits to enabling the ACCC to specify the timeframes and cost methodology based on the nature of the matters in dispute.

In this regard, the Regulations currently prescribe limited time (60 days plus a possible extension of up to 30 days) for the ACCC to conduct an inquiry, which may be insufficient where a dispute involves a complex, protracted or novel matter. Consistent with the Regulations, the ACCC Guide notes that an avoidable cost approach could be suitable to apply to bulk mail service disputes. However, as also noted in the Guide, the use of a bottom up or alternative cost method may be more appropriate in certain situations.

I trust this submission is of assistance and thank you for consulting with the ACCC on the Department's review.

Please contact me on (03) 9290 1889 if you would like to discuss this matter or alternatively Darren Kearney on (03) 9290 1966.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sean Riordan', written in a cursive style.

Sean Riordan  
General Manager  
Communications Markets and Advocacy Branch