



# **Australian Postal Corporation Ltd**

## **Draft Price Notification for Impact Mail**

### **Notice Paper**

**2 August 2004**

## Introduction

The Australian Postal Corporation (Australia Post) has advised the Australian Competition and Consumer Commission (the ACCC) of its intention to lodge a locality notice (price notification) under subsection 95Z(5) of the *Trade Practices Act 1974*. A copy of Australia Post's draft price notification is available from the ACCC's website ([www.accc.gov.au](http://www.accc.gov.au)).

The intended price notification relates to the proposed introduction of a new service, *Impact Mail*, that will fall within the definition of Australia Post's reserved services. Australia Post's reserved services are notified services for the purposes of the prices surveillance provisions that are contained in Part VIIA of the Trade Practices Act.

This paper outlines Australia Post's proposal, the legislative framework within which the ACCC must consider the price notification and calls for submissions from interested parties as part of the ACCC's assessment process.

## Australia Post's proposal

Australia Post is proposing to introduce a new letter service for non-rectangular shaped items. This new service is intended to provide delivery of irregular shaped, high impact direct mail items.

*Impact Mail* will be offered in two size categories; Small and Small Plus. The proposed product features include:

- virtually no restriction on shape or content;
- items will not need to be enveloped;
- lower prices will apply for pre-sorting; and
- delivery will occur with other addressed mail (the odd shape dimensions of an *Impact Mail* item will facilitate the mail piece to stand out).

Australia Post's proposed pricing structure for *Impact Mail* is outlined in table 1.

**Table 1**

	Small		Small Plus	
	Same State	Other State	Same State	Other State
Postcode Direct Tray	\$0.55	\$0.56	\$0.80	\$0.81
Area Tray	\$0.59	\$0.60	\$0.85	\$0.86
Residue—Unsorted	\$0.66	\$0.67	\$0.95	\$0.96

To access *Impact Mail*, a minimum lodgement quantity of 300 articles of the same size category will be required.

Australia Post intends the introduction of *Impact Mail* to better meet the needs of advertisers who may wish to post non-rectangular shaped items.

Further details of Australia Post's proposal are contained in the draft price notification, a copy of which can be found at the ACCC's website ([www.accc.gov.au](http://www.accc.gov.au)).

## Legislative framework

The object of the prices surveillance provisions (Part VIIA of the Trade Practices Act) is to have prices surveillance applied in markets where the Minister considers that competitive pressures are not sufficient to achieve efficient prices and protect consumers.<sup>1</sup>

Declaration No. 75 made under section 21(1) of the former *Prices Surveillance Act 1983*<sup>2</sup> declares:

- the provision of letter services reserved to Australia Post to be notified services for the purposes of Part VIIA of the Trade Practices Act; and
- Australia Post to be a declared person for the purposes of Part VIIA of the Trade Practices Act.

This declaration means that Australia Post must notify the ACCC if it proposes to increase the price of a reserved (and therefore notified) service, or if it proposes to introduce a new service that would fall within the definition of reserved (notified) services, or if it proposes to provide an existing reserved (notified) service under terms and conditions that are not the same or substantially similar to the existing terms and conditions of that service.

The ACCC must review these price notifications and take such action, in accordance with Part VIIA, as it considers appropriate.<sup>3</sup> In doing so, it must have particular regard to:

- the need to maintain investment and employment, including the influence of profitability on investment and employment;

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<sup>1</sup> Section 95E of the Trade Practices Act.

<sup>2</sup> Declaration No. 75 was originally made under subsections 21(1)(a) and 21(1)(b) of the *Prices Surveillance Act 1983*. On 1 March 2004, the Prices Surveillance Act was repealed and replaced by Part VIIA of the Trade Practices Act—Part VIIA essentially replicates the provisions that were formally contained in the Prices Surveillance Act and transition arrangements provide that a declaration made pursuant to subsections 21(1)(a) and 21(1)(b) has effect as though it was made under sections 95X(1) and 95X(2) respectively.

<sup>3</sup> Subsection 95G(5) of the Trade Practices Act.

- the need to discourage a person who is in a position to substantially influence a market for goods or services from taking advantage of that power in setting prices; and
- the need to discourage cost increases arising from increases in wages and changes in conditions of employment inconsistent with principles established by relevant industrial tribunals.<sup>4</sup>

After consideration of a notification, the ACCC may do one of three things:

- it may serve a notice stating it has no objection to the person supplying the relevant goods or services on the proposed terms and the proposed price;
- it may serve a notice stating it would have no objection to the person supplying the relevant goods or services on the proposed terms at a specified price, being a price that is lower than the proposed price; or
- it may not serve any notice (in which case the proposed price applies).

Further detail on the ACCC's approach to considering price notifications is contained in its *Draft Statement of Regulatory Approach to Price Notifications* of April 1998.<sup>5</sup>

## The ACCC's assessment process

The ACCC invites comment on Australia Post's draft notification from interested parties. After consideration of the draft notification, and any issues raised by submissions, the ACCC will release its preliminary view and will allow a second period for comment from Australia Post and other interested parties. After consideration of these further comments the ACCC will, on receipt of a formal price notification from Australia Post, release its final decision.

An indicative timetable for consultation and consideration of the proposal is set out in table 2. Please note that these dates may be subject to change.

**Table 2**

Date	Action
28 July 2004	Draft price notification received
2 August	ACCC Notice Paper inviting submissions released
2 August – 23 August	Initial consultation period

<sup>4</sup> Sub-section 95G(7) of the Trade Practices Act.

<sup>5</sup> Readers of the draft statement should note that Part VIIA of the Trade Practices Act has replaced the Prices Surveillance Act and that references to the Prices Surveillance Act should be read as referring to the relevant section of Part VIIA of the Trade Practices Act.

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2 September	Release preliminary view
2 September – 17 September	Consultation on preliminary view
22 September	Formal price notification to be provided
30 September	Final decision released

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## **Making submissions**

Interested parties may provide submissions to the ACCC commenting on issues raised by Australia Post's notification. Particular issues which may be relevant include:

- whether the proposed price structure promotes efficient use by reflecting the underlying costs of providing the service;
- the likely impact on users, including costs of using the service (direct charges and any associated costs), and effect on demand;
- the impact on competitors and potential competitors to Australia Post in related markets.

The ACCC intends to make copies of submissions publicly available on its website. If parties wish to supply information regarded as commercially sensitive, the specific areas of concern should be clearly identified and preferably attached to the submission as a separate confidential document.

The ACCC plans to release a Preliminary View, and further comments on that paper will be invited. These will be considered before the release of the ACCC's final decision which will include a statement of reasons.

Please forward submissions to the following address by 5.00 pm Monday 23 August 2004:

Ms Margaret Arblaster  
General Manager—Transport and Prices Oversight  
Australian Competition and Consumer Commission  
GPO Box 520J,  
Melbourne, VIC 3001

Alternatively, submissions can be emailed to:

[margaret.arblaster@acc.gov.au](mailto:margaret.arblaster@acc.gov.au) **and** [john.laughlin@acc.gov.au](mailto:john.laughlin@acc.gov.au).

If you have any questions about the process, or about making submissions, please call John Laughlin on (03) 9290 1954.