Statutory Notification: modification of designated USP condition 1

NOTIFICATION OF MODIFICATION OF REGULATORY CONDITIONS IN ACCORDANCE WITH SECTIONS 36, 37 AND 53 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

A. On 5 September 2013, at Annex 8 to the consultation document entitled *Technical and minor amendments in postal regulation Notifications of proposed technical and other minor amendments to the Universal Postal Service Order and related conditions*, OFCOM published a notification in accordance with section 53 of, and paragraph 3(3) of Schedule 6 to, the Postal Services Act 2011 (the "**Act** ") setting out their proposals to modify Designated USP condition 1 (("**DUSP 1**") pursuant to their powers in section 36 of the Act (the "**First Notification**").

B. In the same document, having carried out a review of users' needs, OFCOM gave notice of their proposals to modify SI 2012/936, the Postal Services (Universal Postal Service) Order 2012.

C. A copy of the First Notification was sent to the Secretary of State in accordance with Schedule 6 paragraph 5(1)(a) of the Act.

D. In the First Notification (and the accompanying consultation document), OFCOM invited representations about any of the proposals set out therein by 7 October 2013.

E. By virtue of section 53 of, and paragraph 3(5) of Schedule 6 to, the Act OFCOM may give effect, with or without modifications, to a proposal with respect to which they have published a notification only if they—
   (i)   have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
   (ii) have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State.

F. OFCOM received one response to the First Notification and has considered that representation made to them in respect of the proposals set out in the First Notification (and the accompanying consultation document).

G. The Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose.

H. OFCOM is publishing modifications of the Postal Services (Universal Postal Service) Order 2012 with this notification.

DECISION

1. OFCOM hereby, in accordance with section 36 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers and duties in section 36 and 37 of the Act, modifies DUSP 1 which was imposed on 1 April 2012, to make provision for matters set out in that section 36 and 37 with effect from 31 December 2013.

2. The modification to DUSP 1 is specified in the Schedule hereto.

3. The effect of, and OFCOM's reasons for making, this decision are set out in the accompanying explanatory statement.

OFCOM'S DUTIES AND LEGAL TESTS

4. OFCOM are satisfied that this decision satisfies the general test in paragraph 1 of Schedule 6 to the Act.

5. In making this decision OFCOM have considered and acted in accordance with their principal duty in section 29 of the Act and their general duties in section 3 of the Communications Act 2003.

6. Copies of this Notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act and to the European Commission in accordance with paragraph 5(2) of Schedule 6 to the Act.

7. The Schedule to this Notification shall form part of this Notification.

Signed by **Chris Rowsell**

Competition Policy Director

A person duly authorised by OFCOM under paragraph 18 of the Schedule to the Office of Communications Act 2002

10 December 2013

SCHEDULE

PROPOSED MODIFICATIONS TO DESIGNATED USP CONDITION 1

	Modification
1.	In DUSP 1.1.2 sub-paragraph (d), omit the footnote.
2.	In DUSP 1.1.2 sub-paragraph (m), after "for the development", delete "for the development".
3.	In DUSP 1.1.2 sub-paragraph (v), after "postal services", delete ", or services provided under arrangements with a government department,".
4.	In DUSP 1.1.2 sub-paragraph (y), for the full-stop, substitute a semi-colon.
5.	In DUSP 1.1.2 sub-paragraph (aa), for "in relation to a particular territory, any day in relation to which OFCOM has by direction stated that exceptional circumstances require it to be treated as a public holiday", substitute "in relation to a particular territory or place, any day in relation to which OFCOM has by direction provided for an exception at that place under DUSP 1.3.2 ".
6.	In DUSP 1.1.2 sub-paragraph (ee), underline "postal packet" wherever it appears.
7.	In DUSP 1.1.2 sub-paragraph (ff), omit "every working day".

8.	In DUSP 1.1.2 sub-paragraph (jj), for "means any day which is not a Sunday or a public holiday", substitute:
	 "means any day which is not:
	     (a) a Sunday; or
	     (b) a public holiday in the place of collection or the place of delivery of the postal packet concerned".

9.	At the end of 1.1.3(e), for the semi-colon, substitute a full-stop.
10.	In DUSP 1.1.3, omit sub-paragraph (f).
11.	In DUSP 1.3.1(b), for "Convention and the Agreement concerning Postal Parcels adopted by the Universal Postal Union", substitute "Universal Postal Convention adopted by the 24th Congress of the Universal Postal Union, 2008" and footnote "Universal Postal Convention (Berne 2008), published by the Universal Postal Union."
12.	In DUSP 1.3.2, omit "and the target routing times of services".
13.	After DUSP 1.3.2, insert new row: " 	DUSP 1.3.2A	OFCOM may by direction set out the things which must be done when exceptional circumstances under DUSP 1.3.2(b) may have arisen in any particular case, including but not limited to: reporting, notification, appeals, reviews and the establishment of alternative delivery or collection arrangements.	 "

14.	Omit DUSP 1.3.5.
15.	In DUSP 1.6.1(a), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.4".
16.	In DUSP 1.6.1(a), for the sub-paragraph numberings (a) to (e), substitute numbers (i) to (v).
17.	In what is now DUSP 1.6.1(a)(iii), after "<u>Certificate of Posting</u>", insert "free of charge".
18.	In DUSP 1.6.1(b), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.4".
19.	In DUSP 1.6.1(b), for the sub-paragraph numberings (a) to (e), substitute numbers (i) to (v).
20.	In what is now DUSP 1.6.1(b)(iii), after "<u>Certificate of Posting</u>", insert "free of charge".
21.	In DUSP 1.6.1(c), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.4".
22.	In DUSP 1.6.1(c), do not underline "sender" wherever it appears.
23.	In DUSP 1.6.1(c), for the sub-paragraph numberings (a) to (c), substitute numbers (i) to (iii).
24.	In DUSP 1.6.1(d), after "10 kilograms", insert "and meeting the description in DUSP 1.6.4".
25.	In DUSP 1.6.1(d), for the sub-paragraph numberings (a) to (f), substitute numbers (i) to (vi).
26.	In DUSP 1.6.1(e), after each use of the phrase "10 kilograms", insert "and meeting the description in DUSP 1.6.4".
27.	In DUSP 1.6.1(e), for the sub-paragraph numberings (a) and (b), substitute numbers (i) and (ii).
28.	In the heading row for DUSP 1.6.1(f), after "***international services***", insert ***"– fast outgoing EU services"***
29.	In DUSP 1.6.1(f), after "the conveyance of <u>postal packets</u>", insert "meeting the description in DUSP 1.6.5".
30.	In DUSP 1.6.1(f), for the sub-paragraph numberings (a) to (c), substitute numbers (i) to (iii).
31.	In what is now DUSP 1.6.1(f)(i), for the sub-sub-paragraph numberings (i) and (ii), substitute (a) and (b).
32.	In what is now DUSP 1.6.1(f)(iii), after "<u>Certificate of Posting</u>", insert "free of charge".
33.	In DUSP 1.6.1(f), before the first bullet, insert "• items that are neither registered nor insured;".

34.	After DUSP 1.6.1(f), insert new header row: "***End-to-end international services – slow outgoing EU services***".
35.	After that new header row, insert new row: "<table><tr><td>**DUSP 1.6.1(f)A**</td><td>One or more <u>single piece services</u> for the conveyance of <u>postal packets</u> meeting the description in DUSP 1.6.6 to <u>EU offices of exchange,</u> where— (i) in relation to each country, the <u>postal packet</u> is conveyed to the <u>EU office of exchange</u> within a period that is (a) reasonable; and (b) compatible with a <u>target routing time</u> for the provision of an end –to-end service of D+30; (ii) the service or services are capable of purchase by postage stamp and may be capable of purchase by other reasonable methods; and (iii) the service or services include provision of a <u>Certificate of Posting</u> free of charge on request where the <u>postal packet</u> is deposited at a <u>post office</u>. The service must include one or more services for the conveyance of each of the following: • items that are neither registered nor insured; • <u>registered items</u> • <u>insured items</u>.</td></tr></table> "
36.	After new row DUSP 1.6.1(f)A, insert new header row: "***End-to-end international services – fast outgoing ROW services***".
37.	In DUSP 1.6.1(g), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.5".
38.	In DUSP 1.6.1(g), for the sub-paragraph numberings (a) to (c), substitute numbers (i) to (iii).
39.	In what is now DUSP 1.6.1(g)(i), for the sub-sub-paragraph numberings (i) and (ii), substitute (a) and (b).
40.	In what is now DUSP 1.6.1(g)(iii), for "is provided", substitute "free of charge on request".
41.	In DUSP 1.6.1(g), for "The services must include one or more services for", substitute "The service must include".
42.	In DUSP 1.6.1(g), before the first bullet, insert "• items that are neither registered nor insured;".
43.	After DUSP 1.6.1(g), insert new header row: "***End-to-end international services – slow outgoing ROW services***".
44.	In DUSP 1.6.1(h), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.5".

45.	In DUSP 1.6.1(h), for the sub-paragraph numberings (a) to (c), substitute numbers (i) to (iii).
46.	In what is now DUSP 1.6.1(h)(iii), for "is provided", substitute "free of charge on request".
47.	In DUSP 1.6.1(h), for "The services must include one or more services for", substitute "The service must include".
48.	In DUSP 1.6.1(h), before the first bullet, insert "• items that are neither registered nor insured;".
49.	After DUSP 1.6.1(h), insert new header row: "***End-to-end international services – inbound EU services***".
50.	In DUSP 1.6.1(i), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.7".
51.	After DUSP 1.6.1(i), insert new header row: "***End-to-end international services – inbound ROW services***".
52.	In DUSP 1.6.1(j), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.7".
53.	In the header row of DUSP 1.6.2, for "***Overseas***", substitute "***End-to-end international services – overseas***".
54.	In DUSP 1.6.3, delete ", save as otherwise specified,".
55.	In DUSP 1.6.3(b), at the end, insert: "The service— (i) includes provision of a <u>Certificate of Posting</u> free of charge on request if the <u>postal packet</u> is deposited at a <u>post office</u>; and (ii) does not include the conveyance of <u>registered items</u> or <u>insured items</u>."
56.	In DUSP 1.6.3(c), for "(d) to (f)", substitute "(e)".
57.	Omit DUSP 1.6.3(d).
58.	In DUSP 1.6.3(e), for "1 kilogram", substitute "7 kilograms".
59.	In DUSP 1.6.3(e), at the end, insert: "The services— (i) include provision of a <u>Certificate of Posting</u> free of charge on request if the <u>postal packet</u> is deposited at a <u>post office</u>; and (ii) do not include the conveyance of <u>registered items</u> or <u>insured items</u>."
60.	Omit DUSP 1.6.3(f).
61.	After DUSP 16.3(e), insert new header row: "***Description of postal packets for domestic services***".
62.	After that new header row, insert new row: "

DUSP 1.6.4	The description is:
	(a) as to the <u>postal packet</u>'s maximum dimensions—

		(i) if the postal packet is a right circular cylinder—
		(aa) the length plus twice the diameter does not exceed 1040 millimetres;
		(bb) the length does not exceed 900 millimetres; and
		(cc) the diameter does not exceed 900 millimetres;
		(ii) if the postal packet is not a right circular cylinder, the dimensions of the postal packet (measured at their widest points) do not exceed 610 millimetres by 460 millimetres by 460 millimetres; and
		(b) as to the postal packet's minimum dimensions (measured at their narrowest points), each dimension of the postal packet exceeds 0.25 millimetres.

"

63.	After new row DUSP 1.6.4, insert new header row: "***Description of postal packets for fast outgoing international services and slow outgoing ROW services***".
64.	After that new header row, insert new row: "

| **DUSP 1.6.5** | The description is:

(a)   at minimum, each dimension of the postal packet, measured at their narrowest points, exceeds 0.25 millimetres;

(b)   at maximum as to weight—
(i)   if the postal packet contains items that are not printed papers, its weight does not exceed 2 kilograms;
(ii)   if the postal packet only contains printed papers, its weight does not exceed 5 kilograms;

(c)   at maximum as to dimensions—
(i)   if the postal packet is a right circular cylinder—
(aa) the length plus twice the diameter does not exceed 1040 millimetres;
(bb) the length does not exceed 900 millimetres; and
(cc) the diameter does not exceed 900 millimetres;
(ii)   if the postal packet is not a right circular cylinder—
(aa) the sum of the length, width and depth (measured at their widest points) does not exceed 900 millimetres; and
(bb) the greatest dimension (measured at its widest point) does not exceed 600 millimetres. |

"

65.	After new row DUSP 1.6.5, insert new header row: "***Description of postal packets for slow outgoing EU services***".
66.	After that new header row, insert new row: "

| **DUSP 1.6.6** | The description is: |

		(a)	at minimum—
			(i) the weight of the <u>postal packet</u> exceeds 100 grams; and
			(ii) the dimensions of the <u>postal packet</u>, measured at their narrowest points, exceed 245 millimetres by 165 millimetres by 5 millimetres;
		(b)	at maximum as to weight—
			(i) if the <u>postal packet</u> contains items that are not printed papers, its weight does not exceed 2 kilograms;
			(ii) if the <u>postal packet</u> only contains printed papers, its weight does not exceed 5 kilograms;
		(c)	at maximum as to dimensions—
			(i) if the <u>postal packet</u> is a right circular cylinder—
			(aa) the length plus twice the diameter does not exceed 1040 millimetres;
			(bb) the length does not exceed 900 millimetres; and
			(cc) the diameter does not exceed 900 millimetres;
			(ii) if the <u>postal packet</u> is not a right circular cylinder—
			(aa) the sum of the length, width and depth (measured at their widest points) does not exceed 900 millimetres; and
			(bb) the greatest dimension (measured at its widest point) does not exceed 600 millimetres.

"

| 67. | After new row DUSP 1.6.6, insert new header row: "***Description of postal packets for inbound services***". |

68.	After new header row, insert new row: "	

	DUSP 1.6.7	The description is:
		 (a) at maximum as to weight—
		      (i) if the <u>postal packet</u> only contains literature for the <u>blind</u>, its weight does not exceed 7 kilograms;
		      (ii) if the <u>postal packet</u> contains anything else, its weight does not exceed 2 kilograms;
		
		 (b) at maximum as to dimensions—
		      (i) if the <u>postal packet</u> is a right circular cylinder—
		      (aa) the length plus twice the diameter does not exceed 1040 millimetres;
		      (bb) the length does not exceed 900 millimetres; and
		      (cc) the diameter does not exceed 900 millimetres;
		      (ii) if the <u>postal packet</u> is not a right circular cylinder—
		      (aa) the sum of the length, width and depth (measured at their widest points) does not exceed 900 millimetres; and
		      (bb) the greatest dimension (measured at its widest point) does not exceed 600 millimetres.

	"	
69.	In DUSP 1.7.1, omit "working".	
70.	In DUSP 1.7.1, before the full-stop, insert "excluding any day which is a Sunday or a <u>public holiday</u> in the place of acquisition".	
71.	In DUSP 1.7.1(a), for "named individual", substitute "meeting the description in DUSP 1.6.4, that are to be delivered by the <u>universal service provider</u> to a particular addressee".	
72.	In DUSP 1.7.1(b), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.4".	
73.	In DUSP 1.7.1(c), after "<u>postal packets</u>", insert "meeting the description in DUSP 1.6.4".	
74.	In Table 1, in the row immediately below the heading "***Domestic end-to-end services***", before "<u>deemed delivered</u>", insert "provided pursuant to DUSP 1.6.1(a)".	
75.	In Table 1, in the row second below the heading "***Domestic end-to-end services***", before "purchased", insert "provided pursuant to DUSP 1.6.1(a)".	
76.	In Table 1, in the row third below the heading "***Domestic end-to-end services***", before "purchased", insert "provided pursuant to DUSP 1.6.1(a)".	
77.	In Table 1, in the row fourth below the heading "***Domestic end-to-end services***", before "for <u>postal packets</u>", insert "provided pursuant to DUSP 1.6.1(b)".	
78.	In Table 1, in the row fourth below the heading "***Domestic end-to-end services***", omit "weighing up to 1kg".	

79.	In Table 1, omit the row fifth below the heading "***Domestic end-to-end services***".
80.	In Table 1, in the last row, before the semi-colon, insert "provided pursuant to DUSP 1.6.1(d)".
81.	In Table 2, in each of the first two rows, before "<u>deemed delivered</u>" insert "provided pursuant to DUSP 1.6.1(g)".
82.	In Table 2, in each of the last two rows, before "<u>deemed delivered</u>" insert "provided pursuant to DUSP 1.6.1(f)".
83.	In DUSP 1.10.5 paragraph (b), before "European Union" insert "the".
84.	In DUSP 1.10.5 paragraph (b), before the full-stop, insert "required by DUSP 1.6.1(f)".
85.	In DUSP 1.10.6 paragraph (a), before "European Union" insert "the".
86.	In DUSP 1.10.6 paragraph (a), before the semi-colon insert "required by DUSP 1.6.1(f)".
87.	In DUSP 1.10.6 paragraph (b)(i) and (ii), for "<u>working day</u>" substitute "day upon which a collection is required in the area in question".
88.	In DUSP 1.10.7 paragraph (a), before "European Union" insert "the".
89.	In DUSP 1.10.7 paragraph (a), before the semi-colon insert "required by DUSP 1.6.1(f)".
90.	Omit Annex 1.