

1 June 2012

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Dear party to the PCOPA

Direction of modification to the *Postal Common Operational Procedures Agreement (PCOPA)*

We have modified the PCOPA and are informing you of our related Direction which is attached at Appendix 1.

Background

In December 2011, Ofcom received proposals from two parties to the current Postal Common Operational Procedures Agreement ("PCOPA") to modify the PCOPA.

On 27 March 2012, Ofcom issued a Notice consulting on proposed changes to the PCOPA in accordance with Consumer Protection Condition 2 (this was published as Annex 15, alongside our decision on the new regulatory framework for Post – see <http://stakeholders.ofcom.org.uk/consultations/review-of-regulatory-conditions/statement/>).

Our decisions and Direction follow our consideration of responses to our Notice.

Assessment of responses and our decision

We notified parties to the PCOPA asking for their views on the proposed changes by 27 April 2012. We received four responses – one from Consumer Focus who noted the proposals, but did not otherwise make comments – and three others, from Royal Mail, TNT and DX, who each provided comments on some of the proposed changes.

Our assessment of stakeholder feedback is set out in Annex 1. In short, we have amended the PCOPA – which is attached at Appendix 2 – implementing most of the changes proposed in our Notice subject to several amendments as a result of our assessment of feedback. Appendix 2 includes tracked edits showing all of our modifications to the PCOPA.

We consider that the changes to the PCOPA made by the Direction are appropriate in order to ensure that the PCOPA remains effective by being aligned with current operational practices and the regulatory conditions, thereby ensuring that the Code Objectives will be fulfilled. Given that one of the Code Objectives is to further the interests of users of postal services, modifications that are necessary to ensure that the Code Objectives will be fulfilled are, in our opinion, consistent with our statutory duties, in particular, our duty under section 3 of the Communications Act 2003, in carrying out our functions, to further the interests of citizens in relation to communication matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition.

Yours sincerely

A handwritten signature in black ink, reading "Chris Rowsell", written over a horizontal line.

Chris Rowsell

Annex 1: Our assessment of responses to the PCOPA Notice

The default return charge (DRC) and standard return charge (SRC)

Proposed changes

We proposed changes to paragraphs 5 and 6 in Schedule 2, which relate to the calculation of the default and standard return charges respectively. We proposed that the definition of:

- 'FC' in paragraph 5 which currently equals an amount which would be payable if the relevant Misdirected Code Letters were posted (on a consolidated basis per return) using Royal Mail's first class public service should be amended so that it referred to the first class public service price for metered/franked mail; and
- 'SC' in paragraph 5 which currently equals an amount which would be payable if the relevant Misdirected Code Letters were posted (on a consolidated basis per return) using Royal Mail's second class public service should be amended so that it referred to the second class public service price for metered/franked mail.

In both cases, the proposed change reflected the fact that there was no difference in stamp and meter prices when the PCOPA was made, but that there is now a significant difference between the public service price for businesses (metered/franked mail/PPI) and the public service price for individuals (stamps).

Responses to Notice

Royal Mail did not agree with the proposed change. It noted that Royal Mail Wholesale had always set these values as the stamp price rather than the meter price. It queried the proposed use of meter price and noted that return charges (for business mail) would cover additional costs such as bundling and readdressing the mail. Royal Mail believed we should continue to use stamp price pending a review of the charges.

In addition, DX stated that the references to Royal Mail's first and second class public services in paragraphs 5 and 6 respectively, appeared incorrect in the context of the 2012 universal postal service Order which used the terms 'priority services' and 'standard services' instead.

Our decision

We agree with DX's suggestion to use the terms 'priority services' and 'standard services' as that will align PCOPA terminology with the Order and ensure the PCOPA is kept up to date if the brand names of these services are changed by Royal Mail in the future.

We have taken into account Royal Mail's point that there may be additional costs (to metered mail) with returning PCOPA items. We also note Royal Mail's point that the level and structure of the Schedule 2 charges have not been reviewed for some time and that they are currently undertaking analysis with a view to bringing forward a change proposal on these charges. In light of this, Royal Mail's view is that the stamp price (which they have applied

until now in calculating the default and standard return charges to date) should be used pending a review of the charges.

We have therefore decided not to proceed with this change to base these charges on the meter rate and we will retain the reference to the '(public) service' in paragraphs 5 and 6 (in the interim). However, given the difference that now exists in public service - stamp and meter – prices we also believe it would be appropriate to consider the wider question of these charges further. We currently intend to do that within our wider review of the Postal Common Operational Procedures Code (PCOPC) and its related Agreement.

Setting out the values of P and F (*the item and collection charges*)

Proposed changes

Paragraph 7 and 8 of Schedule 2 set out the indexation of the values of P and F (the item and collection charges). In our Notice, we proposed (1) to reset their initial values to those of 2012 and (2) require that the values be published each year.

Responses to Notice

TNT welcomed the proposal to require that these values are published each year as they noted that they have not been increased (in the Agreement) in line with indexation rules when the original prices were set in 2006. They added that it was important to specify how and where the values would be published (by the Secretary) and suggested this be done in a prominent location prior to their coming into effect and that the Secretary should also notify each signatory by post. Similarly, DX suggested these values should be notified by the Secretary to the signatories of the PCOPA with one month's notice of any change.

Royal Mail stated they would be happy to publish the current and future charges on the Royal Mail (Wholesale) website in January of each year. They added that the wording about annual publication was better suited to paragraph 8 of Schedule 2.

Our decision

We agree that 'in advance' publication of these values on Royal Mail Wholesale's website in January of each year – with Royal Mail also notifying signatories of the change - has merit as it can ensure a more transparent and up to date agreement. We have therefore amended the agreement accordingly.

Other changes

Royal Mail recommended a few further changes to the PCOPA. They noted that if the values of P and F are to be rebased on the values of P and F at January 2012 then this should be reflected at paragraphs 4, 5 and 6 of the Schedule and that additional wording should be added to inform signatories to the agreement of annual amendments to these values.

Our decision

We agree with these minor changes as it will help ensure the agreement is kept up to date. We have amended the values of P and F in the agreement to reflect their 2012 values.

Other general points

Royal Mail provided some views on the membership of the PCOPA, while TNT highlighted how effective ADR processes/dispute resolution could potentially apply to the PCOPA.

We intend to consider such points within our planned wider review of the PCOPC (which will include the related PCOPA).