



Amendments to The Postal Services (Universal Postal Service) Order 2012

Regulatory Impact Assessment

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Introduction

- 1.1 In accordance with Government practice, where a statutory regulation is made or amended, a Regulatory Impact Assessment (RIA) must be undertaken. The analysis presented in this document represents an impact assessment, as defined in section 7 of the Communications Act 2003, for the amendments to The Postal Services (Universal Postal Service) Order 2012. Further information can be found in our consultation, *Technical and minor amendments in postal regulation*, published in September 2013.¹
- 1.2 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. This is reflected in section 7 of the Communications Act 2003, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see the guidelines *Better policy-making: Ofcom's approach to impact assessment*.²

Ofcom's policy objective

- 1.3 Ofcom's overall statutory objective in relation to post, set out by the Postal Services Act 2011 ("the Act"), is to secure the universal postal service. Accordingly the Act, in section 30, requires us to provide a description of the universal services, and the standards with which they must comply, by order. The first universal postal service order (the Order) and associated regulatory conditions came into force on 1 April 2012, shortly after our statement, published in March 2012, containing our decision on the new regulatory framework.³
- 1.4 Our March 2012 statement confirmed that we intended to retain all the essential features of the current universal service, pending our Review of Postal Users' Needs. It also confirmed that we would move away from defining the universal service through a list of Royal Mail's services, to a description of the characteristics of the universal services. We imposed regulatory conditions (Designated Universal Service Provider (DUSP) conditions) on Royal Mail requiring it to provide the services defined in the Order.
- 1.5 As required by section 30 of the Act, Ofcom carried out its first assessment of the extent to which the market for the provision of postal services in the United Kingdom is meeting the reasonable needs of users of those services and published the conclusions of this review on 27 March 2013.⁴ As a result of this review (the Review of Postal Users' Needs), Ofcom did not find that there was any need to make any changes to the scope of the universal service. In our statement we noted that minor

¹ <http://stakeholders.ofcom.org.uk/consultations/post/>

² http://www.ofcom.org.uk/consult/policy_making/guidelines.pdf

³ The Postal Services (Universal Postal Service) Order 2012 (SI 2012/936), annexed to Ofcom, *Securing the Universal Postal Service – Decision on the new regulatory framework*, March 2012. That Statement also set out the regulatory conditions to which Royal Mail, as the designated universal service provider, is subject. See: <http://stakeholders.ofcom.org.uk/consultations/review-of-regulatory-conditions/statement/>

⁴ Ofcom, *Review of postal users' needs – statement*, March 2013, <http://stakeholders.ofcom.org.uk/consultations/review-of-user-needs/statement/>

amendments to the Order were necessary but that these did not represent changes to Ofcom's policy and were consistent with the conclusions of our review.

- 1.6 In September 2013, we published a consultation on Technical and minor amendments in postal regulations, which proposed a series of amendments to the Order (listed under Option 2 below). Those minor amendments were intended to clarify the drafting of the Order and the scope of the regulatory obligations on Royal Mail to reflect current provision. We did not propose any changes to the scope of the universal service in practice. We explained that none of the proposed amendments had any practical impact on users, Royal Mail and other postal operators as, if made as we proposed, these proposed amendments would not have required any changes to Royal Mail's current provision of the universal postal service.
- 1.7 We received one response to the consultation, from Royal Mail. Following our consultation, and our consideration of the response received, we decided to implement our proposed amendments to the Order subject to one modification proposed by Royal Mail to better align the regulatory framework with Royal Mail's current provision of the universal postal service.
- 1.8 The objectives of the technical and minor amendments to the Order are:
- to improve drafting and make the scope of the universal postal service clearer on the face of the Order, including rectifying drafting omissions or oversights in relation to the Order as it was made in 2012, to secure the original policy aim of retain the essential features of the universal service as they were prior to our March 2012 decision on the new regulatory framework for post; and
 - to align the scope of the universal service described in the Order with current provision, again to secure the original policy aim.

The citizen and/or consumer interest

- 1.9 The universal postal service is the collection and delivery of postal packets at an affordable uniform price, everywhere in the UK, six days a week (five for packets). The universal postal service ensures that everyone in the UK is able to communicate by post, by requiring a collection and delivery of post every working day. Research for Ofcom's Review of Postal Users' Needs identified broader social value from the universal postal service, for instance in supporting rural communities, and to some extent in supporting the elderly.
- 1.10 The amendments to the Order make the regulatory framework of the universal postal service clearer, but do not change the provision of the universal postal service as experienced by users in practice.

Options considered

- 1.11 There are two options, which we considered as part of our consultation on *Technical and minor amendments in postal regulation*:
- Option 1: not to make the technical and minor amendments to the Order listed below; and
 - Option 2: to make these amendments to the Order.

Analysis of the different options

Option 1: not to make the technical and minor amendments to the Order listed below

- 1.12 We consider that not making all the technical and minor amendments listed below and proposed in our September consultation would result in less clarity in the wording of the Order. It would have a very small negative impact on postal users, Royal Mail and other operators, in so far as the Order would be less transparent.
- 1.13 In relation to rectifying drafting omissions and clarifying the dimensions and weight limits applying to universal services, not making the amendments may result in unintended consequences where the scope of the universal service as specified in the Order is not aligned with our policy intentions set out in March 2012 and March 2013 to retain the universal service essentially the same as it was prior to the first Order. It would have a negative impact on both Ofcom and Royal Mail, because it would make it more difficult for Ofcom to enforce the appropriate requirements on Royal Mail to provide the universal service as intended, or result in unnecessary additional regulation for Royal Mail.
- 1.14 Making some but not all of the proposed amendments would, to varying degrees, have the negative impacts set out above.

Option 2: to make all technical and minor amendments to the Order listed below

- 1.15 As proposed in our September consultation, and following consideration of the consultation response, we made the following amendments to the Order:
- Deleting two unnecessary definitions in the Order, specifically “Act” and “eligible items, and clarifying two further definitions, “public holiday” and “specified collection time”;
 - Clarifying the current drafting of the Order about the treatment of local public holidays for the calculation of routing times, i.e. the maximum number of working days an item must take to arrive at its destination. We now require that routing times should be calculated taking into account only the public holidays of the locations where mail is sent and received, instead of taking account of all the public holidays everywhere in the UK;
 - Rectifying a drafting omission when making the first Order by specifying in the Order that Certificates of Posting should be free of charge, as was our policy intention in March 2012;
 - Making it clearer in the wording of the Order that redirections services relate to all redirections, whether purchased by individual customers or businesses;
 - Aligning better the requirements for free services for blind and partially sighted persons with current provision by: removing an unnecessary pricing freedom available to Royal Mail in relation to the international fast service for blind and partially sighted persons (which was unused); requiring Certificates of Posting to be provided free of charge for all services for blind and partially sighted persons (in line with all other services); removing the requirements for a free international slow service (which was effectively unused); and removing the requirements for

free international and domestic registered services (not currently offered free of charge);

- Rectifying a drafting omission when making the first Order by specifying in the Order that the universal service should include a slower packet service to European Union destinations, provided by Royal Mail's Surface Mail service to European Union destinations, as was our policy intention in March 2012;
- Improving the transparency of the drafting by clarifying on the face of the Order, where necessary, that the exceptions in section 33 of the Act apply to all the services in the Order; and
- Specifying in the Order that certain services (over and above the statutory minimum services in the Act) are not required to be provided in relation to larger and heavier parcels.

- 1.16 We consider that making the proposed technical and minor amendments to the Order implements our objectives of making the drafting of the Order clearer and more in line with our policy intention to retain the scope of the universal service essentially the same as it was prior to April 2012.
- 1.17 Our amendments have no practical impact on postal users, Royal Mail, and other postal operators, as these amendments do not result in any practical changes to the current provision of the universal service. They result in better drafting of the Order and improved clarity in the scope of the regulatory obligations relating to the universal service.
- 1.18 We do not consider our amendments to have any practical effect on any group within society in particular, including any having protected characteristics under the Equality Act 2010 or section 75 of the Northern Ireland Act 1998.

The preferred option and decision

- 1.19 Option 2, making all the technical and minor amendments to the Order, is our preferred option. This option best fulfils our objectives of improving the drafting of the Order and clarifying the regulatory framework relating to the universal postal service. Accordingly we have made the technical and minor amendments to the Order listed above.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Ed Richards

Chief Executive, Ofcom

9 December 2013

Contact Point:

Elisa Pruvost

Ofcom

Riverside House

2A Southwark Bridge Road

London

SE1 9HA

020 7981 3000