

## CONSUMER PROTECTION CONDITION 1<sup>1</sup>

### PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES

#### 1.1. Application, Definitions and Interpretation

<b>CP 1.1.1</b>	This consumer protection condition (“ <b>CP Condition</b> ”) shall apply to <u>regulated postal operators</u> .
<b>CP 1.1.2</b>	<p>In this CP Condition—</p> <p>(a) “<b>Act</b>” means the Postal Services Act 2011 (c.5);</p> <p>(b) “<b>appointed day</b>” means 1 October 2011;</p> <p>(c) “<b>assessment year</b>” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “<b>calls relating to a regulated postal operator</b>” means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) “<b>consumer advocacy bodies</b>” means <u>Citizens Advice</u>, <u>Citizens Advice Scotland</u>, and the General Consumer Council for Northern Ireland;</p> <p>(f) “<b>public holiday</b>” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(g) “<b>relevant year</b>” means any year beginning on 1 April;</p> <p>(h) “<b>relevant turnover</b>” means turnover from <u>regulated postal services</u>;</p> <p>(i) “<b>regulated postal operator</b>” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(j) “<b>regulated postal service</b>” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>

<sup>1</sup> As of 4 December 2015.

<b>CP 1.1.3</b>	<p>For the purpose of interpreting this CP Condition—</p> <ul style="list-style-type: none"> <li>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act<sup>2</sup>;</li> <li>(b) headings and titles shall be disregarded;</li> <li>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</li> <li>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</li> <li>(e) references to a <b>day</b> are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</li> </ul>
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## **1.2. Payments relating to qualifying consumer expenses**

CP 1.2.1	A <u>regulated postal operator</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u> , shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the expenses described in CP 1.2.2.
CP 1.2.2	The expenses are the <u>qualifying consumer expenses</u> of the <u>consumer advocacy bodies and the Secretary of State</u> , likely to be incurred during the <u>relevant year</u> in respect of functions other than the consumer advocacy bodies' function of providing a <u>public consumer advice scheme</u> .
CP 1.2.3	The proportion will be calculated by multiplying the sum of the total expenses in <u>CP 1.2.2</u> by that regulated postal operator's share of relevant turnover expressed as a <u>percentage of the total relevant turnover generated</u> by all <u>regulated postal operators to which this condition</u> applies that generated <u>relevant turnover in excess of £10 million in the assessment year</u> .
CP 1.2.4	A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of <u>Citizens Advice and Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> .
CP 1.2.5	<u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the following calculation gives an amount greater than £100:

<sup>2</sup> A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

	<p>(a) take the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u>,</p> <p>(b) multiply it by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u>.</p>
CP 1.2.6	The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u> by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.
CP 1.2.7	The amounts payable under CP 1.2.1 in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which <u>charges</u> in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.
CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.9	The amount due under either or both of CP 1.2.1 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

**Table of terms defined in the Act**

*This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.*

<b>Defined term</b>	<b>Section</b>
<i>Citizens Advice</i>	65(1)
<i>Citizens Advice Scotland</i>	65(1)
<i>letter</i>	65(1)

<i>OFCOM</i>	<i>90</i>
<i>postal operator</i>	<i>27(3)</i>
<i>postal packet</i>	<i>27(2)</i>
<i>qualifying consumer expenses</i>	<i>51(4)</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>

## Schedule 2

# Informal mark up of the proposed version of Consumer Protection Condition 1 on which we consulted, to show the changes between that and the as-made version

This marked up version of CP 1 as we consulted on it is provided as an aid to understanding but is not the proposed legal instrument. Additions are marked in red.

## CONSUMER PROTECTION CONDITION 1

### PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES

#### 1.1. Application, Definitions and Interpretation

CP 1.1.1	This consumer protection condition (“ <b>CP Condition</b> ”) shall apply to <u>regulated postal operators</u> .
CP 1.1.2	<p>In this CP Condition—</p> <p><del>(a) “<b>access payments</b>” means payments made to any other regulated postal operator for the conveyance of letters conveyed by the regulated postal operator from its customers to that other regulated postal operator;</del></p> <p><del>(b)</del> (a) “<b>Act</b>” means the Postal Services Act 2011 (c.5);</p> <p><del>(c)</del> (b) “<b>appointed day</b>” means 1 October 2011;</p> <p><del>(d)</del> (c) “<b>assessment year</b>” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “<b>calls relating to a regulated postal operator</b>” means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) “<b>consumer advocacy bodies</b>” means <u>Citizens Advice</u>, <u>Citizens Advice Scotland</u>, and the General Consumer Council for Northern Ireland;</p> <p>(f) “<b>public holiday</b>” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p>

	<p>(g) “<b>relevant year</b>” means any year beginning on 1 April;</p> <p>(h) “<b>relevant turnover</b>” means turnover from <u>regulated postal services</u> <del>(in the case of postal operators other than the universal service provider, subtracting any access payments made in respect of regulated postal services)</del>;</p> <p>(i) “<b>regulated postal operator</b>” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(j) “<b>regulated postal service</b>” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>
<b>CP 1.1.3</b>	<p>For the purpose of interpreting this CP Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act<sup>3</sup>;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a <b>day</b> are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</p>

## **1.2. Payments relating to qualifying consumer expenses**

CP 1.2.1	A <u>regulated postal operator</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u> , shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the expenses described in CP 1.2.2.
CP 1.2.2	The expenses are the <u>qualifying consumer expenses</u> of the <u>consumer advocacy bodies and the Secretary of State</u> , likely to be incurred during the <u>relevant year</u> in respect of functions other than the consumer advocacy bodies’ function of providing a <u>public consumer advice scheme</u> .

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CP 1.2.3	The proportion will be calculated by multiplying the sum of the total expenses <u>in CP 1.2.2</u> by that regulated postal operator's share of relevant turnover expressed as a percentage of the total <u>relevant turnover generated by all regulated postal operators to which this condition applies that generated relevant turnover in excess of £10 million in the assessment year.</u>
CP 1.2.4	A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> .
CP 1.2.5	<p><u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the following calculation gives an amount greater than £100:</p> <ul style="list-style-type: none"> <li>(a) take the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u>,</li> <li>(b) multiply it by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u>.</li> </ul>
CP 1.2.6	The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u> by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.
CP 1.2.7	The amounts payable under CP 1.2.1 in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.

CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.9	The amount due under either or both of CP 1.2.1 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

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