

Ofcom

making communications work
for everyone

Recovering postal regulation and consumer advocacy costs

A review

Consultation

Publication date: 27 July 2017

Closing Date for Responses: 21 September 2017

About this document

Ofcom is responsible for regulating the UK postal market. In doing so, we incur costs. This document is a consultation which sets out Ofcom's proposed changes to the way we recover our costs of regulating the postal sector.

Ofcom is also responsible for recovering the costs of consumer advocacy bodies, such as Citizens Advice, in relation to their work in the postal sector. This document also sets out Ofcom's proposed changes to how we recover costs on behalf of these consumer advocacy bodies.

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Section 1

Executive summary

- 1.1 In regulating the postal sector, Ofcom incurs costs. Ofcom recovers these costs through an administrative charge to the postal sector. Each year, these charges must be set so as to meet but not exceed Ofcom's annual costs of regulating the relevant sector.¹
- 1.2 Under the Postal Services Act 2011 (the "2011 Act"), Ofcom is required to set administrative charges in the postal services sector in accordance with its charging principles. In this document, we propose a number of changes to the statement of charging principles: Postal services (SoCP)² which sets out how we charge postal operators for the cost of regulation.
- 1.3 Under section 51 of the 2011 Act, Ofcom may also require postal operators to make payments to the consumer advocacy bodies (CABs) in relation to their work on postal services. The CABs are the Citizen's Advice Bureau, Citizen's Advice Scotland and the General Consumer Council for Northern Ireland.
- 1.4 Ofcom has no role in setting the level of the CABs' fees or examining the calculation of consumer advocacy costs, which is a matter for the Secretary of State. We are however responsible for recovering the fees on behalf of the Secretary of State. As well as setting out a number of changes to how Ofcom recovers its own costs, this document also proposes changes to how we recover consumer advocacy costs in relation to postal services.
- 1.5 The purpose of this consultation is to seek views on the proposed changes.

Summary of our proposals

- 1.6 We propose to amend the SoCP so that:
 - 1.6.1 turnover derived from services provided under a mandated access agreement,³ bulk mail services and single piece end-to-end letters services is considered as relevant turnover for the purposes of recovering administrative charges; and
 - 1.6.2 the threshold for payment of an administrative charge is reduced from turnover of £10 million to relevant turnover (i.e. turnover from services set out in paragraph 1.6.1) of £5 million.
- 1.7 We propose to amend the relevant consumer protection condition so that the costs of the CABs are recovered from the same group of postal operators that pay an administrative charge to Ofcom, except where those costs relate to the provision of a public consumer advice scheme via a caller helpline. Such costs will continue to be

¹ Schedule 4 of the Postal Services Act

² https://www.ofcom.org.uk/_data/assets/pdf_file/0028/53893/socp-post-statement.pdf

³ Access services provided under a mandated access agreement are services where a postal operator hands over postal items to the universal service provider for subsequent conveyance and delivery to the intended recipients of the postal items.

collected from those postal operators who are the subject of enquiries which generate these costs, subject to a minimum threshold.

Next steps

- 1.8 We invite comments from stakeholders on the proposals in this document. The consultation runs for 8 weeks and the deadline for responses is 21 September 2017. Annex 1 provides further details of how to respond.

Section 2

Background

Ofcom's administrative charges for postal regulation

Background

- 2.1 The legal framework relating to the regulation of postal services is set out in the 2011 Act. This Act provided for the transfer of responsibility for the regulation of postal services to Ofcom. Prior to 2011, the Postal Services Commission (Postcomm) was the regulator responsible for postal services in the UK.
- 2.2 Ofcom's principal duty under the Communications Act 2003 is to further the interests of citizens and of consumers, where appropriate by promoting competition. For postal services, we also have a duty under the 2011 Act to secure the provision of the universal postal service, to which we must give priority if we consider that there is any conflict with our principal duty.
- 2.3 Section 29(1) of the 2011 Act provides that Ofcom must carry out its functions in relation to postal services in a way that it considers will secure the provision of a universal postal service. Section 29(2) provides that Ofcom's power to impose access or other regulatory conditions is subject to the duty imposed by section 29(1).
- 2.4 Section 29(3) provides that, in performing its duty under section 29(1), Ofcom must have regard to the need for the provision of a universal postal service to be:
- financially sustainable; and
 - efficient before the end of a reasonable period and for its provision to continue to be efficient at all subsequent times.
- 2.5 Section 29 does not require that Ofcom gives more weight to one of those considerations over the other. We must take them both into account in arriving at a judgment as to how we ought to carry out our functions, including when considering imposing or modifying regulatory conditions.
- 2.6 Schedule 4 of the 2011 Act sets out how and from whom Ofcom may recover the costs of its administrative charges incurred in the regulation of postal services. Section 51 provides that Ofcom may impose consumer protection conditions on postal operators requiring them to make payments to cover the qualifying consumer expenses of the consumer advisory bodies and the Secretary of State.

Ofcom's cost of regulation since the transfer of postal regulation

- 2.7 In its impact assessment of the Postal Services Bill published in 2010, the Department for Business, Innovation and Skills (BIS)⁴ said that the transfer of postal regulation from Postcomm to Ofcom was likely to result in some economies of scale and that as a larger organisation Ofcom could also be more efficient in allocating resources to meet demand. On the basis of the savings generated by the creation of Ofcom in 2003, which brought together a number of previously distinct regulators,

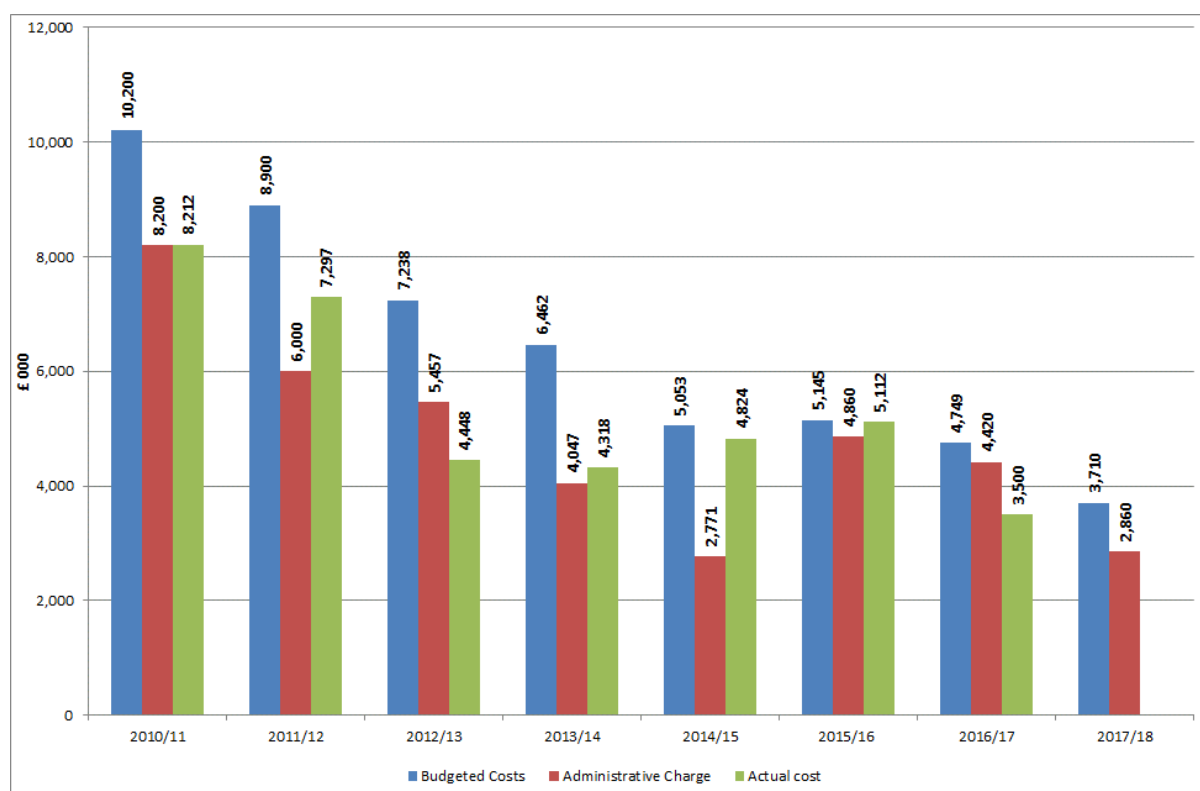
⁴ In July 2016, BIS became the Department for Business, Energy and Industrial Strategy (BEIS).

BIS estimated that a similar 10% saving in operating costs gave a potential saving of about £0.8 million.⁵

2.8 However, as can be seen from the chart below, Ofcom has reduced the costs of postal regulation far more significantly. For its final full year of 2010/11, Postcomm’s budget was £10.2 million, and adjusted for prior year variances the administrative charge was £8.2 million. The actual costs of postal regulation incurred in 2010/11 were also £8.2 million.

2.9 In comparison, the actual costs of postal regulation in 2016/17 were £3.5 million, i.e. less than 40% of Postcomm’s 2010/11 costs in real terms. Ofcom’s 2017/18 budget for the regulation of postal services is £3.7m, and adjusted for prior year variances, the administrative charge payable for 2017/18 is £2.9m.

Chart 1: Ofcom costs and charges related to postal regulation



Note: 2010/11 was the last full year of Postcomm; 2011/12 was budgeted by Postcomm, but Ofcom took over responsibility in October 2011; other years solely Ofcom. Source: Ofcom tariff tables.

Ofcom’s Charging Principles

2.10 The 2011 Act sets out that if a postal operator provides a service within the scope of the universal postal service, the operator must pay to Ofcom the administrative charge that is fixed by Ofcom as applicable to the operator.⁶ Therefore, every postal operator to whom Ofcom has fixed as applicable to pay an administrative charge is

⁵ Postal Services Bill 2010: Impact Assessment, 23 September 2010, paragraph 5.2.57, <http://www.parliament.uk/documents/impact-assessments/IA10-129.pdf>

⁶ Paragraph 1(1) of Schedule 4 to the 2011 Act.

liable to pay such a charge to Ofcom in order to meet costs incurred by us in carrying out our functions in relation to postal services.

Ofcom can impose different charges on different persons. We can also exclude particular persons from the liability to pay charges.

- 2.11 The way in which Ofcom fixes pay administrative charges (including the principles themselves we apply in setting these charges) is through the publication of our SoCP. The SoCP explains how and from whom Ofcom will recover its costs.
- 2.12 After Ofcom took over responsibility for the regulation of postal services in October 2011, we set out a statement of charging principles for the postal sector in 2012 (the “2012 SoCP”).⁷
- 2.13 The 2012 SoCP stated that administrative charges are payable by postal operators that provide letter services which generate relevant turnover exceeding £10 million per annum. For the purpose of the relevant turnover calculation set out in the 2012 SoCP, turnover from access services, express services (i.e. guaranteed next day delivery) and premium services were excluded. Access services are defined as the conveyance and delivery of letters to the universal service provider (i.e. Royal Mail) for onward conveyance and delivery. Premium services are defined as any postal service including additional features which are paid for, such as recorded delivery, insured delivery and tracked items.

2014 Review of Statement of Charging Principles

- 2.14 In March 2014, Ofcom published a preliminary consultation on reviewing our statements of charging principles applying to the electronic communications, postal, radio and television sectors (the “2014 SoCP Review”).⁸ The aims of this review were to continue to ensure the effective collection of our funding requirements with the minimum administrative burden on stakeholders; and to set charges in a fair and equitable manner, in accordance with our statutory duties. The 2014 SoCP Review set out the following general criteria for our charging principles:
- **Fairness and equity:** the charging structure should raise Ofcom’s required funding across the regulated sectors in a manner which is fair and equitable;
 - **Simplicity and transparency:** charges should be as simple and as clear as possible for stakeholders, and wherever practicable use data that stakeholders would anyway gather for their own management purposes. Charges should also be relatively simple to administer for Ofcom;
 - **Cost-reflective:** Ofcom is required to ensure that revenues from each individual sector meet the costs of regulation for that sector. Furthermore, we also seek to ensure, so far as possible, that charges should broadly reflect the underlying cost of regulating each type of licence or regulatory activity within the sectors where such category types exist;

⁷ Statement of Charging Principles Postal Services, 28 March 2012. See https://www.ofcom.org.uk/_data/assets/pdf_file/0028/53893/socp-post-statement.pdf

⁸ Principles for setting licence fees and administrative charges – Review of Ofcom’s Statement of Charging Principles, 27 March 2014. See https://www.ofcom.org.uk/_data/assets/pdf_file/0017/83060/socp_review_preliminary_consultation.pdf

- **Verifiable:** the information required for the setting of charges should be easily verifiable to ensure industry-wide compliance;
- **Adaptable:** charging principles and structures should be capable of adapting to a changing market environment and be consistent with wider policy;
- **Relevance:** charges should be based on an operator's activities that flow from the licence or authorisation, but only those activities;
- **Reliability:** the charging base should be stable over time, and not prone to erratic movements. Charges should not move substantially each year so long as the overall regulatory costs for that sector remain steady; and
- **Harmonisation:** the harmonisation of fee setting methods across the sectors, where it is practicable to do so, can help to ensure consistency and simplification, especially in an increasingly convergent communications industry.

2.15 In relation to postal services, the 2014 SoCP Review requested views on whether we should:

- continue to base contributions on standard letter service revenues, and continue to exclude packets, parcels, and premium letter services;
- remove tracked items from the definition of premium services so that turnover from these services was considered;
- include turnover from access services within the calculation, and if so on what basis; and
- retain or modify the current revenue threshold of £10m for making contributions to the cost of postal regulation

Stakeholder responses to the 2014 SoCP Review

2.16 We received responses to the 2014 SoCP Review from three postal stakeholders: Royal Mail, DX Group and the Mail Competition Forum (MCF).

2.17 Royal Mail said that as the postal market continues to develop, the recovery of Ofcom's administrative costs should reflect these changes and be recovered fairly from all operators in the postal market, based on their turnover, regardless of whether their services cover letters or parcels, or are directly regulated or not.⁹

2.18 Royal Mail also supported the concept of a minimum relevant turnover threshold so that small operators, who may be new entrants or transient players in the postal market, are not asked to contribute to the cost of regulation. However, it suggested that it should be lowered to £1m (with access turnover measured on a net basis).¹⁰

2.19 The MCF did not agree that turnover from access services should be included in the calculation of administrative charges. It said that it was Royal Mail's provision of access that is regulated, not the activities of access customers. The MCF also said

⁹ Royal Mail's response to the 2014 SoCP Review. See https://www.ofcom.org.uk/data/assets/pdf_file/0026/71594/royal_mail.pdf

¹⁰ Royal Mail's response to the 2014 SoCP Review.

that access services were not within the scope of the universal postal service and, therefore, Ofcom does not have the power to levy charges on upstream access services.¹¹

- 2.20 MCF said that it was Royal Mail's market power and risk of abuse of that power that drives the need for regulation, so it was appropriate that Royal Mail should pay the costs of postal regulation.¹²
- 2.21 The MCF said that, rather than reducing the threshold for contributions, Ofcom should increase the threshold by inflation on a periodic basis and that it should be raised immediately to £15m to account for inflation since inception.¹³
- 2.22 DX expressed reservations about the application of administrative charges to any postal operator other than Royal Mail. DX argued that most of Ofcom's work is driven by regulation of Royal Mail and that it is therefore right that Royal Mail should pay most, if not all, of Ofcom's costs.¹⁴
- 2.23 Like the MCF, DX also argued that it would not be appropriate to include turnover from access services in the calculation of administrative charges. DX said that it would not be appropriate to include turnover from any bulk mail services in the calculation, because it did not consider that such services fall within the scope of the universal postal service.¹⁵
- 2.24 At the time of publication of the preliminary consultation in 2014, it was envisaged that a second-stage consultation regarding our Statement of Charging Principles would take place during 2015/16. However, after considering stakeholders' responses and assessing Ofcom's programme of work, we took the view that it was most appropriate to put that consultation on hold.¹⁶

2016 Review of the regulation of Royal Mail

- 2.25 In May 2016, we published a consultation reviewing the regulation of Royal Mail (the 2016 consultation). The review was undertaken to ensure regulation remains appropriate and sufficient to secure the efficient and financially sustainable provision of the universal postal service.
- 2.26 The review was not concerned with Ofcom's costs of regulation, and no proposals relating to cost recovery were made. However, in its response to the 2016 consultation, Royal Mail made further representations regarding the cost of regulation and said that Ofcom should review its charging principles for the postal sector.¹⁷

¹¹ MCF's response to the 2014 SoCP Review. See

https://www.ofcom.org.uk/_data/assets/pdf_file/0027/79524/mail_competition_forum.pdf

¹² MCF's response to the 2014 SoCP Review

¹³ MCF's response to the 2014 SoCP Review

¹⁴ DX Group's response to the 2014 SoCP Review. See

https://www.ofcom.org.uk/_data/assets/pdf_file/0029/74468/dx_group_plc.pdf

¹⁵ DX Group's response to the 2014 SoCP Review

¹⁶ See Ofcom's Annual Reports and Account for the period 1 April 2015 to 31 March 2016, page 45.

Available at https://www.ofcom.org.uk/_data/assets/pdf_file/0033/81789/ofcom_annual_report_2015-2016.pdf

¹⁷ Royal Mail's response to the Review of Royal Mail Regulation, August 2016. See

https://www.ofcom.org.uk/_data/assets/pdf_file/0033/90789/Royal-Mail.pdf

- 2.27 Royal Mail said there is an increasing regulatory focus on the parcels industry and that it is inappropriate and unreasonable for Royal Mail to be the only operator that contributes towards the cost of Ofcom's work in this area. Royal Mail noted that Ofcom has undertaken a review of the parcels sector as part of its 2016 consultation and is increasing its monitoring of parcels operators.¹⁸
- 2.28 Royal Mail said the basis for the charging calculation should be broadened to include all relevant postal operators – for parcels and letters – including major new players such as Amazon Logistics and Argos. Royal Mail also said that Ofcom should consult on reducing the threshold at which postal operators are required to contribute toward the fees for Ofcom and the CABs.¹⁹
- 2.29 We confirmed in our March 2017 statement concluding our Review of Royal Mail Regulation that we had not considered the recovery of regulatory costs as part of the review. However, we confirmed our intention to undertake such a review during the 2017-18 financial year. We noted that this would not be a review of the level of our administrative charges (i.e. how much we charge postal operators for the cost of regulation), as this is determined on an annual basis by Ofcom to reflect our work plan.
- 2.30 We also noted that the level of charges paid by postal operators for the work of the CABs is a matter for the Secretary of State and that Ofcom has no role in setting the level or examining the calculation of these costs. As such, we explained that our present review would not consider the level or composition of the relevant costs of the CABs, but rather how these costs are recovered.

The qualifying consumer expenses of the Consumer Advocacy Bodies

Background

- 2.31 The consumer advocacy bodies (CABs) provide free, confidential and independent advice to citizens of the United Kingdom in relation to their rights as consumers and citizens. Some of the work of the CABs relates to postal services.
- 2.32 Under section 51 of the 2011 Act, Ofcom may impose regulatory conditions which require every postal operator or every postal operator of a specified description to do one or more of the things laid down in section 51(2), including:
- to make payments relating to qualifying consumer expenses of Citizens Advice or the General Consumer Council for Northern Ireland;
 - to make payments relating to such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to users of postal services; and
 - to make payments relating to qualifying consumer expenses of the Secretary of State.

¹⁸ Royal Mail's response to the Review of Royal Mail Regulation, August 2016.

¹⁹ Royal Mail's response to the Review of Royal Mail Regulation, August 2016.

- 2.33 In short, section 51 of the 2011 Act permits Ofcom to impose a condition that allows us to recover the relevant expenses of those bodies involved in consumer advocacy (including the Secretary of State). Section 51 goes on, however, to specify what those expenses are. Broadly speaking, they are such a proportion of the following expenses as the Secretary of State considers reasonable:
- expenses of Citizens Advice²⁰ relating to²¹:
 - its functions in relation to users of postal services;
 - a transfer scheme made in respect of the National Consumer Council;
 - its support of any “qualifying public consumer advice scheme”²²;
 - expenses of the General Consumer Council for Northern Ireland relating to its functions in relation to users of postal services;²³
 - payments relating to the provision, in or as regards Scotland, of such consumer advocacy and advice as is referred to in section 51(2)(ca) of the 2011 Act (see above); and
 - the “qualifying consumer expenses of the Secretary of State”, which are detailed in section 51(4ZA) of the 2011 Act.
- 2.34 The statutory role of the CABs also includes the Post Office network. However, the 2011 Act only allows Ofcom to recover the qualifying consumer expenses from postal operators. Royal Mail and Post Office Limited became separate companies on 1 April 2012, and Post Office Limited is not a postal operator within the meaning of section 27(3) of the 2011 Act.²⁴ As such the costs incurred by the CABs regarding the Post Office network are recovered from postal operators and not from Post Office Limited.
- 2.35 Ofcom has imposed Consumer Protection Condition 1 (“CP1”) under section 51 of the 2011 Act. It is through this condition that Ofcom requires postal operators of a specified description to make payments in relation to the relevant costs of the CABs.
- 2.36 We note that Ofcom’s role is strictly limited to administering the recovery of the relevant costs of the CABs. We have no role in setting the level or examining the calculation of these costs. The CABs are responsible for calculating their costs and these are then submitted to the Secretary of State.²⁵ As explained in paragraph 2.25 above, the Secretary of State then informs Ofcom of the level of costs that we are to recover on behalf of the CABs.

²⁰ i.e. the National Association of Citizens Advice Bureaux (which is distinct from the Scottish Association of Citizens Advice Bureaux).

²¹ These “qualifying consumer expenses of Citizens Advice” are specified in section 51(a) to (c) of the 2011 Act.

²² i.e. “a scheme that is supported by Citizens Advice in a manner that the Office of Fair Trading is prohibited from using by section 8A of the Enterprise Act 2002”: section 51(4A) of the 2011 Act.

²³ Section 51((4)(g) of the 2011 Act.

²⁴ See paragraph 2.18 of Ofcom’s Statement of 1 April 2014 entitled ‘Amendments to regulatory conditions DUSP 1.8 and CP1 and minor amendments to other regulatory conditions’.

²⁵ On the date of publication, the relevant Secretary of State is the Secretary of State for BEIS.

- 2.37 We have amended CP1 three times since we first imposed the condition on 27 March 2012.²⁶ On 28 March 2013, following the transfer of responsibilities for the consumer advice service from the Office of Fair Trading (OFT) to Citizens Advice and Citizens Advice Scotland, Ofcom amended CP1 to allow us to collect payments from regulated postal operators relating to the expenses of Citizens Advice and Citizens Advice Scotland.²⁷
- 2.38 On 1 April 2014, Ofcom revoked and replaced CP1 to reflect the abolition of the National Consumer Council and the transfer of its functions regarding consumer advocacy with regard to postal services to Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland (GCCNI). At this time, we also modified the methodology for calculating the recovery from industry of the expenses of the consumer advocacy bodies.²⁸
- 2.39 On 4 December 2015, Ofcom modified CP1 to rectify an error in the drafting of the condition with regard to the calculation of the contributions of postal operators to the CABs' qualifying consumer expenses.²⁹
- 2.40 In its response to the relevant consultation, Royal Mail expressed concerns about the general approach to charging for the qualifying consumer expenses and Ofcom's administrative charges. Royal Mail observed that Ofcom and the CABs undertake work on consumer experiences of postal services that involve all postal operators regardless of their size or the nature of what they do. It also noted that the definition of "Regulated Postal Service" and "Regulated Postal Operator" were outdated and related to Postcomm's licensing regime. Finally, Royal Mail said that:
- the turnover threshold of £10 million inherited from Postcomm is too high, and should be lowered;
 - the basis for the charging calculation should be broadened to include other non-letters turnover; and
 - access services should also be brought into the charging calculation.³⁰
- 2.41 Then, on 23 March 2016, the Scotland Act 2016 received Royal Assent. Among other things, the Act gives significant responsibility to Scotland for areas such as consumer advocacy and advice by devolution of powers to the Scottish Parliament and the Scottish Ministers. Whilst Ofcom's right to levy postal operators in order to fund such consumer advocacy and advice was not removed, that Act introduced some amendments to section 51 of the 2011 Act (which came into force on 23 May 2016), such as removing specific references to Citizens Advice Scotland.

²⁶ Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatoryconditions/statement/annex8.pdf>

²⁷ Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/37689/statement.pdf

²⁸ Available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/46138/cp1.pdf

²⁹ https://www.ofcom.org.uk/_data/assets/pdf_file/0024/84165/cp1_statement_04dec2015.pdf

³⁰ https://www.ofcom.org.uk/_data/assets/pdf_file/0024/84165/cp1_statement_04dec2015.pdf

Section 3

Proposals to amend the Statement of Charging Principles and CP 1

Introduction

- 3.1 In this Section, we first set out our proposed changes to Ofcom's SoCP. In summary, we propose to amend the SoCP so that:
- 3.1.1 turnover derived from services provided under a mandated access agreement,³¹ bulk mail services and single piece end-to-end letters services are considered as relevant turnover for the purposes of recovering administrative charges; and
 - 3.1.2 the threshold for payment of an administrative charge is reduced from turnover of £10 million to relevant turnover (i.e. turnover from services set out in paragraph 3.1.1) of £5 million.
- 3.2 We then set out our proposed changes to CP1. In summary, we propose that CP1 should be amended to require the same postal operators that pay an administrative charge to Ofcom to pay the relevant costs of the CABs in relation to their work in the postal sector, and in the same proportion as they pay Ofcom's costs. The exception is for costs incurred by the CABs through provision of a public consumer advice scheme via a caller helpline), which will be allocated based on the proportion of calls attributed to each postal operator.
- 3.3 Our draft Statement of Charging Principles – Postal services is published at Annex 5.
- 3.4 Our statutory notification of proposals (in track changes) to change CP1 is published at Annex 6.

Proposed changes to Ofcom's SoCP

- 3.5 In this part, we discuss our proposed changes to Ofcom's Statement of Charging Principles as it relates to the postal sector.

The criteria informing Ofcom's charging principles

- 3.6 At paragraph 2.14, we explained that all of Ofcom's fees and charges set in accordance with our charging principles should, as far as possible, seek to meet the following criteria:
- **Fairness and equity:** the charging structure should raise Ofcom's required funding across the regulated sectors in a manner which is fair and equitable;
 - **Simplicity and transparency:** charges should be as simple and as clear as possible for stakeholders, and wherever practicable use data that stakeholders

³¹ Access services provided under a mandated access agreement are services where a postal operator hands over postal items to the universal service provider for subsequent conveyance and delivery to the intended recipients of the postal items.

would anyway gather for their own management purposes. Charges should also be relatively simple to administer for Ofcom;

- **Cost-reflective:** Ofcom is required to ensure that revenues from each individual sector meet the costs of regulation for that sector. Furthermore, we also seek to ensure, so far as possible, that charges should broadly reflect the underlying cost of regulating each type of licence or regulatory activity within the sectors where such category types exist;
- **Verifiable:** the information required for the setting of charges should be easily verifiable to ensure industry-wide compliance;
- **Adaptable:** charging principles and structures should be capable of adapting to a changing market environment and be consistent with wider policy;
- **Relevance:** charges should be based on an operator's activities that flow from the licence or authorisation, but only those activities;
- **Reliability:** the charging base should be stable over time, and not prone to erratic movements. Charges should not move substantially each year so long as the overall regulatory costs for that sector remain steady; and
- **Harmonisation:** the harmonisation of fee setting methods across the sectors, where it is practicable to do so, can help to ensure consistency and simplification, especially in an increasingly convergent communications industry.

3.7 We remain of the view that these general criteria are relevant to setting the specific charging principles in relation to our administrative charges for our work in the postal sector. Therefore, where we propose to adopt a change to our SoCP, we will explain why our judgement on the need for such a change is supported by one or more those criteria, while securing our statutory duties and meeting relevant statutory requirements.

Who should contribute to Ofcom's cost of regulation in the postal sector?

3.8 Administrative charges are currently only payable by postal operators that provide certain letter services which generate turnover exceeding £10 million in the relevant year. For the purpose of the turnover calculation set out in the 2012 SoCP, turnover from access services, express services (i.e. guaranteed next day delivery) and premium services is excluded. Access services are defined as the conveyance and delivery of letters to the universal service provider (i.e. Royal Mail) for onward conveyance and delivery by the universal service provider. Premium services are defined as any postal service including additional features which are paid for, such as recorded delivery, insured delivery and tracked items.

3.9 In this part, we set out how we propose to change which types of services should be within scope of the liability to contribute to Ofcom's cost of regulation in the postal sector through payment of an administrative charge.

How we propose to apportion costs

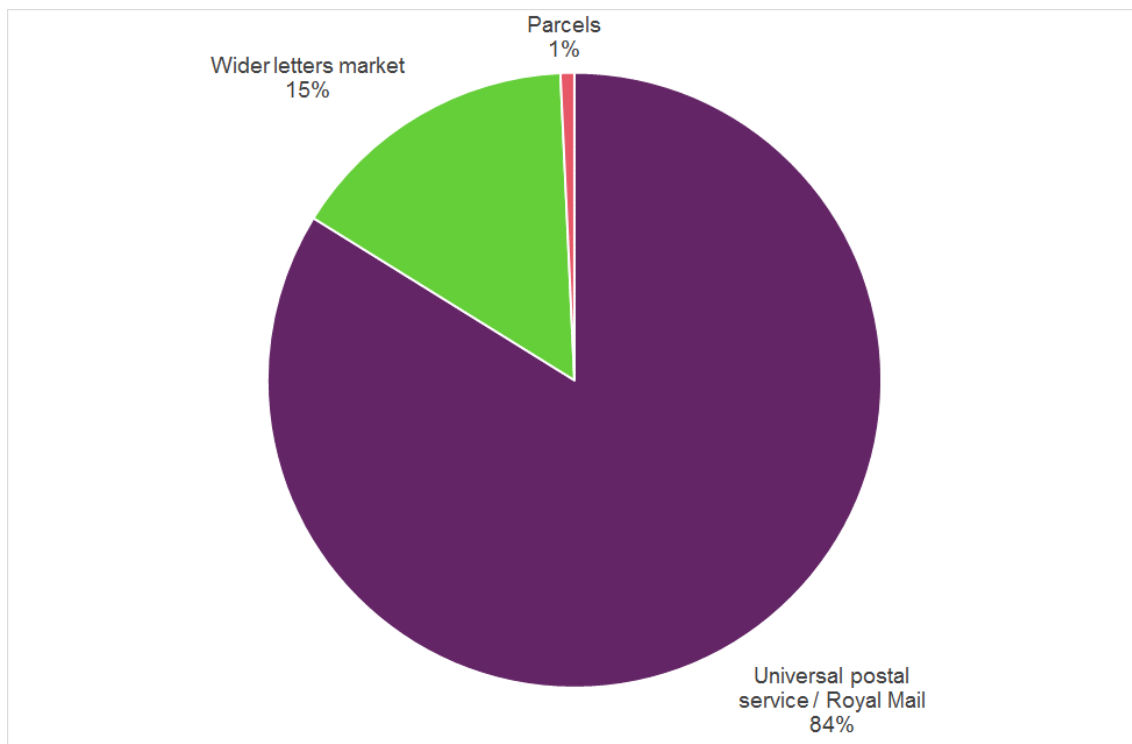
3.10 We have reviewed the recent profile of Ofcom's work in regulating the postal sector in order to enable us to identify those types of postal operators we consider should pay administrative charges.

3.11 We have analysed the costs of the 20 Ofcom projects and programmes relating to postal regulation which were active during the past three financial years (2014/15, 2015/16 and 2016/17). We consider that they fall into three³² broad categories:

- The provision of the universal postal service, including the monitoring of Royal Mail, regulatory financial reporting, the review of Royal Mail regulation, Long Run Incremental Cost (LRIC) for post, postal cost modelling, the review of quality of service, and the investigations into Royal Mail's compliance with the accounting and quality of service conditions;³³
- Wider letters market, including reviews of mail integrity, postal common operational procedures (PCOP), complaints and redress in postal services, and the review of Royal Mail's access pricing; and
- Parcels, including our work on surcharging of parcels in the Highlands and Islands of Scotland and Northern Ireland and the Commission's proposals for cross border parcels.

3.12 In the chart below, we have allocated the costs related to the three subject-matter categories in the proportion to their costs. On this basis, as can be seen from the chart below, 84% of Ofcom's costs relate to the universal postal service, 15% to the wider letters market, and 1% to parcels projects.

Chart 2: Ofcom's postal regulation cost breakdown by subject matter (2014/15 – 2016/17)



Source: Ofcom actual costs.

³² We have not set out costs for support projects that relate to post, for example the administration of the postal programme (i.e. Postal Steering Group and Regulation of Post programmes). These costs are minimal and relate to all of our postal regulation activity.

³³ The costs of Ofcom's Competition Act investigation are not recovered through our administrative charges, and so are not included in this breakdown of costs. The costs of all investigations under the Competition Act 1998 are recovered through grant-in-aid.

- 3.13 We also note that Ofcom does not incur significant costs in relation to express, courier or guaranteed delivery services. These services are also very lightly regulated.

What are the relevant services from which Ofcom should recover its costs?

- 3.14 Ofcom's postal budget is primarily allocated to regulation of the universal postal service, with a notable proportion allocated to regulation of the wider letters market. We propose that, in principle, they should be considered the relevant services for the purpose of contributing to Ofcom's costs of postal regulation.

- 3.15 However, we say "in principle" because Ofcom can only impose an administrative charge on postal operators providing services within the scope of the universal postal service. We now consider what types of postal services should be considered within the scope of the universal postal service for the purposes of setting administrative charges. Ofcom will recover its costs from those operators that generate turnover from those services that we consider are in scope.

- 3.16 Below we explain:

- what types of letter services we consider should be regarded as within the scope of the universal postal service for the purpose of setting administrative charges; and
- why we consider that parcel services should not be included as relevant revenue when calculating administrative charges.

Single-piece end-to-end letter delivery services

- 3.17 Single-piece end-to-end letter delivery services are provided by Royal Mail (primarily through its First Class and Second Class universal service products) and some smaller postal operators who typically operate in defined geographic areas. Examples of smaller postal operators providing single-piece end-to-end letter delivery services include Velopost and Webb's of Leverington.

- 3.18 The services offered by these smaller postal operators differ from services set out in the Universal Postal Service Order only for the reasons set out in section 40(1)(b) of the 2011 Act, i.e. they are not required to be carried out throughout the UK or delivered six days per week. Therefore, despite not being subject to the same obligations, these services are substitutable to letter services provided as part of the universal postal service, in the geographic areas in which they are available.

- 3.19 In addition, postal operators providing single-piece end-to-end letter delivery services are the subject of some of our regulatory conditions. For example, such operators are subject to Essential Condition 1, which requires postal operators to take all reasonable steps to minimise instances of loss, theft, damage or interference with mail. In addition, these postal operators are also subject to Consumer Protection Condition 2, which relates to the prompt return of post which ends up in the wrong postal operator's network and needs to be returned. As such, some of the administrative costs that we incur in regulating postal services relate to the activities of these operators. For these reasons, we propose that single-piece end-to-end letter delivery services are within the scope of the universal postal service for the purpose of setting administrative charges.

- 3.20 Whilst we propose to include the services set out above, we note that Ofcom's analysis shows that for 2015-16 such services accounted for only 24 million items (about 0.2% of total letter volumes) and £5 million in total revenue. This means that even considering our proposal to reduce the revenue threshold for contributions from £10 million to £5 million per year, it is unlikely that many single-piece end-to-end letter operators besides Royal Mail will qualify to make contributions.

Question 1... Do you agree that revenues from single piece end-to-end letter delivery services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

Bulk mail and access services

- 3.21 Bulk letter services include Royal Mail's retail bulk services and D+2 and later than D+2 letters and large letter services (i.e. access services provided under the USP Access Condition, i.e. the "USPA Condition"). Bulk letter services account for the significant majority of letters volumes, with access originated letters accounting for 58% of total letters volumes in 2015/16.
- 3.22 Royal Mail is subject to a regulatory condition to offer access to its inward mail centres for D+2 and later than D+2 letters and large letters services. Further, the only type of regulatory dispute in relation to postal services that can be referred to Ofcom are those that relate to the terms and conditions of access, as required by virtue of the USPA Condition. Providers of access services who depend on the access guaranteed by the USPA Condition therefore have recourse to Ofcom's dispute resolution function.
- 3.23 We also monitor (and where necessary enforce) Royal Mail's compliance with its access obligations. Therefore, access services are subject to and benefit from regulation to a significant degree, and contribute significantly to some of our regulatory costs in relation to the postal sector. This suggests that, on grounds of fairness, relevance and cost-reflectiveness, there is a case for taking turnover from access services into account for the purposes of administrative charging.
- 3.24 In order for providers of bulk mail and access services to be subject to an administrative charge, we must be satisfied that they are within the scope of the universal postal service for the purposes of setting administrative charges. We consider that section 40(1)(c) of the 2011 Act is most relevant in this context. It provides that:
- (1) A postal service is within the scope of the universal postal service if—
 - (a) the service falls within the description of a service set out in the universal postal service order, or
 - ...
 - (c) in the opinion of OFCOM the service is of a kind that, from the point of view of users of postal services, could reasonably be said to be interchangeable with a service of a description set out in that order.
- 3.25 The universal postal services order makes clear that single-piece end-to-end letter services are within scope of the universal postal service. In our opinion, certain bulk

letters services are interchangeable with some single-piece services. For example, for small business users there is some substitutability between meter and PPI services (which are both within the universal postal service) and bulk mail services including access. This is particularly the case given the trend for postal operators to reduce their minimum posting levels to qualify for bulk services including access in recent years.

- 3.26 Specifically, in its August 2011 decision to remove bulk mail from the universal postal service, Postcomm noted that Royal Mail had reduced its minimum posting level for qualifying for bulk services from 1,000 to 500 items, and some access operators offered unsorted mail services for postings of 250 items.³⁴ This trend appears to have continued since 2011. For example, Whistl now offers services via the Parcels2Go website which allows business customers to send letters and small parcels via the Whistl access service, with a minimum spend of just £20 per mailing.³⁵
- 3.27 For all of these reasons, we consider that bulk letter services including access should be considered within scope of the universal postal service for the purposes of the recovery of administrative charges. We therefore propose to amend the SoCP to include that administrative charges will be payable by postal operators providing bulk letter services including access services (see Annex 5 to this consultation). It should be noted that our proposals in this context should not be taken as an indication of our approach to market definition since the considerations are entirely different. For this reason, our proposals are without prejudice to our view as to the scope of the universal postal service for other considerations.

Question 2... Do you agree that revenues from bulk mail and access services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

Treatment of access charges in the calculation of access revenues

- 3.28 In order to obtain access to Royal Mail's network, a provider of access services must pay an access charge to Royal Mail. If, in line with our proposals in this consultation, all providers of access services with revenues in excess of the minimum relevant turnover threshold should pay an administrative charge, we must decide whether the threshold should be measured against gross or net access revenues, i.e. before or after the deduction of access charges.
- 3.29 Royal Mail's access charges must reflect the costs that Royal Mail incurs in delivering items on the access operator's behalf. Given that the costs incurred in delivery are significantly greater than costs in upstream processing, Royal Mail typically retains 85% to 90% of the total revenue for access mail. In practice, this means that an access provider with gross revenues of £10m may be liable to pay an access charge to Royal Mail of around £8.5m to £9m. In such a scenario, the net revenue (i.e. the revenue retained by the access operator) would be around 10% to 15% of total revenue, or £1m to £1.5m.
- 3.30 In response to the 2014 Review, Royal Mail said that charging should be on a net revenue basis. It said that charging on a gross revenue basis would mean that the

³⁴ The building blocks for a sustainable postal service, Postcomm. August 2011, section 3, <http://webarchive.nationalarchives.gov.uk/20111129111100/http://www.psc.gov.uk/documents/2005.pdf>

³⁵ <https://www.parcel2go.com/services/letters-and-small-parcels>

element of revenue relating to downstream access services would be counted once for the access operator and then again for Royal Mail.

- 3.31 DX and the MCF said that while they did not agree with levying administrative charges on access operators, they said that any such charges must only be on the basis of net revenue.
- 3.32 We propose that turnover from access revenues should be calculated on a net revenue basis (i.e. after the deduction of access charges to Royal Mail).
- 3.33 Turnover calculated on the basis of net revenues allows for the deduction of payments to Royal Mail (access charges). The margins typically earned from access services by postal operators competing with Royal Mail are relatively narrow and therefore, considering that our charges should be set in a way that is fair, we are of the provisional view that the calculation of turnover from these services on a net basis is appropriate.
- 3.34 As set out by Royal Mail, calculating turnover on a net basis will also avoid the double counting of revenues.

Question 3...Do you agree that turnover from access revenues should be calculated on a net basis (i.e. after the deduction of access charges to Royal Mail)? Please give your reasons.

Should parcel services be included?

- 3.35 In our March 2017 statement which concluded our review of the regulation of Royal Mail, we set out our view that, while parcels are increasingly important to consumers and businesses, consumer interests are best served through competition in the market rather than regulation. As such, the UK parcels market is very lightly regulated.
- 3.36 To the extent that the parcels sector is regulated, this regulation largely applies to Royal Mail as the universal service provider in the form of the safeguard cap on stamp prices for Second Class parcels up to 2kg. This is to ensure that consumers can access a basic universal service at affordable prices, and recognises the strong position that Royal Mail retains in the single piece parcels sector.
- 3.37 During the course of our review of the regulation of Royal Mail, some stakeholders suggested we should intervene more in the parcels area. For example, Royal Mail said we should extend mail integrity and customer protection regulation to all parcel operators and extend the definition of the universal service to include tracked parcels; and some access operators suggested we mandate access for small parcels. However, we considered that none of these steps were necessary or supported by evidence.
- 3.38 Our primary engagement with parcel operators is to inform our ongoing monitoring programme in the postal sector. As part of this programme, we collect volume and revenue data from 14 parcel operators (including Royal Mail and Parcelforce Worldwide) on an annual basis. The purpose of requesting this information is to identify any emerging threats to the provision of the universal postal service and to inform our assessment of the financial sustainability of the universal postal service. This activity is therefore concerned with our duties to secure the provision of the universal postal service, rather than the wider parcels market itself.

- 3.39 Finally, as can be seen in chart 2 above only a very small proportion of Ofcom's costs over the past three years related to parcel services outside of the universal service, other than specifically in relation to the universal postal service.
- 3.40 Taking all of these factors into account, we propose that parcel operators should not be required to pay an administrative charge in relation to Ofcom's work.

Question 4... Do you agree that turnover from parcel services should not be taken into account for the purpose of setting administrative charges? Please provide your reasons.

Minimum revenue threshold for payment of administrative charges

- 3.41 Postal operators are currently subject to an administrative charge if they:³⁶
- provide letter services that are provided as services within the scope of the universal postal service as defined in section 40 of the 2011 Act; and
 - generated turnover exceeding £10 million, in the last but one 12 month period commencing on 1 April prior to the charging year in question, from letter services provided as services within the scope of the universal postal services as defined in section 40 of the 2011 Act.
- 3.42 As we have set out above, we consider that we should recover our costs from providers of access services, bulk mail services and single-piece end-to-end letters services. We therefore propose to include turnover derived from these services as relevant in deciding whether those operators should pay an administrative charge.
- 3.43 In reviewing the 2012 SoCP, we have also considered whether to change the threshold which is used to determine which postal operators are to be subject to an administrative charge.
- 3.44 In response to the 2014 Review, both DX and the MCF said that they believed the threshold should be increased periodically in line with inflation in the postal market. The MCF said at the time that the threshold should be increased immediately to £15m to account for inflation during the period since the original threshold was set by Postcomm.
- 3.45 In 2014, Royal Mail said that there should be a minimum threshold but submitted that it should be reduced to turnover of £1m, as it considered this to be a reasonable level at which to separate significant operators (who benefit from regulation) from smaller ones.
- 3.46 In considering any revision of the minimum threshold for payment of an administrative charge, we have taken account of the criteria set out at paragraph 2.14. In this context, we consider that a particularly relevant criterion is harmonisation. Where it is possible, we think it is appropriate to give due weight to the need to harmonise fee setting methods across the sectors we regulate, as this helps to ensure consistency and simplification. As noted above, the minimum threshold for postal operators is currently £10m, which is higher than the network and services sector, where the minimum threshold is £5m. Fairness is also a relevant criterion and we consider that lowering the threshold promotes fairness, because the

³⁶ See paragraph A1.4 of the 2012 SoCP.

costs of regulation will be borne more widely by those who are subject to or benefit from our regulation.

- 3.47 By setting minimum relevant turnover thresholds, those postal operators whose relevant turnover figures are below the relevant minimum are not required to contribute to Ofcom's regulatory costs. By applying such thresholds, the risk of a regulatory cost contribution acting as a barrier to entry, and thus the charging structure potentially changing the operation of the market, is reduced. However, we appreciate that there is a balance to be struck with ensuring that larger operators, through the exclusion of smaller operators, do not have to contribute disproportionately to the regulatory costs for the sector.
- 3.48 Having considered each of these factors, we propose to reduce the threshold for payment of an administrative charge from relevant turnover of £10m to turnover of £5m. We consider that a threshold of £5m strikes an appropriate balance between ensuring postal operators are not deterred from entering the market by the prospect of paying regulatory fees, and neither are large postal operators required to pay a disproportionately high share.
- 3.49 To provide an example of how this would work in practice, say that a postal operator had relevant turnover of £7m in a relevant charging year. Say in the relevant charging year Ofcom's postal budget was £2.5m. Say also that the total relevant turnover from other postal operators providing relevant services in the charging year was £4,000m,³⁷ giving a total relevant turnover of £4,007m. Under the proposals set out in this document, a postal operator with relevant turnover of £7m would pay £5,000 (i.e. 0.2% of Ofcom's budgeted costs) with other operators bearing the remaining cost of the administrative charges in proportion to their relevant turnover.
- 3.50 Those considerations are important as, in our opinion, our general duty to further the interests of citizens and consumers by promoting competition under section 3 of the Communications Act 2003 would be secured by lowering the threshold to £5m. We also consider that such a threshold is proportionate, consistent (in particular to achieve harmonisation with the network and services sector) and targeted only at cases in which action is needed, as well as justifiable (including to achieve fairness and equity) and proportionate to the imposition of these administrative charges.³⁸ In light of those factors, we propose to amend the SoCP to reduce the minimum relevant turnover threshold for relevant postal operators to £5m of relevant turnover.

Question 5... Do you agree that the minimum revenue threshold for payment of administrative charges should be lowered to £5m? Please explain why.

Summary

- 3.51 In summary, we consider that turnover generated from services which are within scope of the universal postal service, or could reasonably be said to be interchangeable with a service of a description set out in that order, and which drive our regulatory activities should be considered as relevant turnover for the purposes of recovering our administrative charges.

³⁷ Turnover generated from Royal Mail's letters/large letters within the Reported Business in 2015/16 was £3,969m.

³⁸ See section 3(3) of the Communications Act 2003, and paragraph 1(3) of Schedule 4 to the 2011 Act.

- 3.52 We consider this is objectively justifiable because it ensures that the approach to administering fees is cost-reflective of the work that we do. Further, it is also proportionate because it ensures that those postal operators who do generate work for Ofcom contribute to our costs.
- 3.53 We also consider that in line with our approach in other sectors it is most appropriate to apportion the costs of regulation based on the share of relevant revenues of each postal operator subject to an administrative charge.
- 3.54 We consider that this is consistent with our criteria for our charging principles; in particular fairness and equity, cost-reflectivity on and relevance.

Proposed changes to CP1

- 3.55 In this part, we set out the specified descriptions for postal operators in relation to CP1 and what this means in terms of how Ofcom will recover the costs of the CABs from postal operators.

Power to set consumer protection conditions

- 3.56 The 2011 Act provides that a consumer protection condition may be imposed on every postal operator or every postal operator of a specified description. It further provides that a consumer protection condition can require the operator to:

...

(c) to make payments relating to qualifying consumer expenses of Citizens Advice or the General Consumer Council for Northern Ireland

(ca) to make payments relating to such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to users of postal services,

(d) to make payments relating to qualifying consumer expenses of the Secretary of State.

- 3.57 In short, a consumer protection condition can be imposed on postal operators of a specified description to make payments for the costs incurred by the CABs and the Secretary of State in relation to consumer advocacy and advice for postal services.

The aim of CP1

- 3.58 We consider that the relevant costs of the CABs fall into two categories:
- the costs incurred by the CABs in respect of their function of providing a public consumer advice scheme via a caller helpline, where those calls relate to postal services; and
 - expenses of the CABs and the Secretary of State, likely to be incurred during the relevant year in relation to postal services in respect of functions other than providing public consumer advice scheme.

- 3.59 The aim of CP1 is to enable Ofcom to recover these costs on behalf of the CABs and the Secretary of State.
- 3.60 Ofcom does not assess the level of the costs that the CABs incur in relation to their work in the postal sector; our role is limited to recovering those costs that the Secretary of State considers meets the relevant expenses set out in section 51 of the 2011 Act (see paragraph 3.3 above).
- 3.61 We set out below our proposals in relation to how we intend to revise CP1 to change the way these costs are recovered.

Funding for complaints received by CABs over helplines

- 3.62 The CABs offer access to consumer helplines, which allow the general public to make complaints and seek advice in relation to specific consumer rights issues. We call these “consumer advice services”. Some of the calls made to consumer helplines relate to postal operators. The CABs incur costs in responding to these enquiries. We call these costs “calls costs”.
- 3.63 In relation to calls costs, CP1 sets out a specific mechanism for how we recover these costs. In the current version of CP1, this is set out at 1.2.5.
- 3.64 Each year the Secretary of State provides Ofcom with (a) the projected calls costs for the CABs; and (b) the number of calls to the consumer advice service broken down by relevant company. Ofcom uses this information to calculate whether a postal operator should make a payment to recover the costs of calls to CAB helplines and, if so, the amount of that payment:
- 3.64.1 First, Ofcom multiplies the projected calls costs by the regulated postal operator’s share of calls related to the regulated postal operator expressed as a percentage of the total calls relating to regulated postal operators.
- 3.64.2 If this calculation gives a result of greater than £100, the regulated postal operator will be required to contribute to meeting the consumer advice service.
- 3.64.3 Ofcom then multiplies the projected calls costs by the share of the regulated postal operator’s share of calls expressed as a percentage of the total calls relating to regulated postal operators. This then results in the charge that the relevant postal operator must pay in relation to the consumer advice service.
- 3.65 For example, say in 2016/17 there were 1000 calls to the consumer advice service of which 970 related to Postal Operator X and 30 related to Postal Operator Y. Say that in same year the expenses of the consumer advice service were £2,000. Applying the calculations set out above would result in Postal Operator X contributing 100% of the costs of the consumer advice service on the basis that it generated 97% of the calls. This is because based on Postal Operator Y’s share of the calls, we see that Postal Operator Y only accounts for 3% of calls to the consumer advice service giving a figure of £60, i.e. below the £100 threshold.
- 3.66 The principles behind this approach are that:

- 3.66.1 There should be a threshold for contributions to ensure that payment of charges in relation to consumer advice schemes do not act as a barrier to entry to the postal services market;
 - 3.66.2 it ensures that it is not administratively inefficient to recover calls costs by ensuring that Ofcom does not have to recover costs from postal operators that do not generate many calls (e.g. if it costs Ofcom £100 to recover calls costs of £20 from an operator, it could be considered administratively inefficient to recover said costs); and
 - 3.66.3 it is fair that, once the threshold has been applied, that the costs of the consumer advice service should be borne by those postal operators that generate the calls.
- 3.67 We do not propose to amend CP1 to change this fundamental approach to recovering calls costs.
- 3.68 We have made some revisions to CP1 to reflect changes to the underlying legislation, and these are set out in Annex 6.

Recovery of CAB costs in relation to work in the postal services sector

- 3.69 Other than providing a consumer advice helpline, the CABs also undertake a number of other pieces of work in relation to the postal services sector. For example, in 2016, the Citizens Advice Bureau conducted a Christmas posting tips campaign, which sought to make consumers aware of when they should be posting their letters ahead of Christmas in order to ensure they reached their destinations on time.³⁹ The cost of conducting this work would be allocated to postal services. We call these costs “non-calls costs”.
- 3.70 We propose that Ofcom will recover all non-calls costs in the same way as we recover our own costs of regulation (i.e. the administrative charges).
- 3.71 We therefore propose to amend CP1 so that non-calls costs will be recovered from all postal operators who have relevant revenues of at £5m or above and who:
- 3.71.1 provide single-piece end-to-end letter services; and/or
 - 3.71.2 provide bulk mail or access services.
- 3.72 Taking this approach would mean that those operators who are liable to pay Ofcom’s administrative charges would also be liable to pay the qualifying consumer expenses of the CABs.
- 3.73 We believe that using the same approach to recover the non-calls costs of the CABs is supported by the fact that it will be simpler and clearer for both industry and Ofcom if there is a shared mechanism for recovering Ofcom’s costs and non-calls costs. It will also be administratively more efficient for Ofcom to use a single process rather than two, because Ofcom will only have to gather and assess one set of information and engage with the same stakeholders when recovering costs. This will result in resource savings, which in turn creates costs savings for stakeholders.

³⁹ See <https://www.citizensadvice.org.uk/about-us/how-we-provide-advice/our-prevention-work/education/education-resources/education-resources/christmas-postal-services-being-ready-for-christmas-pesky-post-and-troubleshooting-tips/>

- 3.74 Further, a single approach will require a single set of verification requirements to ensure compliance from the same set of stakeholders on the same dataset. A single approach will also improve consistency and predictability over time.
- 3.75 Given these benefits, we think that it is reasonable for there to be a single approach to funding the relevant costs of both Ofcom and the CABs.

Question 6... Do you agree with the proposed changes to CP1 that are set out in Annex 6? Please provide your reasons.

Relevant legal tests for changing the SoCP

- 3.76 Under the 2011 Act, OFCOM may fix the administrative charge for a charging year only if:
- (a) at the time the charge is fixed there is in force a statement by OFCOM of the principles that they are proposing to apply in fixing charges under this paragraph for that year, and
 - (b) the charge is fixed in accordance with those principles.
- 3.77 Ofcom must be of the view that these principles are likely to secure the cost of carrying out our postal service functions is met by the imposition of charges that are objectively justifiable and proportionate to the matters in respect of which they are imposed.
- 3.78 We consider that the proposed charging principles are objectively justifiable and proportionate because they ensure that Ofcom's costs of postal regulation are recovered from those postal operators that are either the subject of or benefit from Ofcom's work. This ensures that the cost of postal regulation are recovered in a manner that reflects the work that Ofcom does.

Relevant legal tests for changing CP1

- 3.79 We consider these proposals satisfy the relevant tests set out in Schedule 6 of the 2011 Act which must be met where we impose or modify a regulatory condition, namely that they:
- are objectively justifiable;
 - do not unduly discriminate against a particular person of a particular description of persons;
 - are proportionate; and
 - are transparent in relation to what they are intended to achieve.
- 3.80 We set out below the way in which we consider that this modification meets these tests.

Objectively justifiable

- 3.81 We believe that our proposed changes to the scope of CP1 are objectively justifiable for the reasons set out at paragraph 3.77 and 3.78. Specifically, we believe that the

proposed amendments to CP1 will ensure that Ofcom is able to recover the costs of the CABs in a way that is administratively efficient. This will result in resource savings for Ofcom, which in turn results in savings for those that we regulate.

Not unduly discriminatory

- 3.82 We believe that our proposed changes to CP 1 are not unduly discriminatory because they will ensure that our regulation is targeted at those postal operators that we consider are appropriate to meet our regulatory objective, i.e. ensuring the recovery of Ofcom's costs of regulation of the postal market.

Proportionate

- 3.83 We believe that our proposed changes to CP 1 are proportionate because they only impose requirements that we consider necessary to meet our objective (i.e. to enable the recovering of the CAB's relevant costs), without imposing an undue burden on those relevant postal operators which are subject to this condition.

Transparent

- 3.84 We consider that our proposed changes to the scope of CP 1 are transparent because the proposed revised conditions will clearly establish which postal operators are within the scope of this conditions. Further, the condition will also clearly set out the requirement imposed upon those providers, i.e. to make payments to recover the relevant costs of the CABs.
- 3.85 Further, in adopting the same process for recovering the non-calls costs of the CABs as we will use to recover Ofcom's own costs of regulation, we believe that we make the process for cost recovery clearer and easier for those that pay costs to assess.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, **by 5pm on 21 September 2017** .
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/recovering-postal-regulation-costs>. You can return this by email or post to the address provided in the response form. We also provide a cover sheet <https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>) for responses sent by post; please fill this in, as it helps us to maintain your confidentiality, and speeds up our work. You do not need to do this if you respond using the form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to Richard.orpin@ofcom.org.uk, as an attachment in Microsoft Word format, together with the cover sheet (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>).
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Richard Orpin
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 If you would like to submit your response in an alternative format (e.g. a video or audio file), please contact Richard Orpin on 020 7981 3243, or email Richard.orpin@ofcom.org.uk.
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 3. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Richard Orpin on 020 7981 3243, or by email to Richard.orpin@ofcom.org.uk.

Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on our website, www.ofcom.org.uk, as soon as we receive them.
- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further at <https://www.ofcom.org.uk/about-ofcom/website/terms-of-use>.

Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement.
- A1.15 If you wish, you can register to receive mail updates alerting you to new Ofcom publications; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact Steve Gettings, Ofcom's consultation champion:

Steve Gettings
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Email: corporationsecretary@ofcom.org.uk

Annex 2

Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing Name/contact details/job title

Whole response Organisation

Part of the response If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 3

Consultation questions

Question 1: ... Do you agree that revenues from single piece end-to-end letter delivery services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

Question 2: ... Do you agree that revenues from bulk mail and access services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

Question 3: ... Do you agree that turnover from access revenues should be calculated on a net basis (i.e. after the deduction of access charges to Royal Mail)? Please give your reasons.

Question 4: ... Do you agree that turnover from parcel services should not be taken into account for the purpose of setting administrative charges? Please provide your reasons.

Question 5: ... Do you agree that the minimum revenue threshold for payment of administrative charges should be lowered to £5m? Please explain why.

Question 6: ... Do you agree with the proposed changes to CP1 that are set out in Annex 6? Please provide your reasons.

Annex 4

Impact Assessment

- A4.1 The analysis presented in this consultation document represents an impact assessment, as defined in section 7 of the Communications Act 2003 (the Act).
- A4.2 You should send any comments on this impact assessment to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- A4.3 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 Act, 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, which are on our website:
<https://www.ofcom.org.uk/consultations-and-statements/better-policy-making-ofcoms-approach-to-impact-assessment>

Annex 5

Draft Statement of Charging Principles – Postal services

Statement of charging principles

- A5.1 This statement follows a consultation by Ofcom on the principles that Ofcom would apply in order to set annual administrative charges pursuant to the Postal Services Act 2011 (“the Act”).
- A5.2 This statement was prepared under paragraph 7 of Schedule 9 of the Act and revised in accordance with paragraphs 3(6) and 3(7) of Schedule 4 of the Act. This statement applies in relation to the 2018/19 2012/13 charging year (i.e. the period beginning 1 April 2018 2012 and ending with March 2019 2013) and any subsequent charging year (i.e. any subsequent period of 12 months beginning with 1 April).

Administrative charges

- A5.3 Administrative charges will be set at a level to ensure that Ofcom will recover the estimated cost incurred in carrying out its postal services functions as set out in the Act.
- A5.4 Administrative charges will be payable by those postal operators which:
- 5.4.1 are relevant postal operators provide Letter Services that are provided as services within the scope of the postal universal services as defined in section 40 of the Act; and
 - 5.4.2 generated relevant turnover exceeding £5 million £10 million, in the last but one 12 month period commencing on 1 April prior to the Charging Year in question.⁴⁰ from Letter Services provided as services within the scope of the universal postal services as defined in section 40 of the Act.
- ~~A5.5 The turnover referred to in paragraph 5.4.2 above shall not include turnover generated from Access Services, Express Services and Premium Services.~~
- A5.6 For the purposes of interpreting paragraph A5.4 and ~~A5.5~~, the following definitions shall apply:
- 5.6.1 ~~“Access Services” means the conveyance and delivery of letters to the universal service provider for onward conveyance and delivery by the universal service provider;~~
 - 5.6.2 **“charging Year”** means a twelve month period commencing on 1 April in a calendar year and ending 31 March in the immediately following calendar year;

⁴⁰ For example, the Charging Year commences on 1 April 2017 2012, the last but one 12 month period commencing on 1 April will be 1 April 2015 2010 until 31 March 2016 2011.

5.6.3 **“Express Services”** means any postal service guaranteeing next day delivery;⁴¹

5.6.4 **“Letter”** has the same meaning as set out in section 65(1) of the Act save that it does not include postal packets as defined in subsection (b) of that definition;

5.6.5 **“Letter Services”** means any of the services referred to in section 27(1) of the Act concerning a Letter;

5.6.6 **“premium Services”** means any postal service including additional features which are paid for, such as recorded delivery, insured delivery and tracked items;

5.6.7 **“relevant postal operator”** has the same meaning as set out in Consumer Protection Condition 1 imposed by Ofcom, and as amended from time to time, under section 51 of the Act; and

5.6.8 **“relevant turnover”** has the meaning set out in Consumer Protection Condition 1 imposed by Ofcom, and as amended from time to time, under section 51 of the Act but shall not include any turnover generated from Express Services or Premium Services.

A5.7 The charge payable by a particular postal operator identified in 5.4 above will be calculated by multiplying the total estimated cost of regulation by that operator’s share of turnover expressed as a percentage of the total turnover generated by all operators identified in 5.4 above.

A5.8 If the annual administrative charge as calculated in 5.7 above is more than £75,000 Ofcom will allow monthly payment of the fee. Payment is due on receipt of the notice of the amount due, served on the postal operator by Ofcom.

A5.9 The tariff applicable to the sector will be set out in the tariff tables which will be published on or before 31st March for the following charging year.

Attribution of costs

A5.10 Each item of cost recorded in Ofcom’s accounts is attributed to the activities within a sector that Ofcom regulates.

A5.11 Direct costs of activities are recorded directly against a sector and indirect costs are added by apportionment. Indirect apportioned costs represent common costs which are spread over each of the direct activities on a fair, consistent and equitable basis using standard cost apportionment methods.

Over or under recovery of spend

A5.12 The amounts due from postal operators will be collected annually in advance and any over or under recovery of expenditure arising in the charging year will be adjusted in the charge for the following charging year.

⁴¹ For the purposes of this definition, we do not consider 1st class mail as an express service because Royal Mail is required to ensure that First Class mails arrives next day in 93% of cases. Therefore, under this service requirement, next day delivery is not ‘guaranteed’ in relation to each 1st class mail.

- A5.13 Amounts paid to the Postal Services Commission in respect of its last “relevant year” as defined in the conditions of licences issued by it under the Postal Services Act 2000 shall be taken into account for this purpose as though the sums paid, and the regulated activities to which they related, were sums paid to Ofcom in respect of Ofcom’s functions under the Act.

Annex 6

Statutory notification: proposed modification of Consumer Protection Condition 1

NOTIFICATION OF PROPOSALS TO MODIFY CONSUMER PROTECTION CONDITION 1 PURSUANT TO SECTION 51 OF, AND IN ACCORDANCE WITH SECTION 53 OF, AND PARAGRAPH 3(3) OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 27 March 2012, following consultation, Ofcom published a statement entitled '*Securing the Universal Postal Service: Decision on the new regulatory framework*'⁴² setting out various decisions, including the imposition of consumer protection conditions to make provision for matters set out in section 51 of the Act, such as Consumer Protection Condition 1 (the "initial CPC1").
- (B) On 28 March 2013, following consultation, Ofcom published a statement entitled '*Decision on modification to Consumer Protection Condition 1: Statement to modify Consumer Protection Condition 1 to reflect the change in the provision of consumer advice for postal services to Citizens Advice and Citizens Advice Scotland*'⁴³ setting out its decision to modify initial CPC1 in order to allow Ofcom to collect payments from regulated postal operators relating to the expenses of Citizens Advice and Citizens Advice Scotland.
- (B) On 1 April 2014, following consultation, Ofcom published a statement entitled '*Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions*'⁴⁴ setting out various decisions, including the revocation of the initial CPC1 (as modified in 2013) and the imposition of a new Consumer Protection Condition 1 ("CP1").
- (C) On 4 December 2015, following consultation, Ofcom published a statement entitled '*Modification to Consumer Protection Condition 1: Collection of qualifying consumer expenses of the Consumer Advocacy Bodies*'⁴⁵ setting out its decision to modify CP1 to correct an error in the drafting of CP1 with regard to the calculation of the contributions of postal operators to the qualifying consumer expenses of the Consumer Advocacy Bodies.

PROPOSALS

1. Ofcom hereby proposes, in accordance with section 53 of, and paragraph 3(3) of Schedule 6 to, the Act and pursuant to its powers under section 51 of the Act, to

⁴² https://www.ofcom.org.uk/_data/assets/pdf_file/0029/74279/Securing-the-Universal-Postal-Service-statement.pdf

⁴³ https://www.ofcom.org.uk/_data/assets/pdf_file/0033/37689/statement.pdf

⁴⁴ <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/Statement.pdf>

⁴⁵

https://www.ofcom.org.uk/_data/assets/pdf_file/0024/84165/cp1_statement_04dec2015.pdf

modify CP1 in order to make further provision for matters set out in that section 51 and to impose that CP1 on every postal operator of a description specified therein.

2. The proposed modifications to CP1 are—
 - (a) specified in the Schedule to this Notification, marked up against the existing CP1 to show the changes which Ofcom is proposing to its substance, as highlighted in yellow and in red font for new text and highlighted in yellow and in black font for deleted text (which highlightings, for the avoidance of doubt, do not form part of the proposed modifications);
 - (b) being proposed to come into force with effect from the date of a publication in accordance with section 53 of, and paragraph 3(1) of Schedule 6 to, the Act.
3. The effect of, and Ofcom's reasons for making, these proposals are set out in the accompanying consultation document.

OFCOM'S DUTIES AND LEGAL TESTS

4. Ofcom is satisfied that these proposals satisfy the general test in paragraph 1 of Schedule 6 to the Act.
5. In making these proposals, Ofcom has considered and acted in accordance with its principal duty in section 29 of the Act and its general duties in section 3 of the Communications Act 2003.

MAKING REPRESENTATIONS

6. Representations may be made to Ofcom about the proposals set out in this Notification by no later than 21 September 2017.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, Ofcom may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if Ofcom has—
 - (a) considered every representation about the proposal that is made to Ofcom within the period specified in paragraph 6 of this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to Ofcom for this purpose by the Secretary of State.

INTERPRETATION

9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act or for the purpose of CP1 (as relevant).
10. In this Notification—
 - (a) “**Act**” means the Postal Services Act 2011 (c.5);

(b) “CP1” means Consumer Protection Condition 1 as referred to in recital (B) to this Notification, as modified by the modification referred to in recital (C); and

(c) “Ofcom” means the Office of Communications.

11. For the purpose of interpreting this Notification—

(a) headings and titles shall be disregarded;

(b) expressions cognate with those referred to in this Notification shall be construed accordingly; and

(c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.

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

Signed by **[Name]**

[Title]

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

[Date]

SCHEDULE

CONSUMER PROTECTION CONDITION 1

PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES

1.1. Application, Definitions and Interpretation

<p>CP 1.1.1 <i>Application</i></p>	<p>This consumer protection condition (“CP Condition”) shall apply to every regulated relevant postal operators.</p>
<p>CP 1.1.2 <i>Definitions</i></p>	<p>In this CP Condition—</p> <p>(a) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(b) “appointed day” means 1 October 2011;</p> <p>(c) “assessment year” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “calls relating to a regulated relevant postal operator” means calls to Citizens Advice or Citizens Advice Scotland a consumer advocacy body recorded by Citizens Advice or Citizens Advice Scotland such a body as relating to a specific regulated relevant postal operator save that where a call is recorded by Citizens Advice or Citizens Advice Scotland a consumer advocacy body as relating to more than one specific regulated relevant postal operator where OFCOM will consider the call as relating to no regulated relevant postal operator;</p> <p>(e) “closed user group network” means a system providing for the conveyance of postal packets (and the incidental services of receiving, collecting, sorting and delivering postal packets) between—</p> <ol style="list-style-type: none"> (1) the premises of one firm and another firm; (2) a government department and a third party firm; (3) branches and/or units in the same firm; or (4) government departments, <p>where both the sender and the recipient of the postal packets have entered into specific arrangements with the postal operator for the conveyance of postal packets to or from other members of that system, which, for the avoidance of doubt, includes a document exchange;</p>

<p>(e) (f) “consumer advocacy body (or bodies)” means each of the following—</p> <ol style="list-style-type: none"> (1) <u>Citizens Advice</u>; (2) <u>Citizens Advice Scotland</u> or such other body that provides, in or as regards Scotland, consumer advocacy and advice to which section 51(2)(ca) of the Act refers; and (3) the General Consumer Council for Northern Ireland; <p>(g) “express and secured service” means a service involving the conveyance of <u>postal packets</u> and any incidental services of collecting, sorting and delivering those <u>postal packets</u> which have at least one of the following features—</p> <ol style="list-style-type: none"> (1) a guarantee for delivery by a certain time or date; (2) a facility enabling the sender and the recipient to monitor the progress of a <u>postal packet</u> through the <u>postal operator’s network</u>, including confirmation of delivery; <p>(f) (h) “public holiday” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(i) “qualifying calls expenses” has the meaning given to it in CP 1.2.4;</p> <p>(j) “qualifying calls threshold” has the meaning given to it in CP 1.2.4;</p> <p>(k) “qualifying expenses” has the meaning given to it in CP 1.2.2;</p> <p>(l) “relevant postal operator” means each of the following—</p> <ol style="list-style-type: none"> (1) a <u>postal operator</u> that is a party to a <u>USP Access Agreement</u> with the <u>universal service provider</u>, including the <u>universal service provider</u> itself; and (2) a <u>postal operator</u> that provides a <u>relevant letters postal service</u>; <p>(m) “relevant letter” means a <u>postal packet</u> that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g;</p>
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(n) “**relevant letters postal service**” means a service of conveying relevant letters from one place to another by post and the incidental services of receiving, collecting, sorting and delivering relevant letters, excluding—

(1) services for which the postal operator has not received any payment, reward, profit or advantage with respect to the conveyance of the relevant letters;

(2) services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;

(3) express and secured services;

(4) services consisting of the conveyance of relevant letters within a closed user group network; and

(5) services provided while acting in the capacity of an intermediary postal operator, that is to say a postal operator that hands over postal packets to another postal operator (including but not limited to the universal service provider) for subsequent conveyance and delivery to the intended recipients of the postal packets; and

(6) services consisting of conveying relevant letters, which have been sent from a location outside of the United Kingdom and which are addressed for delivery to a location outside of the United Kingdom, out of the United Kingdom;

(h) (o) “**relevant turnover**” means turnover from regulated postal services each of the following—;

(1) turnover from relevant letters postal services;

(2) in the case of the universal service provider, turnover from giving access to its postal network to other postal operators and users of postal services under, or as a result of, USP Access Agreements;

(3) in the case of other parties to USP Access Agreements with the universal service provider, turnover from postal services provided to other postal operators and users of postal services by obtaining access to the universal service provider’s postal network under, or as a result of, the party’s USP Access Agreement, but deducting from that turnover all charges paid or

payable to universal service provider for access under the party's USP Access Agreement for the period corresponding to the assessment year;

(g) (p) “**relevant year**” means any year beginning on 1 April;

(i) “**regulated postal operator**” means a postal operator which provides services in relation to which, had those services been carried out prior to the appointed day, it would have been required to hold a licence under the Postal Services Act 2000;

(j) “**regulated postal service**” means a postal service the provision of which, had it been carried out prior to the Appointed Day, would have required the provider to hold a licence under the Postal Services Act 2000.

(q) “**Scottish consumer advice amounts**” mean such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to users of postal services; and

(r) “**USP Access Agreement**” means an agreement under which the universal service provider provides access to its postal network in accordance with requirements set out in a condition imposed under section 38 of the Act.

<p>CP 1.1.3</p> <p>Interpretation</p>	<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 Act⁴⁶;</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 “day” 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>
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1.2. Payments relating to qualifying consumer expenses

<p>CP 1.2.1</p> <p>Obligations to make payments to OFCOM</p>	<p>A regulated postal operator that generated relevant turnover exceeding £10 million in the assessment year, shall pay to OFCOM in any relevant year such proportion as OFCOM may specify of the expenses described in CP 1.2.2.</p> <p>A relevant postal operator shall pay to OFCOM in any relevant year—</p> <p>(a) if that operator generated relevant turnover exceeding £5 million in the assessment year, such proportion (calculated in accordance with CP 1.2.3) as OFCOM may specify of the qualifying expenses; and</p> <p>(b) if that operator has reached the qualifying calls threshold in the relevant year, such proportion (calculated in accordance with CP 1.2.5) as OFCOM may specify of qualifying calls expenses.</p>
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⁴⁶ A table for information identifying such defined terms is provided at the end of this CP eCondition. This table is intended only as a guide and does not form a part of this CP eCondition. We make no representations as to its accuracy or completeness.

<p>CP 1.2.2</p> <p><i>Meaning of "qualifying expenses"</i></p>	<p>The expenses are the <u>qualifying consumer expenses of the consumer advocacy bodies and the Secretary of State, likely to be incurred during the relevant year in respect of functions other than the consumer advocacy bodies' function of providing a public consumer advice scheme.</u></p> <p>The "qualifying expenses" are—</p> <p>(a) <u>the qualifying consumer expenses of Citizens Advice;</u></p> <p>(b) <u>the qualifying consumer expenses of the General Consumer Council for Northern Ireland;</u></p> <p>(c) <u>the Scottish consumer advice amounts; and</u></p> <p>(d) <u>the qualifying consumer expenses of the Secretary of State,</u></p> <p><u>likely to be incurred during the relevant year in respect of functions other than the consumer advocacy bodies' functions in dealing with calls relating to relevant postal operators.</u></p>
<p>CP 1.2.3</p> <p><i>Calculation of proportion for the purposes of CP 1.2.1(a)</i></p>	<p>The proportion <u>referred to in CP 1.2.1(a)</u> will be calculated by multiplying the sum of the total <u>qualifying expenses</u> expenses <u>referred to</u> in CP 1.2.2 by that <u>regulated relevant postal operator's</u> share of <u>relevant turnover</u> expressed as a percentage of the total <u>relevant turnover</u> generated by all <u>regulated relevant postal operators</u> to which this <u>CP eC</u> Condition applies that generated <u>relevant turnover</u> in excess of <u>£10 £5</u> million in the <u>assessment year</u>.</p>
<p>CP 1.2.4</p>	<p><u>A regulated postal operator shall pay to OFCOM in any relevant year such proportion as OFCOM may specify of the qualifying consumer expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme.</u></p>

<p>CP 1.2.54</p> <p>Meanings of “qualifying calls threshold” and of “qualifying calls expenses”</p>	<p>OFCOM shall require payments to be made by a A regulated relevant postal operator under CP 1.2.4 shall be liable to make payments to OFCOM for the purposes of CP 1.2.1(b) only where the following calculation gives an amount greater than £100 (the “qualifying calls threshold”) —:</p> <p>(a) take the total qualifying consumer calls expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme in the relevant year,</p> <p>(b) multiply it by that regulated relevant postal operator’s share of calls relating to regulated relevant postal operators in the relevant year expressed as a percentage of the total calls relating to regulated relevant postal operators.</p> <p>The “qualifying calls expenses” are—</p> <p>(a) the qualifying consumer expenses of Citizens Advice;</p> <p>(b) the qualifying consumer expenses of the General Consumer Council for Northern Ireland; and</p> <p>(c) the Scottish consumer advice amounts,</p> <p>likely to be incurred during the relevant year in respect of the consumer advocacy bodies’ functions in dealing with calls relating to relevant postal operators.</p>
<p>CP 1.2.65</p> <p>Calculation of proportion for the purposes of CP 1.2.1(b)</p>	<p>The proportion referred to in CP 1.2.1(b) to be paid by a regulated relevant postal operator falling within CP1.2.5 reaching the qualifying calls threshold will be calculated by multiplying the total qualifying consumer calls expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme in the relevant year by that regulated relevant postal operator’s share of calls relating to regulated relevant postal operators falling within CP1.2.5 4 expressed as a percentage of the total calls relating to regulated relevant postal operators falling within CP1.2.5 4.</p>
<p>CP 1.2.76</p> <p>Adjusted amounts payable under CP 1.2.1(a)</p>	<p>The amounts payable under CP 1.2.1 (a) in a relevant year shall include the amount of the difference, if any, between the costs actually incurred during the previous relevant year and the estimate of the costs in question upon which charges in the previous relevant year were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.</p>

<p>CP.1.2.87</p> <p>Adjusted amounts payable under CP 1.2.1(b)</p>	<p>The amounts payable under CP 1.2.4 1(b) in a relevant year shall include the amount of the difference, if any, between the amounts charged to the regulated relevant postal operator in the previous relevant year, based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of calls relating to that and other regulated relevant postal operators (including to calls relating to that specific relevant postal operator) and actual qualifying consumer calls expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme. Where the latter exceeds the former, the amount of the difference shall be treated as a negative amount.</p>
<p>CP 1.2.98</p> <p>Payments due dates</p>	<p>The amount due under either or both of CP 1.2.1(a) and CP 1.2.4 1(b) shall be payable on 30 June in the relevant year or, if later, on the expiry of one month from the day on which OFCOM serve notice on the regulated relevant postal operator of such amount.</p>

Table of terms defined in the Act

This table is provided for information and does not form a part of this CP6 Condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

Defined term	Section
Citizens Advice	65(1)
Citizens Advice Scotland	65(1)
letter	65(1)
OFCOM	90
postal network	38(3)
postal operator	27(3)
postal packet	27(2)
postal services	27(1)
qualifying consumer expenses of Citizens Advice	51(4)(a) to (c)
qualifying consumer expenses of the General Consumer Council for Northern Ireland	51(4)(g)
qualifying consumer expenses of the Secretary of State	51(4ZA)
qualifying consumer expenses	51(4)
universal service provider	65(1) and Schedule 9 paragraph 3(3)
user	65(1)