

Intellect submission to Ofcom

Ofcom's Draft Annual Plan 2013/2014

February 2013

**This response represents the views of
Intellect's members in the meter
manufacturer industry of the Postal
Services sector**

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Introduction

Intellect is the UK trade association for the technology industry. Our mission is to use our expertise and knowledge to provide the highest quality of service and intelligence to our 750 plus members across the information and communications technologies (ICT), electronics manufacturing and design, and consumer electronics (CE) sectors. This enables them to make the right business decisions to deliver commercial solutions and achieve growth and profitability. We do this by fostering improved business performance, encouraging thought leadership, and making the shaping of markets and influencing of policy possible.

We are constantly striving to provide work environments where our members can meet their potential and thrive in an atmosphere of excellence through working closely with the government, regulatory bodies, policy makers and businesses.

Intellect Postal Services Group

Please note, Intellect is a broad association and responses may also be received from our Telecoms and Wireless Programme on Spectrum issues.

In this response, Intellect would like to highlight the issues and concerns of our members involved in the postal services sector which we believe Ofcom should be aware of and considering as priorities in the broader forward agenda.

This is a crucial area for the ICT industry and one we are pleased to see gaining increasing prominence within Ofcom. Intellect has a 'Postal Services Group' consisting of leading ICT players in this sector – and this response comes from the 'meter manufacturer' industry (explanation below) within that group.

Intellect's Postal Services Focus Group comprises the key industry stakeholders and has an established programme of engagement with all sections of the market to collate and articulate the concerns and visions of the postal technologies sector.

Our objective is to represent the industry to highlight the importance of technology to the UK postal industry now and in the future. We do not advocate specific company technologies and therefore Ofcom should regard this response as an expression of the specific industry view.

Following Ofcom's assumption of regulatory responsibility for postal services our group has met with Ofcom on multiple occasions and we have responded to several Ofcom consultations in 2012 to input the collated thoughts of the meters industry into Ofcom's decision making process.

Background

In this response Intellect would like to introduce the meter manufacturers sector and provide collated thoughts in response to the consultation issued by Ofcom concerning the draft annual plan.

This response is solely from a specific section of our varied membership – our meter manufacturers. It comprises the collated concerns of the meter manufacturers' sector specifically within the Intellect focus group, in particular:

- **Pitney Bowes Ltd**
- **Neopost Ltd**

These members are keen to convey their thoughts as an industry, and Intellect provides a neutral forum for our members to collectively provide the thoughts of the sector for the benefit of industry and regulator.

Please note references below to ‘Intellect members’ refer solely to the views of our members named above and views of Intellect’s wider membership may follow separately if appropriate.

An overview of why customers choose the meters channel

Before our main response, we would like to provide Ofcom with background to the ‘meter manufacturer’ industry to help place the response in context.

Intellect members from the meters sector have highlighted the following factors which make the meters channel attractive and which it is important for Ofcom to be aware of as part of this work:

1. Business customers can gain easy access to the majority of the Royal Mail’s products and services through the franking machine.
2. For customers, franking offers an efficient and accurate way to weigh measure and pay for unsorted business mail.
3. There is no minimum threshold as regards the volume of mail sent. Franking machine users can process their mail in batches or single piece by single piece. It is therefore a very flexible system that can be configured individually to any mailroom, mailhouse or office environment.
4. For SMEs the other channel options would be to go to the Post Office which is an ideal retail channel but inconvenient for many small businesses, or to use stamps which is likely to be the method of posting they used before acquiring a franking machine.
5. SMEs can be assured that they will enjoy the same quality of service from the Royal Mail as larger posters even though they do not spend at the levels of those organisations.
6. The price of an entry level franking machines is attractive to SMEs who are looking for convenience.
7. The channel continues to work closely with the Royal Mail to develop new services for customers and to expand the choice available to customers. For example the use of 2D barcodes would give customers the ability to track mail items in the Royal Mail network and have access to service reports. This technology would also allow Royal Mail to innovate and deliver new value add services for customers.
8. The Royal Mail are offering new services in the market place for all customers, the meters channel are keen to offer their customers the full range of services including the range of Tracked services.

It is also worth noting that the vast majority of Royal Mail products in the meters channel are, currently, price controlled. Price control reflects the fact that Royal Mail has traditionally been, and continues to be, seen as a dominant player in this part of the market and therefore attempts to ensure that unfair or anticompetitive practices are not a feature.

Customers themselves are not especially concerned about what products and services are in or out of the price control; they require a high quality service at a reasonable price, priced on a uniform basis which they expect the Royal Mail to deliver.

For their part, Royal Mail receives mail with a securely evidenced postmark and can access customer usage data for business planning purposes. The meters industry has the capability and expertise to develop and support Royal Mail with its major automation and efficiency program currently taking place across its network. The industry is working very closely and pro-actively with Royal Mail to support these activities and believe they will ultimately result in improved quality of service levels, improved resource productivity and cost reductions for Royal Mail and increased customer satisfaction for meter industry customers.

Intellect comments on the Draft Annual Plan 2013/2014

Introduction

Intellect welcomes the prominent role Postal Services has been given following the move from Postcomm to Ofcom as the industry regulator. We have responded to other consultations throughout the last year in a detailed manner, and would now like to provide what we see as fundamental issues for a section of our membership we would like Ofcom to consider over the coming year.

In particular, we would like to highlight one key point in Ofcom's Draft Annual Plan. In reference to section 4.33 under *Secure the provision of the universal postal service*, we welcome Ofcom's approach to the continued provision and protection of the USO. However, there is a growing concern that a major potential threat to the USO may be developing in the form of end-to-end competition which Ofcom appear not to have fully recognised and appreciated.

This could potentially mean that Ofcom risk not protecting the USO as they are obliged to do.

Main response

End-to-end competition and the USO

We are concerned that Ofcom may be underestimating the potential threat to the USO of end-to-end competition. Ofcom have stated that the USO is their number 1 priority for the Postal Services market so it must take a proactive approach in an ever-changing market.

End-to-end competition can present either a risk to the viability of the USO if managed poorly or, conversely, an opportunity if competition is managed by Ofcom in a fair and reasonable fashion.

A Potential Threat

Royal Mail offers the Universal Service and this is handled by various means, including access. If the volume of mail currently using downstream access moves towards end-to-end providers then there will be less revenue to secure the universal service, which therefore constitutes a threat to the USO.

With this in mind, Intellect emphasises that it is businesses which commercially underpin the USO and make it viable, as opposed to residential users, and Ofcom's focus should be ensuring their requirements are met and the Royal Mail service to them is secure.

Whilst agreeing to the principle that a cheaper and alternative end to end service provides more focus for Royal Mail being more cost efficient and providing the level of service required by senders, the level of competition must be monitored in the context of impact upon the USO – the protection of which is Ofcom's ultimate objective, and as we understand their legal obligation.

Our members foresee a threat should an end-to-end provider partner with other downstream access operators (for example) to deliver their access mail - Royal Mail would lose significantly more mail with clear implications for the viability of the USO. Moreover, end-to-end competition effectively gives an opportunity for Royal Mail's competitors to 'cherry pick' the specific geography, volumes and minimum number of delivery days for its service as it is without obligations. They will, presumably, choose the most commercially viable locations and numbers (likely to be public sector customers in cities)

In essence, the loss of Royal Mail revenue to end-to-end competitors from other downstream access operators has the potential to threaten the provision of the universal service. Our members ask Ofcom to consider how they would pro-actively monitor this, and to consider the trigger points that would require Ofcom to take action.

We are concerned from what we have seen and heard from Ofcom in consultations and stakeholder forums that this is not an issue Ofcom is taking as seriously as industry, and that the 'wait and see' and 'reactively monitor' approach is not appropriate for this situation.

Potential Actions to mitigate the threat

We encourage Ofcom to adopt a more pro-active approach to assessing the progress of end-to-end competition and to planning for intervention when it may become necessary – both what this intervention might encompass and when Ofcom would deem it necessary to intervene.

Intellect will continue to monitor how this develops as there is potentially significant impact on the USO. As the voice of those invested in the success of the small-medium sized mail users – who underpin the USO and make it commercially viable – we see this as a major emerging issue and encourage Ofcom to do the same and prepare to act accordingly.

Our members point out that while *'postal operators may provide postal services without the need for any licence or prior authorisation by the regulator'*, Ofcom do have powers under the Act to impose a defined list of regulatory conditions on postal operators in given circumstances.

The March 2012 Statement set out Ofcom's view that an indicative Royal Mail EBIT/revenue range of 5% to 10% was *'appropriate and consistent with the need for Royal Mail to earn a reasonable commercial rate of return'* – i.e. to effectively sustain the universal service. However, Royal Mail EBIT is currently 2.3% (2011-12). Therefore, it has been noted that should Ofcom not intervene regards end-to-end it may potentially appear that they are going against their own objective.

One suggestion which has been discussed is to require contributions to a 'universal service compensation fund' to meet the burden of the universal service operator. In general, our members feel this would take too long to set up and administer in reality and does not effectively mitigate the threat to the USO – although we encourage Ofcom to take note of the experiences of mail operators in other countries, such as PostNL (who currently have a request for compensation

fund with the Dutch regulator). It is also worth exploring using a GUSC (General Universal Service Condition) intervention rather than looking at setting up a compensation fund, and making *all* end-to-end operators open up their network to access.

Recommendations

We would like Ofcom to be more specific in what action it would take if end-to-end competition threatened the universal service obligation (USO). Specifically:

- **Ofcom should play a proactive role in assessing the effect on the USO of Royal Mail losing market share to competitors**
- **Ofcom needs to plan now how and when it would step in to mitigate a threat to the USO:**
 - **If Royal Mail lost 5% of its market share to a competitor, does Ofcom consider that a threat to the USO? If not, how about 10%? What is the 'cut-off' point?**
 - **Once identified, what action will Ofcom take?**

Conclusion and next steps

The impact of end-to-end competition on the USO must be taken seriously by Ofcom at senior level. It should be closely monitored and potential regulatory intervention at an appropriate time planned for in advance.

This is of fundamental importance to Ofcom's primary objective of securing the USO.

The ultimate path this will take is not clear at present but our members do identify potential serious risks should such competition be allowed to develop unchecked or with limited oversight.

Intellect's Postal Services Group welcome the opportunity to input our comments on an important topic and would welcome the opportunity to discuss this area with Ofcom as it develops and invite Ofcom to get in touch at any time.

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Intellect response to the Ofcom Consultation:

Ofcom's Draft Annual Plan 2013/2014

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Part II: Responses relating to spectrum-related elements
in Ofcom's Draft Plan

Response

Summary

Intellect believes that an independent and strong communications regulator is important for the future health of the industry. However with the need to leave no stone unturned to deliver GDP growth and the pivotal role that digital technologies play in delivering it, Ofcom should focus on developing a detailed understanding of how its regulatory activities impact on economic growth and productivity. In addition, with the multiples channels through which consumers now access their communications and broadcast services, Ofcom should give greater focus to developing common regulatory approaches across these channels. On spectrum, Ofcom should work with industry and Government to develop an overarching spectrum strategy to ensure that UK is home to innovative new wireless technologies and services. Finally, a proactive engagement in international negotiations on communications regulation and spectrum allocations is vital in achieving UK ambitions. Ofcom has a crucial leadership role here and it must as a matter of urgency ensure that it actively develops the skills and resources to deliver this.

Detailed response

The communications sector as a key driver for growth

A number of studies including a World Bank econometric analysis ¹ give good evidence of the adoption of communications technology as the key driver for growth and productivity improvements. Given the desperate need for growth in the coming years, Ofcom should do more to understand the impact of its activities on productivity and growth in the UK. Furthermore, given its pivotal role in this crucial sector, Ofcom should ensure that it is properly resourced to fulfil its pivotal role.

Convergence and need for level regulatory interventions

Communications technology and markets are changing rapidly. Internet protocol is increasingly being used for voice, video and data applications. Customers access similar or substitute (communications) services via a variety of platforms and markets (eg. fixed and mobile services, digital terrestrial TV, satellite communications and broadcasting). They have also become accustomed to dealing with their communications services in bundles. Yet often regulation tends to operate in terms of discrete markets. Ofcom should give focus in its 2013/14 work plan on the application of uniform or comparable regulatory measures across sectors.

Need for a broad-based, strategic approach to spectrum

Spectrum is an important tool for innovation and competition in the communications sector. The recent study undertaken for DCMS by Analysys Mason suggests that the economic value of spectrum in the UK has increased sharply to around £ 52 Bn. The coming years promise to deliver a variety of exciting developments requiring a range of exclusively licensed, to lightly-licensed and unlicensed/ shared spectrum access for applications ranging from commercial to public and emergency services applications. A diverse range of wireless technologies will both place increasing pressures on the scarce spectrum below 3 GHz as well as increasing the range of applications in the higher bands.

Ofcom should engage with industry to develop a forward looking spectrum strategy for the UK. The Spectrum Forum for UK spectrum users facilitated by Intellect in response to a request by DCMS is an ideal opportunity for this Government - Ofcom - industry engagement. Ofcom should engage closely with the Spectrum Forum to develop a forward looking UK spectrum strategy.

Proactive international engagement

There is a need to improve the way that the UK engages on spectrum matters in the international fora. These fora are principally the ITU, CEPT and the European Union. UK people have shown themselves to be fast adopters of communications technology and services. However in the future it will not be sufficient to be the leading consumers of such things – we need to be leading developers of the technologies and services too. Much of the

¹ Information and Communication for Development 2009: Extending Reach and Increasing Impact; World Bank (2009)

innovations and new services in communications will be via wireless applications and the availability of sufficient and suitable spectrum is a crucial prerequisite for this. However given the international nature of spectrum allocation and the need for economies of scale for wireless technology, Ofcom must play an energetic and assertive role in international negotiations if it is to deliver the spectrum requirements that will enable the above technologies and services to be developed in the UK rather than elsewhere.

The ITU is responsible for the international regulations regarding the efficient use of, both, spectrum and satellite orbital resources. Changes to the Radio Regulations can be made at regular World Radiocommunication Conferences, the next of which will take place in 2015. An important function of the Radio Regulations is to harmonise bands internationally for certain uses or services. This role of the ITU is vital for many sectors of the UK communications industry. For example, the mobile communications industry, the aviation industry, the broadcasting industry, the satellite communications industry and the space science industry all rely on internationally harmonised frequency arrangements in the Radio Regulations. The footprints of most communications satellites cover multiple countries and hence the use of frequencies must be controlled so as to avoid interference to and from a satellite or to avoid interference between neighbouring countries. For other industry sectors, such as the terrestrial mobile industry and the domestic terrestrial broadcasting industry, internationally harmonised frequency arrangements are highly beneficial. Such arrangements mitigate cross-border interference issues and facilitate international roaming and global markets. Changes to the Regulations can, and often do, have a positive or negative impact on these industry sectors. The CEPT and increasingly the EU also have significant roles to play in developing common European positions to be taken to the ITU, and in developing regulations harmonised on a Europe-wide basis.

UK influence in international spectrum-related regulatory fora and negotiations has been declining in recent years. Ofcom should as a matter of priority focus on the development of long term expertise and strong influence in international spectrum negotiations which UK enjoyed and harnessed in the past.

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