



# **Response to Ofcom's Review of: Mail Integrity and Postal Common Operational Procedures**

**Part 1: Mail Integrity: Code of Practice**

25<sup>th</sup> April 2013

Redacted confidential information in this document is indicated by [X]

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The following annexes are provided to the regulator in commercial confidence:

Annex 1: [X]

## Summary

- i. Royal Mail welcomes Ofcom's call for input on the Mail Integrity Code of Practice (Code) and the intention to formally consult on the Code in the summer. The market has developed significantly since the Code's inception in January 2006. It is therefore appropriate to consider the effectiveness of the current Code and the appropriate approach going forward.
- ii. Royal Mail has a duty under the Postal Services Act 2011 to protect the security of mail. Securing the mail involves minimising the risk of its exposure to loss, theft, damage, or interference. Security of mail is essential to Royal Mail and is a key factor in providing high quality services that customers value and have confidence in. Royal Mail has and will continue to have robust processes in place to protect mail throughout its mail pipeline. We have comprehensive policies for the recruitment, training, and disciplining of staff, along with robust risk based approaches to the physical security architecture across our business. Royal Mail has a zero tolerance approach to breaches to our requirements for honesty, integrity or security of the mail, and investigates and prosecutes any criminal offences, whether those parties involved are internal or external to our business.
- iii. Royal Mail's processes fully meet the requirements under the current Code and in certain respects go beyond what is required. Regulation provides no additional incentives to Royal Mail as we will continue to maintain these high standards, whatever the solution Ofcom considers appropriate.
- iv. If Ofcom do consider a regulatory code is required, Royal Mail believes that in a multi-operator environment mail carried by different operators must be covered by the same requirements and compliance standards. The mail industry has changed significantly since the Code's inception, with access operators now handling c50% of all UK addressed mail. Access operators' mail is at no less risk of loss, damage, theft or interference and therefore, for any requirement to be effective such operators must be subject to the same Mail Integrity requirements as Royal Mail.
- v. Additionally Royal Mail firmly believes that there should be a level playing field for operators carrying the same types of mail. If, therefore, any regulation is applied it must also cover access operators and operators conveying mail between direct access customers and Royal Mail.
- vi. If Ofcom decide to retain a Mail Integrity Code it must ensure the regulation is fit for purpose. The current Code is overly prescriptive in some areas and should be simplified. Similarly, there are areas within the current Code which require more clarity or are redundant.

***Royal Mail currently has and will continue to have comprehensive processes to protect the mail it carries***

1. Security of mail is a key factor in providing high quality services that customers value and have confidence in. Royal Mail has and will continue to have comprehensive processes in place to protect mail throughout its mail pipeline. Royal Mail's processes fully meet the requirements under the current Code and in certain respects go beyond what is required.
2. Royal Mail's detailed and thorough policies start before individuals are employed and include the vetting of potential employees, whether they are permanent, temporary, casual or part-time. We also establish individuals' identity, receive a five year prior work history, and a candidate declaration of relevant prior convictions or criminal history. Furthermore we carry out criminal record checks for prospective employees. All of our comprehensive procedures are subject to on-going review to ensure they remain relevant and effective.
3. Once individuals become employees, security of the mail forms a core element in our induction programmes across all types of the business. Delivery of training is monitored to ensure that all of our people are given the information necessary to equip them to do a great job. Security components are embedded into training programs accessed as individual careers progress, and regular and relevant refresher training is communicated and delivered. We actively seek to find engaging ways to reinforce such training, for example with films featuring the importance of security of the mail.
4. If standards of behaviour at any level of our business breach our requirements for honesty, integrity or security of the mail, we have a robust conduct framework. This is supported by our staff associations, the CWU and CMA, and ensures that cases are fully investigated and appropriate outcomes implemented, which can include retraining and coaching through to dismissal.
5. The integrity of mail is extremely important to us and upholding that value is at the core of our business. If Ofcom removed the security requirements in this area Royal Mail would continue to maintain those high standards. Royal Mail and all regulated operators<sup>1</sup> would be required to ensure appropriate procedures are in place under the general requirement to protect Mail Integrity.<sup>2</sup> Even if Ofcom removed the prescriptive regulation in this area, customers would continue to receive protection under Royal Mail's policies.

***Any regulatory conditions must be applied to all regulated operators***

6. If regulatory requirements are imposed, they must be consistently applied to all regulated postal operators including access operators and operators conveying mail between direct access customers and Royal Mail.

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<sup>1</sup> A regulated operator is defined as an organisation that would have required a license under the previous regulatory framework, for the delivery of items weighing up to 350g, and costing less than £1 - Consumer Protection condition 2.1.2(p)

<sup>2</sup> Postal Services Act 2000

7. Access operators now handle c50% of all UK addressed mail and collect process and transport Code Postal Packets. The risk of loss, theft, damage or interference is no less for such operators than that faced by Royal Mail.
8. If a Code is retained it must apply equally to all regulated operators for the regulation to be effective. Additionally Royal Mail firmly believes that there should be a level playing field for operators carrying the same types of mail. Therefore if Ofcom retain regulatory requirements, access operators and those operators conveying mail between direct access customers must be required to comply fully with those regulations.

***We oppose any extension of the Code to cover all postal packets and/or all operators***

9. Although to be effective any regulatory requirements should apply equally to regulated mail operators; it is unnecessary to extend any regulatory conditions to cover all postal packets and all operators. Those operators and products that fall outside of the definition of 'regulated postal operator' or 'regulated postal packet' operate in highly competitive markets, with commercial and contractual requirements which drive appropriate behaviours. There are numerous operators in these markets with customers having considerable choice; this drives operators to maintain stringent security standards and continuous improvement. Royal Mail believes that extension of the Code to such operators and products would be disproportionate as there are no issues requiring regulatory intervention in this area.

***If regulation is retained it should be a simplified and clarified***

10. The existing code is overly prescriptive and in some areas should be simplified if it is to be maintained. One option Ofcom may wish to consider is a regulatory requirement that regulated operators have appropriate arrangements in place but that the actual Mail Integrity framework is determined by individual operators.
11. Operators differ significantly in size and the type of mail they handle. A high level requirement could allow operators to put processes in place for the training, recruitment and disciplining of staff, along with systems for the security of mail that accurately reflect their size and traffic mix, whilst Ofcom retain the regulatory oversight to ensure consumers are adequately protected.
12. Should Ofcom however decide to retain a specific Code, there are certain areas within the existing Code that must be addressed:
  - a. It should be made clear that the Code's remit ends when an item is delivered in accordance with the Postal Services Act's definition of delivery. For operators to adequately manage Mail Integrity there must be a clear understanding of the Code's remit and at what point an operator's responsibility is transferred to the recipient.
  - b. Similarly, there is no clear definition of what is, and is not; a Code Postal Packet within the Code. As Royal Mail only report on Code Postal Packets it needs to be made clear within the Code what products are included in the definition.
  - c. Within the Code there should be a specific exemption to the requirement of paragraph 7.3, to report serious incidents to Ofcom for operators, such as

Royal Mail who carry out their own prosecutions. The purpose of Para 7.3 was to assist the regulator in taking appropriate legal action where the postal operator did not undertake their own prosecutions. Ofcom have recognised this and have provided an exemption to Royal Mail for this reason, however we believe this should be built into the Code.

- d. The requirement to produce a statement of remedial measures at paragraph 7.7 should be removed along with the reports under 7.6. The submission of regular reports and details of remedial actions are unnecessary given the small amounts of lost and damaged mail. Royal Mail would be required to record information on loss and damaged under paragraph 7.1.

### ***The current reporting requirement is disproportionate***

13. The current reporting requirement places a significant burden on Royal Mail given the very small number of items that are lost, stolen, damaged or interfered with in the mail network [3]. The Mail Competition Forum, UK Mail, DX Group and TNT indicated that they believe “that a requirement for access operators to comply with MICOP would be expensive, particularly because of the current reporting requirements”.
14. Royal Mail supports this assessment and believes the current reporting requirements would not be able to be applied to all regulated operators consistently as operators differ in size considerably. It would be unlikely that some smaller operators would be able to measure and report on loss with sufficient rigour as required under the current Code. Royal Mail has put considerable cost and effort into achieving and continuously improving levels of compliance with the Code, and produces a loss estimates report each year. We believe that if Ofcom impose reporting requirements, the requirements for reporting should be applied consistently across the industry sector. Consequently, if a reporting requirement is retained, the formula for calculating loss estimates should be significantly simplified so all operators are able to report to a consistent level. We believe an appropriate approach would be high level estimates.
15. If Ofcom do retain a reporting requirement Royal Mail believe the following areas should be removed:
  - a. There should be a specific exemption to paragraph 7.3 (see comment at para18.d)
  - b. The requirement to produce a statement of remedial measures at paragraph 7.7 should be removed (see comment at para18.e)

### ***Numeric targets are not an appropriate method of monitoring loss, damage, theft and interference***

16. One option Ofcom has asked for views on is to require reporting against targets for mail integrity, with the potential for enforcement action in the event that targets are not met.
17. It is extremely difficult to accurately measure untracked mail due to the low levels of loss experienced. Royal Mail does not consider there to be a consistent, robust, accurate and affordable measurement methodology available and consequently a

numeric target system would not be appropriate. This difficulty was recognised by the previous regulator and statutory consumer body – Postcomm and Postwatch.

18. There are very low levels of loss, therefore surveys using test items to measure loss of untracked mail require very large samples if they are to measure loss accurately. This would be expensive, impractical and still may not give an accurate result. It is difficult to distinguish a test item that has been lost from one that the panellist has received but not reported, and panellist errors are much more common than the level of lost mail (see Annex 1). Technology is available which can reduce (but not remove) some of these problems but this would also be a very expensive solution, not least because such technology would be required at every test delivery point.
19. The loss estimate report submitted to Ofcom is an attempt to overcome these problems. It provides useful information about the causes of loss and allows monitoring of trends. Although these reports are a very useful diagnostic for Royal Mail, they are estimates and are not suitable for hard targetry as they are not independently produced, are only intended to detect very large changes and the results cannot be audited. Therefore, loss estimate reports are unsuitable to set and measure performance targets for mail integrity.
20. Ofcom also asked for views on the use of complaints data for a reporting target, with the potential for enforcement action should targets not be met. Royal Mail believes that complaint numbers for loss are not reliable as an indicator of performance. A complaint regarding loss may not represent an actual loss, and conversely an item may be lost but no complaint made. There is therefore no direct correlation between complaints and actual losses.

***There is no like-for-like comparison for loss; so the publication of information on mails integrity would not be useful to consumers***

21. Royal Mail oppose the release of any data regarding loss, damage, theft or interference as we believe there to be no like for like comparison between operators. Therefore such information is likely to confuse rather than assist consumers.
22. Royal Mail believes that if Ofcom's objective in releasing information is to assist customers in making a choice between operators, then information must be accurate and comparable between different operators. We believe no such comparators exist.
23. Current measurements of loss, damage, theft and interference are estimates and not actual figures. Additionally there is no industry standard for estimating loss and so it would be difficult to distinguish whether operators' results are due to performance or the methodology used to measure that performance.
24. Similarly, while Royal Mail reports data to Ofcom on complaints and compensation we believe complaints data regarding loss, damage, theft or interference would be inappropriate for publication. Complaints data does not accurately represent loss, as customers can make incorrect complaints or may choose not to make a complaint when an item has been lost. Further, there is no uniform standard for dealing with complaints and awarding compensation and so a more efficient and generous complaints and compensation regime may give the incorrect impression of

worse performance. Information on complaints and compensation is therefore not a true reflection of an operator's performance.

25. Royal Mail would be concerned that even a very small estimated percentage of lost, damaged, stolen or interfered with mail represents a high figure in the instance of Royal Mail due to the billions of items we handle annually. This may be misinterpreted or misunderstood.
26. For the reasons outlined above Royal Mail does not think it appropriate to publish any data regarding lost, damaged, stolen or interfered with mail.

***Need for a formal consultation – requirements for Mail Integrity must be consistently applied***

27. Royal Mail supports Ofcom's proposal to formally consult on the Mail's Integrity Code of Practice in the summer. If Ofcom does retain regulation in this area it must be applied consistently to all regulated postal operators carrying Code Postal Packets at any point in the pipeline.
28. The integrity of the mail is at the forefront of how Royal Mail operates its processes and procedures and would remain so irrespective of regulation. In an increasingly competitive market Mail Integrity is a key driver in our ability to compete for and retain business. We would therefore continue to operate to extremely high standards even if regulation were to be removed.
29. As operators differ considerably in size and traffic mixes one option would be for individual operators to own and manage mail integrity under a high level regulatory requirement. This would require operators to put their own processes in place for the training, recruitment and disciplining of staff, along with systems for the security of mail, based on their respective size and traffic mix.
30. The remainder of this document answers each of Ofcom's specific questions in turn.



## **Answers to Ofcom Questions**

*Q2.1 Should MICOP remain part of Essential Condition 1 as set by Ofcom, or should it be owned and managed by the industry subject to Ofcom supervision?*

*(Para.10)* The existing code is prescriptive and should be simplified. One option Ofcom may wish to consider is to maintain a general regulatory requirement that regulated operators have appropriate arrangements in place, but that the Mail Integrity framework is determined by individual operators themselves.

Operators differ significantly in size and the type of mail they handle. A general requirement could allow operators to put processes in place for the training, recruitment and disciplining of staff, along with systems for the security of mail that accurately reflect their size and traffic mix.

*Q2.2 Should MICOP be extended to cover all postal operators or specific types of postal operator, in addition to access operators and regulated postal operators? If so, please set out your reasons for this proposed extension.*

*(Para.6)* If regulatory requirements are imposed, they must be applied consistently to all regulated postal operators including access operators and operators conveying mail between direct access customers and Royal Mail.

Access operators now handle c50% of all UK addressed mail. Access operators collect process and transport Code Postal Packets and the risk of loss, theft, damage or interference is no less for those operators than that faced by Royal Mail.

If a Code is retained it must apply equally for regulation to be effective. Additionally Royal Mail firmly believes that there should be a level playing field for operators carrying the same types of mail. If Ofcom retain regulatory requirements on the universal service provider, access operators and those operators conveying mail between direct access customers must be required to comply fully with those regulations.

*Q2.3 Do you think that the current reporting requirements are appropriate? If not, what do you suggest should be included and/or deleted? Please set out your reasons.*

*(Para.13)* Royal Mail believes the current reporting requirements place a disproportionate regulatory burden given the very small number of items that are lost, stolen, damaged or interfered with in the mail network.

Should Ofcom choose to retain reporting requirements they should be applied consistently to all regulated postal operators, with a methodology that all operators have the ability and means to comply with.

*Q2.4 Do you think that the publication of certain reported information would provide a benefit to postal users? If so, what data would you consider it appropriate to make public? Please set out your reasons.*

**(Para.21)** We do not believe the release of information would be of benefit to postal users. Such data is likely to confuse rather than inform consumers as,

- a. It is not possible to do a like for like comparison between operators
- b. There are no standardised measurements used throughout the industry
- c. It is not possible to do a like for like comparison between different mail mixes.

We believe complaints or compensation data would not be appropriate for publication as a measure of mail integrity either due to the lack of uniform standards for dealing with complaints and awarding compensation throughout the industry. The lost and damaged reports prepared by Royal Mail are not suitable for public release. Although these reports are a very useful diagnostic for Royal Mail they are estimates and are not suitable for hard targetry as they are not independently produced, are only intended to detect very large changes and the results cannot be audited. Finally, Royal Mail would be very concerned that the release of lost and damaged figures could have a disproportionately negative effect on Royal Mail due to the traffic volume handled by Royal Mail.

For these reasons we do not believe such data should be made public.

***Q 2.5 Should Ofcom impose obligations on regulated postal operators to meet certain identified standards in relation to mail integrity rather than imposing operational requirements in MICOP? Please set out your reasons.***

**(Para.16)** - Royal Mail believes that a consistent, robust, accurate and affordable measurement methodology would be very difficult and prohibitively expensive to implement and therefore a numeric target system would not be appropriate. Numeric targets would require large sample sizes given the low levels of loss. This would be very expensive and not necessarily accurate as panellist make errors and technology is inaccurate. Methodologies to correct errors would rely on assumptions and would therefore lack complete accuracy.

Complaints related to loss are also not reliable as an indicator of performance as the relationship between the numbers of complaints and numbers of items lost is tenuous at best as:

- a. Items complained about may not be lost.
- b. Items complained about may not have reached the intended recipient because of errors made by others, for example misaddressed items.
- c. Lost items may not generate a complaint.
- d. Increasingly, items complained about may not have been handled by Royal Mail, or may have been lost upstream by another operator. It is very difficult to attribute loss where an untracked item has been handled by multiple operators.

Royal Mail believes that no consistent, robust, accurate and affordable measurement methodology exists and therefore a numeric target system would not be appropriate.

***Q2.6 Do you think the current level of detail in the requirements of MICOP is appropriate? Please set out your reasons.***

***(Para.12)*** Should Ofcom decide to retain formal regulation we feel there are areas of the current code that require clarity or simplification.

- a. It should be made clear that the Code's remit ends when an item is delivered in accordance with the Postal Services Act's definition for delivery. For operators to adequately manage Mail Integrity there must be a clear understanding of the Code's remit and at what point an operator's responsibility is transferred to the recipient.
- b. Similarly, there is no clear definition of what is, and is not; a Code Postal Packet within the Code. As Royal Mail only reports on Code Postal Packets, it needs to be made clear within the Code what products are included in the definition.
- c. The requirement under paragraph 3.2(e) for all potential employees to declare cautions potentially does not comply with the Rehabilitation of Offenders Act 1974 as all cautions are spent immediately. Postal services employment does not fall under the Rehabilitation of Offenders Act (Exceptions).
- d. Within the Code there should be a specific exemption to the requirement of paragraph 7.3, to report serious incidents to Ofcom for operators such as Royal Mail who carry out their own prosecutions. The purpose of Para 7.3 was to assist the regulator in taking appropriate legal action where the postal operator did not carry out their own prosecutions. Ofcom have recognised this and have therefore provided an exemption to Royal Mail, however we believe this should be built into the Code.
- e. The requirement to produce a statement of remedial measures at paragraph 7.7 should be removed along with the reports under 7.6. The submission of regular reports and details of remedial actions are unnecessary given the small amounts of lost and damaged mail. Royal Mail would be required to record information on loss and damaged under paragraph 7.1.

***Q2.7 Do you think the costs of complying with MICOP are proportionate? Please set out your reasons.***

***(Para.13)*** Royal Mail believes the current reporting requirements impose a disproportionate regulatory burden given the very small number of items that are lost, stolen, damaged or interfered with in the mail network.

Should Ofcom retain a reporting requirement the following areas should be removed as they are unnecessary:

- a. As noted in para18.d above there should be a specific exemption to the requirement of paragraph 7.3, to report serious incidents to Ofcom for operators such as Royal Mail who carry out their own prosecutions.
- b. As noted in para18.e above the requirement to produce a statement of remedial measures at paragraph 7.7 should be removed along with the reports under 7.6 given the small amounts of lost and damaged mail.

Should Ofcom choose to retain a reporting regime the formula for calculating loss estimates must be significantly simplified so all operators are able to report to a consistent level. We believe such an approach should take the form of high level estimates.

**Annex 1** [✂]