



Ed Leighton
Ofcom
Riverside House
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21st February 2011

Dear Mr Leighton,

OFCOM FORWARD WORKPLAN

I am writing in response to the above consultation on behalf of the Mail Competition Forum (MCF). The MCF is a non-profit making forum representing nine of the leading mail operators operating in competition to Royal Mail in the UK. Our objective is to support the development of a fair, vibrant and sustainably competitive postal market in the UK.

We note from the workplan that very little mention is made of postal issues as priorities to address within the coming year. We assume that the reason for this is that Ofcom feel unable to comment in further detail given that the Postal Services Bill, which will authorise transfer of regulatory authority from Postcomm to Ofcom, has yet to receive Royal Assent. Even if this is the case, we can nevertheless assure you that there are many issues that will need to be addressed once postal legislation is ratified and Ofcom assumes regulatory control of the postal sector.

In the section on preparing for regulatory duties in relation to post (paragraph 5.58), mention is made of the need to ensure that the universal postal service is financially sustainable and efficient. Naturally we would not dispute this view. However we would also like to see Ofcom raise another of its core priorities into prominence in the postal sector – that of promoting effective and sustainable competition. It is our firm belief that competition has delivered significant benefits to the postal sector, both in offering customers real choice, and in serving to encourage Royal Mail to become more efficient.

We are currently involved in monitoring the progress of the Bill through Parliament, and are actively lobbying to ensure that final legislation does not hamper the continued development of competitive mail services in the UK. We have noted our key concerns below:-

- There remains a need for regulated access to Royal Mail's delivery network for competitors. Downstream access has been the prime form of competitive development since market liberalisation, and many thousands of customers have benefitted through increased choice and reduced postal prices. With Royal Mail retaining a 99% share in delivery, the continued availability of access remains essential in ensuring a competitive marketplace.



MAIL COMPETITION FORUM

- Assuming that it is authorized, we believe that the compensation fund to support the Universal Service should only be deployed as a very last resort. We firmly believe that putting loss-making components of the universal service out to tender to ensure they are provided in the most cost-effective way possible should be considered as a preferential course of action. A compensation fund would not provide Royal Mail with an incentive to maximise efficiency, and its implementation would probably drive most competitors out of the market.
- Regulation should not be extended to services which are currently de-regulated. We believe that Section 7 of the existing Postal Services Act got it broadly correct in exempting services such as document exchange, courier and express services and outbound cross-border business mail. These markets have managed perfectly well without direct regulatory control, and should be permitted to continue in this manner.
- Removal of the VAT distortion between Royal Mail and its competitors. Royal Mail is excluded from charging VAT on most services, whereas competitors are obliged to charge an additional 20%. In sectors where customers are unable to claim VAT back (e.g. finance, charities), this offers Royal Mail a distinct competitive advantage. As these sectors account for around half of all mail posted, the impact of this distortion is significant.

On the assumption that the Bill progresses through Parliament and Ofcom take on responsibility for mail market regulation, then all the above will come to prominence at some point in the future (although we recognise that the VAT issue is primarily the concern of the Treasury). Other issues will no doubt arise as matters such as the 2012 price control, and Postcomm's planned Access review are progressed. We therefore think it appropriate to make Ofcom aware of these concerns at an early stage, even if you do consider it premature to feature them in your forward plans.

We do have one question to which an early answer would be helpful. Once Ofcom take over regulation of the postal market, what will the source of funding be to cover the costs of this additional responsibility? We have assumed that the arrangements would be broadly similar to the current funding of Postcomm, but would appreciate an early steer if this is not the case.

Yours sincerely

Mail Competition Forum