

# Statutory Notification: proposed revocation and amendment of regulatory conditions imposed from 1 October 2011

## NOTIFICATION OF PROPOSALS TO REVOKE AND AMEND REGULATORY CONDITIONS IN ACCORDANCE WITH PARAGRAPH 3 OF SCHEDULE 6 TO THE POSTAL SERVICES ACT 2011

### BACKGROUND

**A.** Prior to 1 October 2011, certain activities of postal operators required a licence to be granted by the Postal Services Commission (“**Postcomm**”) under section 11 of the Postal Services Act 2000.

**B.** On 13 June 2011, the Postal Services Act 2011 (the “**Act**”) received Royal Assent, which Act makes provision (among other things) about the new regulation of postal services. The new regulatory regime is set out in Part 3 of the Act, which Part came into force on 1 October 2011 and on which day the regulatory responsibility was also transferred from Postcomm to Ofcom. The provisions of the Act also give effect to Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, which amends Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services.

**C.** On 29 September 2011, following a consultation, Ofcom published a statement entitled ‘*Postal regulation: Transition to the new regulatory framework*’<sup>1</sup> (the “**September Statement**”) setting out various decisions, including the provisional designation of Royal Mail as universal service provider with effect from 1 October 2011 under paragraph 3(1) of Schedule 9 to the Postal Services Act 2011 (see Annex 1 to that Statement). Ofcom also imposed various regulatory conditions and directions in accordance with the transitional provisions under section 66 of, and paragraphs 4 to 6 of Schedule 9 to, the Act, including conditions relating to access to Royal Mail’s postal network to carry forward corresponding conditions in the Licence (see Annex 2 to the September Statement).

**D.** Ofcom is proposing changes to those regulatory conditions, which it proposes to implement by revoking the regulatory conditions in their entirety and replacing them as proposed in this consultation, save in respect of a time-limited requirement under Condition Acc 1, from 1 April 2012.

### PROPOSAL

**1.** Ofcom hereby proposes, in accordance with paragraph 3 of Schedule 6 to the Act and with effect from 1 April 2012, to revoke all the regulatory conditions which applied from 1 October 2011 pursuant to section 66 of, and paragraphs 4 to 6 of

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/postal-regulation/statement/statement.pdf>

Schedule 9 to, the Act, as set out in Annex 2 to the September Statement, with the exception of Acc 1.1 to Acc 1.28.

2. Ofcom proposes to amend Condition Acc 1.24 as follows: the reference to “Acc 1.24” shall be replaced with “Acc 1.1”.
3. For the avoidance of doubt, this revocation proposal does not affect the following instruments and decisions discussed in the September Statement:
  - Provisional designation of Royal Mail as universal service provider;
  - Information gathering guidelines;
  - Approval of IDRS Ltd to administer the Postal Redress Service under section 52 and Schedule 5 of the Postal Services Act 2011;
  - Specification of the manner under which disputes may be brought to Ofcom
  - Direction under section 116(5)-(6) of the Postal Services Act 2000;
  - Direction under section 116(2A) of the Postal Services Act 2000.
4. Ofcom is consulting separately on the Statement of Charging Principles, which is therefore also unaffected by this revocation proposal.
5. The effect of, and Ofcom’s reasons for making, this proposal are set out in the accompanying consultation document.

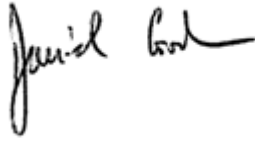
#### **OFCOM’S DUTIES AND LEGAL TESTS**

4. Ofcom is satisfied that this proposal satisfies the general test in paragraph 1 of Schedule 6 to the Act.
5. In making this proposal, 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 proposal set out in this Notification by no later than **31 January 2012**.
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 and to the European Commission in accordance with paragraph 5(2) 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 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.
9. The Schedule to this Notification shall form part of this Notification.

Signed by **Daniel Gordon**

A handwritten signature in black ink that reads "Daniel Gordon". The signature is written in a cursive style with a long, sweeping underline.

**Competition Policy Director**

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

**13 December 2011**