

**Ofcom Review of the Regulation of Royal Mail
Consultation 2016**

BBC Licence Fee Unit Submission

1.1 Executive Summary

- The existing regulatory structure was based on the assumption that alternative e2e competition would bring downward pressure on Royal Mail's operational costs, so driving operational efficiencies and downward pressure on prices.
- The demise of Whistl in the e2e market and the lack of any credible alternative e2e operators in the medium to long term removes this competitive pressure. Therefore the regulatory structure needs to ensure there is a competitive constraint or proxy constraint on Royal Mail through price control or efficiency targets.
- The privatisation and new ownership of Royal Mail will bring pressure on Royal Mail to deliver profitable performance. If the efficiency programme is curtailed or restricted then it appears likely that profits will need to be delivered through increased prices.
- Royal Mail could face significant increases in labour costs. CWU have already negotiated a one year pay award of 1.6%.
- With Royal Mail: having less constraint in the letters market; no significant competitive constraint in the bulk letters market; likely to face significant increased labour costs and a lack of flexibility; facing shareholder pressure to deliver profits. Leaving the regulatory structure in place until 2022 would expose mail users to the strong possibility that Royal Mail would not be able to deliver efficiencies and would look to deliver profit through price increases.
- For these reasons we believe the existing framework needs to be replaced with an alternative framework. The changes in the market indicate the current framework does not afford sufficient protection from price inflation for mail users.
- The behavioural economics study by London Economics¹ found that people are more likely to understand information and make better financial decisions when they receive information by post rather than electronically. This underpins the value of transactional mail. However, there has been a more rapid transition away from physical mail in household bill payments, with the majority of consumers preferring to pay bills online. In essence we have consumers receiving information by post but paying bills online.
- Evidence from the US, point to the changing UK demographic profile, with the population getting bigger and older, may bode well for transactional mail since it is evident that age continues to have a positive effect on letters, particularly on business to consumer transactional mail.
- Over a period of years Royal Mail has effectively circumnavigated USPA 7 by the introduction of schedules within new products. These schedules enable Royal Mail to make material changes to these new products more quickly than the minimum notification requirements provided for by the access contract and as required by

¹ A behavioural economics study for the

Keep Me Posted campaign 2015

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USPA 7. Effectively customers have no other option than to accept these new schedules in order to benefit from and use the new product.

- The Mail Integrity Code of Practice was introduced when the UK postal market was first liberalised in the late nineties. It was right and fit for purpose at that time. The postal industry has evolved and postal operators through their own developments, contractual arrangement and standards, more than meet the requirements of the original code. As postal operators now exceed the code requirements its removal is appropriate.
- Given the nature of the postal market and the dynamics of e2e delivery the only operator who should be tasked with mail repatriation is Royal Mail.
- As the delivery of almost all bulk mail letters is carried out by Royal Mail, and that other regulated postal operators are of a very small scale, it appears disproportionate to apply additional redress and reporting requirements to other regulated postal operators.
- Consumer Protection Condition 5 is unnecessary on the basis that postal operators have sufficient incentives to deliver mail on behalf of their customers, – either as a result of requirements set out in other regulatory conditions or through contractual arrangements. Therefore a specific regulatory obligation requiring them to do so would be unnecessary regulatory burden.
- All reductions in notification periods give Royal Mail greater flexibility and greater operational efficiency. It is therefore vital that Royal Mail utilise this operational efficiency and reduce their overall operational cost base, OFCOM must be in a position to encourage such efficiencies.

2.1 Introduction

2.1.1 The BBC Licence Fee Unit welcomes the opportunity to submit evidence to the Ofcom Review of the Regulation of Royal Mail 2016.

2.1.2 The BBC contracts with a number of companies to administer the television licensing system (together with the BBC Licence Fee Unit Management Team these companies are known publicly as TV Licensing). The BBC Licence Fee Unit sits within the BBC Finance and Business Division, and ultimately reports to the BBC Executive Board. The BBC is currently governed by the BBC Trust which represents the interests of licence fee payers and approves the overall strategy.

2.1.3 TV Licensing inform people of the need to buy a TV licence. TV Licensing send licence renewal letters and process queries, applications and payments. TV Licensing also maintain a database of licensed and unlicensed addresses in the UK and use this data to identify and visit people who are believed to be using a TV receiver without a valid licence.

2.1.4 The BBC Licence Fee Unit uses the UK postal system: Access and Royal Mail Retail, to communicate with consumers. The BBC Licence Fee Unit mails approximately 55m communications each year. This mail is classified as transactional mail.

2.1.5 The BBC Licence Fee Unit is obligated to drive efficiencies regarding postal costs to the business on behalf of all licence fee payers. The BBC Licence Fee Unit constantly seek to evidence commitment to reducing costs and to continuously evaluate and deliver value to the British public.

3.1 Ofcom's specific questions – BBC Licence Fee Unit response

Question 1: Do you agree that the evidence summarised in Section 4 and set out in more detail in the annexes to this consultation does not support the imposition of (i) further price controls on parts of Royal Mail's business or (ii) efficiency targets? Please state your reasons and provide evidence to support your view.

We do not agree with Ofcom that this consultation does not support the imposition of (i) further price controls on parts of Royal Mail's business or (ii) efficiency targets?, for the following reasons:

- The development of competition within the UK postal market has been driven by downstream access. It has allowed mailers to access lower wholesale prices in comparison with Royal Mail retail prices but the underlying problem remains that true and effective competition to Royal Mail will only come from alternative e2e network development.
- Ofcom have concluded that the likelihood of the emergence of a rival e2e operator has diminished and as such the constraints on Royal Mail in letters are weaker than they were in 2012, see 4.84 in the report.
- Ofcom's own analysis has shown that there is no significant competitive constraints on Royal Mail's pricing of bulk letter mail see 4.90 in the report.

Royal Mail could face significant increases in labour costs from their new pay deal with employees. The CWU have already negotiated a one year pay award of 1.6%.

- The privatisation and new ownership of Royal Mail will bring pressure on Royal Mail to deliver profitable performance. If the efficiency programme is curtailed or restricted then it appears likely that profits will need to be delivered through increased prices.
- The existing regulatory structure was based on the assumption that alternative e2e competition would bring downward pressure on Royal Mail's operational costs, so driving operational efficiencies and downward pressure on prices.
- The demise of Whistl in the e2e market and the lack of any credible alternative e2e operators in the medium term removes this competitive pressure. Therefore the regulatory structure needs to ensure there is a competitive or proxy pressure on Royal Mail through price control or efficiency targets.

Question 2: Do you agree that the regulatory framework should remain in place until March 2022 following the anticipated completion of Ofcom's review by the end of 2016-17? Please state your reasons and provide evidence to support your view.

We do not agree that the regulatory framework should remain in place until March 2022 following the anticipated completion of Ofcom's review by the end of 2016-17, for the following reasons:

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- Ofcom have concluded that the likelihood of the emergence of a rival e2e operator has diminished and as such the constraints on Royal Mail in letters are weaker than they were in 2012, see 4.84 in the report.
- Ofcom's own analysis has shown that there is no significant competitive constraints on Royal Mail's pricing of bulk letter mail see 4.90 in the report.
- Royal Mail could face significant increases in labour costs from their new pay deal with employees. CWU have already negotiated a one pay award of 1.6%.
- The existing regulatory structure was based on the assumption that alternative e2e competition would bring downward pressure on Royal Mail's operational costs, so driving operational efficiencies and downward pressure on prices.
- The privatisation and new ownership of Royal Mail will bring pressure on Royal Mail to deliver profitable performance. If the efficiency programme is curtailed or restricted then it appears likely that profits will need to be delivered through increased prices.
- With Royal Mail: having less constraint in the letters market; no significant competitive constraint in the bulk letters market; likely to face significant increased labour costs and a lack of flexibility; facing shareholder pressure to deliver profits. Leaving the regulatory structure in place until 2022 would expose mail users to the strong possibility that Royal Mail would not be able to deliver efficiencies and would look to deliver profit through price increases.
- For these reasons we believe the existing framework needs to be replaced with an alternative framework. Changes in the market indicate that the current framework does not afford sufficient protection from price inflation for mail users.

Question 3: Do you agree that the analysis summarised in Section 4 and set out in more detail in the annexes to this consultation accurately reflects the UK postal market? Please state your reasons and provide evidence to support your view.

We do agree that the analysis summarised in Section 4 and set out in more detail in the annexes to this consultation accurately reflects the UK postal market. The following reasons and evidence is focused on the transactional market within the UK postal market:

- Transactional mail has continued to decline over the last 10 years, the prime drivers for the decline are:
 - E-substitution – electronic forms of communication, such as e-mail.
 - Low GDP growth, it is likely that the recession experienced in the UK, increased the rate of decline of some mail volumes, more than would otherwise have been the case.
 - Price rises, particularly those that were above inflation, were also likely to have impacted the consumption of mail products.
- The latest annual report from Ofcom² shows the total letter market volume has declined 1.1% versus last year. This is the lowest rate of decline over the last ten years. This may be a function of the GDP growth experienced by UK, as it recovered from the global recession.

² Ofcom Annual Monitoring Update 2015

- PWC in their report ³ predicted the rate of e-substitution in letters to slow gradually to 2023. The early adopters of e-substitution were very much users of transactional mail. Therefore there is a very strong likelihood that this sector of mail may be close to e-substitution saturation and the remaining mail users are the part of the “paper loyal” consumer group. 80% of UK households now have broadband, according to Ofcom, up on the 75% in 2014. The behavioural economics study by London Economics⁴ found that people are more likely to understand information and make better financial decisions when they receive information by post rather than electronically. This underpins the value of transactional mail. However, there has been a more rapid transition away from physical mail in household bill payments, with the majority of consumers preferring to pay bills online. In essence we have consumers receiving information by post but paying bills online.
- Evidence from the US, point to the changing UK demographic profile, with the population getting bigger and older, may bode well for transactional mail since it is evident that age continues to have a positive effect on letters, particularly on business to consumer transactional mail.

Question 4: Do you agree with our proposal not to amend the Universal Service Order or the DUSP conditions to include tracking as standard on First and Second Class single piece parcels? Please state your reasons and provide evidence to support your view.

BBC Licence Fee Unit focus, in the context of the UK Postal market, is on letters as a major user of letter postal services. As such we restrict our response to this consultation to those areas associated with or having an impact on letter mail.

Question 5: Do you agree with our proposal to retain the safeguard cap in its current form? Please state your reasons and provide evidence to support your view.

BBC Licence Fee Unit focus, in the context of the UK Postal market, is on letters as a major user of letter postal services. As such we restrict our response to this consultation to those areas associated with or having an impact on letter mail.

Question 6: Do you agree that we should amend the USPA Condition so that it is clear that access operators cannot be required to accept general terms and conditions that include shorter notification periods than those provided for under USPA 7?

We do agree that Ofcom should amend the USPA Condition so that it is clear that access operators cannot be required to accept general terms and conditions that include shorter notification periods than those provided for under USPA 7, for the following reasons:

- Over a period of years Royal Mail has effectively circumnavigated USPA 7 by the introduction of schedules within new products. These schedules enable Royal Mail to make material changes to these new products more quickly than the minimum

³ PWC The outlook for UK mail volumes to 2023

⁴ A behavioural economics study for the

notification requirements provided for by the access contract and as required by USPA 7. Effectively customers have no other option than to accept these new schedules in order to benefit from and use the new product.

- There is an overriding assumption made by Royal Mail that customers can just change their mailing plans to accommodate changes to terms and conditions. A reduced notification period exacerbates this. This assumption is not correct. Plans are set and budgeted for in advance of the start of each year. In addition, transactional mailers, particularly those like BBC's Licence Fee Unit with a legal obligation to communicate with customers, cannot simply change their plans.
- The unfettered freedom to notify of changes in a reduced time period brings a degree of uncertainty into the marketplace and a reduced level of transparency. This measure ensures transparency and a level of consistency and trust in the market and in the process and notification of change

Question 7: Do you agree with our proposal to amend the scope of Essential Condition 1 to cover untracked letter and large letter mail, and single piece universal service parcels, and to remove the remaining universal service products from the scope of the Essential Condition 1?

We do agree with Ofcom proposal to amend the scope of Essential Condition 1 to cover untracked letter and large letter mail, and single piece universal service parcels, and to remove the remaining universal service products from the scope of the Essential Condition 1, for the following reasons:

- The proposal will give consumer's trust and confidence in letter mail and the UK postal system. Enhanced consumer trust and confidence has a knock on effect on mailers and will be beneficial to large client mailers.

Question 8: Do you agree with the proposed streamlining revisions to Essential Condition 1, including the removal of the Mail Integrity Code of Practice, as drafted in Annex 12?

We do agree with the proposed streamlining revisions to Essential Condition 1, including the removal of the Mail Integrity Code of Practice, as drafted in Annex 12, for the following reasons:

- The streamlining revisions to the condition bring it up to date with the postal industry. This reflects the current industry position and the processes and procedures that postal operators have in place.
- The streamlining ensures postal users (business and consumers) will still have trust and confidence in the postal system.
- The Mail Integrity Code of Practice was introduced when the UK postal market was first liberalised in the late nineties. It was right and fit for purpose at that time. The postal industry has evolved and postal operators through their own developments, contractual arrangement and standards, more than meet the requirements of the original code. As postal operators now exceed the code requirements its removal is appropriate.

Question 9: Do you agree that the proposed drafting of Essential Condition 1 including relevant definitions accurately capture our intended objectives and the intended operators and mail types?

We do agree that the proposed drafting of Essential Condition 1 including relevant definitions accurately capture Ofcom's intended objectives and the intended operators and mail types, for the following reasons:

- The drafting reflects the nature of the postal industry now and in the foreseeable future.
- The mail integrity requirements work on the premise of stating objectives and then allowing postal operators to meet or exceed the stated objectives using their own bespoke processes, procedures and systems.
- The definitions and objectives ensure postal users (business and consumers) will still have trust and confidence in the postal system.

Question 10: Do you agree with the proposed revisions to Consumer Protection 2, including the removal of the PCOP code and agreement, as drafted in Annex 13?

We do agree with the proposed revisions to Consumer Protection 2, including the removal of the PCOP code and agreement, as drafted in Annex 13, for the following reasons:

- The current consumer protection 2 and the PCOP code and agreement are no longer relevant.
- Mis-directed and mis-collected mail comes from letters and large letters and with the demise of Whistl e2e service that mail would be within the Royal Mail network and delivered by Royal Mail.
- Royal Mail and DSA operators have contractual arrangements in place for the repatriation of mail as do Royal Mail and document exchange businesses such as DX.
- Given the nature of the postal market and the dynamics of e2e delivery the only operator who should be tasked with mail repatriation is Royal Mail.

Question 11: Do you agree that the proposed drafting of CP 2 including relevant definitions accurately capture our intended objectives and the intended operators and mail types?

We do agree that the proposed drafting of CP 2 including relevant definitions accurately capture Ofcom's intended objectives and the intended operators and mail types, for the following reasons:

- The drafting reflects the nature of the postal industry now and in the foreseeable future.
- The consumer protection mail repatriation requirements work on the premise of stating objectives and then allowing Royal Mail to meet or exceed the stated objectives using their own bespoke processes, procedures and systems.

- The definitions and objectives ensure postal users (business and consumers) will still have trust and confidence in the postal system.

Question 12: Do you agree with our proposal to amend the scope of Consumer Protection Condition 3 so that it retains a minimum requirement for all postal operators, and that additional requirements in relation to redress and reporting would apply to Royal Mail as the universal service provider only?

We do agree with Ofcom's proposal to amend the scope of Consumer Protection Condition 3 so that it retains a minimum requirement for all postal operators, and that additional requirements in relation to redress and reporting would apply to Royal Mail as the universal service provider only, for the following reasons:

- An effective complaints system which meets consumer needs is important to promote consumer trust and confidence in the UK postal market. Therefore it is fundamental that complaint handling regulations meet consumer needs. The existing complaint handling regulations do structurally (in terms of the regulation) allow consumers to have access to information that enables them to complain effectively to their postal operator and where dissatisfied with the outcome take their complaint to ADR.
- It ensures a minimum level of protection to consumers of all types of mail, in accordance with the requirements of the Postal Services Directive, so ensuring consumer trust and confidence is not diminished.
- As the delivery of almost all bulk mail letters is carried out by Royal Mail, and that other regulated postal operators are of a very small scale, it appears disproportionate to apply additional redress and reporting requirements to other regulated postal operators.

Question 13: Do you agree with our proposed drafting of Consumer Protection Condition 3 given our proposal to only apply the additional requirements set out in CP 3.3 in relation to redress and reporting to Royal Mail as the universal service provider?

We do agree with Ofcom's proposed drafting of Consumer Protection Condition 3 given Ofcom's proposal to only apply the additional requirements set out in CP 3.3 in relation to redress and reporting to Royal Mail as the universal service provider, for the following reasons:

- The drafting reflects the nature of the postal industry now and in the foreseeable future.
- A minimum requirement across postal operators ensures a minimum level of protection to consumers of all types of mail, in accordance with the requirements of the Postal Services Directive, so ensuring consumer trust and confidence is not diminished.
- The consumer protection complaint handling requirements work on the premise of stating objectives and then allowing Royal Mail to meet or exceed the stated objectives using their own bespoke processes, procedures and systems.
- The definitions and objectives ensure postal users (business and consumers) will still have trust and confidence in the postal system.

Question 14: Do you agree with our proposal to revoke Consumer Protection Condition 5?

We do agree with Ofcom's proposal to revoke Consumer Protection Condition 5, for the following reasons:

- Consumer Protection Condition 5 is unnecessary on the basis that postal operators have sufficient incentives to deliver mail on behalf of their customers, – either as a result of requirements set out in other regulatory conditions or through contractual arrangements. Therefore a specific regulatory obligation requiring them to do so would be unnecessary regulatory burden.

Question 15: Do you agree with our proposal to remove the one-month notification period for price decreases to Royal Mail's universal service products and services?

We do agree with Ofcom's proposal to remove the one-month notification period for price decreases to Royal Mail's universal service products and services, for the following reasons:

- It will give consumers and SMEs the immediate benefit of the price decrease and does not impact Royal Mail's operational flexibility.

Question 16: Do you agree with our proposal to reduce the advance notice period for specified collection times to one month (reduced from three months)?

We do agree with Ofcom's proposal to reduce the advance notice period for specified collection times to one month (reduced from three months), for the following reasons:

- This has no material impact on consumers.
- It could have an impact on businesses, though. There may be an initial cost impact as suppliers adjust operational processes due to the initial reduction in the notice period. Ofcom will need to ensure the move to one month does not operationally and commercially impact businesses.
- This reduction in notification period gives Royal Mail greater flexibility and greater operational efficiency. Ofcom will need to ensure Royal Mail utilise this operational efficiency and reduce their overall operational cost base.

Question 17: Do you agree with our proposal to remove the advance notice period for latest delivery times (currently at three months)?

We do agree with Ofcom's proposal to remove the advance notice period for latest delivery times (currently at three months), for the following reasons:

- This has no material impact on consumers.
- It could have an impact on businesses, though. The move from three months to no notification period could have an adverse effect on businesses. There may be

an initial cost impact as suppliers adjust operational processes due to the initial removal of the notice period. Ofcom needs to ensure it monitors the impact on businesses.

- This reduction to no notification period gives Royal Mail greater flexibility and greater operational efficiency. Ofcom needs to ensure Royal Mail utilise this operational efficiency and reduce their overall operational cost base.

Question 18: Do you agree with our proposed restructuring and drafting of Designated Universal Service Provider Conditions 1.10.1 and 1.10.2, and the removal of Designated Universal Service Provider Conditions 1.10.3?

We do agree with Ofcom's proposed restructuring and drafting of Designated Universal Service Provider Conditions 1.10.1 and 1.10.2, and the removal of Designated Universal Service Provider Conditions 1.10.3, for the following reasons:

- From the consumers' perspective the removal of price reduction notification, the change in delivery and collection notifications does not have a negative material impact on consumers.
- It could have an impact on businesses, though. The proposed move from three months to no notification period on latest delivery times could have an adverse effect on businesses. There may be an initial cost impact as suppliers adjust operational processes due to the initial reduction and removal in the notice periods. Ofcom needs to ensure the move to one month on collection times does not operationally and commercially impact businesses. Ofcom needs to ensure it monitors the impact on businesses.
- All reductions in notification periods give Royal Mail greater flexibility and greater operational efficiency. Ofcom needs to ensure Royal Mail utilise this operational efficiency and reduce their overall operational cost base.