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## **Recovering consumer advocacy costs**

Supplementary consultation on minor amendments to  
Consumer Protection Condition 1

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### **CONSULTATION**

Publication Date: 7 July 2021

Closing Date for Responses: 18 August 2021

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# 1. Overview

This short consultation follows on from our 2019 statements on the cost recovery mechanism for the work of the consumer advocacy bodies (“CABs”) on post.

Our January 2019 statement modified our regulatory rules imposed under Consumer Protection Condition 1 (“CPC1”), which sets out the cost recovery mechanism for CABs’ work. Our modification resulted in a wider range of postal operators becoming liable to contribute towards costs of the CABs. This was followed by a decision in July 2019 making some minor modifications to exclude revenues associated with international mail from that mechanism.

We have since been made aware of a divergence from our intended interpretation of CPC1 among some postal operators. That divergence concerns the way in which revenues associated with intermediary postal operators are treated under CPC1. We are now proposing to make minor amendments to CPC1 to bring about greater consistency in its interpretation, thereby resulting in improved certainty and transparency.

## What we are proposing – in brief

We are proposing to modify CPC1 in three respects:

- to change the definition of an “intermediary postal operator” in order to clarify the scope of ‘relevant parcels postal services’ for which revenue must be reported for the purpose of the cost recovery mechanism; revenues from postal services provided by postal operators acting as true intermediaries would remain excluded from that mechanism, but our proposals seek to ensure that this exclusion does not apply where postal operators retain responsibility for delivery of a parcel to the recipient when using other operators, such as contractors, sub-contractors or self-employed workers;
- to insert an ancillary provision making it clear that, when postal services (and postal turnover) are bundled with non-postal services, the postal operator must allocate a reasonable proportion of such turnover to the relevant turnover for the purpose of CPC1; and
- to correct a discrepancy in our definition of ‘relevant parcel’.

## Next steps

This consultation is open until 18 August 2021.

Subject to consultation and stakeholder responses, we plan to publish our statement on our proposals by autumn 2021, in time to allow us to recover the CABs fees due from relevant stakeholders, on behalf of BEIS.

## 2. Background

### How our cost recovery mechanism has evolved in recent years

- 2.1 In July 2017, we published a consultation proposing changes to how the costs of the CABs were recovered (“**July 2017 consultation**”).<sup>1</sup> We proposed, in essence, that end to end (“E2E”) letter services, bulk letter services and access mail services should be the postal services liable to contribute (with parcel operators excluded from that proposal), and proposed a threshold of £5 million relevant turnover for letters services. Having considered stakeholders responses received to that consultation, we decided to amend some of our proposals and re-consulted accordingly.
- 2.2 In March 2018, we published our amended proposals (“**March 2018 consultation**”)<sup>2</sup>, which proposed that E2E letter services, bulk letter services and parcels services should be the postal services liable to contribute (with access mail services excluded from that proposal), and proposing thresholds of £10 million relevant turnover for letters services and £350 million relevant turnover for parcels services.
- 2.3 In January 2019, after careful consideration of the consultation responses, we published our statement (“**January 2019 statement**”)<sup>3</sup> adopting our proposals from our March 2018 consultation.
- 2.4 In June 2019, we published a further supplementary consultation (“**June 2019 consultation**”)<sup>4</sup>, which corrected a drafting error in our legal instrument to ensure that international mail (both in respect of ‘relevant letters postal services’ and ‘relevant parcels postal services’) is excluded from the scope of the funding mechanism. These modifications were confirmed and took effect in our subsequent statement (“**July 2019 statement**”).<sup>5</sup>

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<sup>1</sup> Ofcom, [Recovering postal regulation and consumer advocacy costs](#), Consultation, 27 July 2017.

<sup>2</sup> Ofcom, [Recovering postal regulation and consumer advocacy costs](#), Consultation and Statement, 29 March 2018,

<sup>3</sup> Ofcom, [Recovering consumer advocacy costs](#), Statement, 16 January 2019,

<sup>4</sup> Ofcom, [Recovering consumer advocacy costs](#), Further Consultation on excluding international letters and parcels from Consumer Protection Condition 1, 5 June 2019,

<sup>5</sup> Ofcom, [Recovering consumer advocacy costs](#), Supplementary Statement on excluding international letters and parcels from Consumer Protection Condition 1, 26 July 2019,

## 3. Our proposals

- 3.1 This consultation aims to make minor amendments to CPC1, the condition which sets out the cost recovery mechanism for the CABs' work on post. Our aim is to clarify three specific aspects of the cost recovery mechanism. In summary, we are proposing to change the meaning of what is an intermediary postal operator, specify that when postal services are bundled with other services, there should be a reasonable allocation of revenue of postal services to the relevant revenues for the purpose of the CPC1 mechanism, and tighten the definition of 'relevant parcel' for the purpose of the cost recovery mechanism.
- 3.2 Our overall policy objective of ensuring that the cost recovery mechanism is aligned with the guiding criteria in our statement of charging principles as set out in our January 2019 statement<sup>6</sup> continues to apply, and in making the proposals set out in this section we again attach particular importance to our three guiding criteria of cost-reflectiveness, adaptability and fairness and equity.

### Meaning of an intermediary postal operator

#### Overview of existing intermediary exclusion

- 3.3 As stated above, postal operators who provide a relevant parcels postal service and who exceed the relevant turnover threshold of £350 million are liable to contribute towards CAB fees. To this effect, we set out in our legal instrument what we considered a relevant parcels postal service to be, including a list of services excluded from relevant parcels postal service.
- 3.4 Since publishing our 2019 statement, a couple of stakeholders have made us aware that one of those exclusions, the intermediary exclusion, can be interpreted differently depending on the operator, and in a way that does not align with our original policy intention.
- 3.5 The intermediary exclusion excludes the following services from the scope of 'relevant postal parcel services' under CP 1.1.2 (o)(3):
- a) (3) services provided while acting in the capacity of an intermediary postal operator, that is to say a postal operator that hands over relevant parcels to another postal operator (including but not limited to the universal service provider) for subsequent conveyance and delivery to the intended recipients of the relevant parcels;*
- 3.6 We adopted that exclusion based on our understanding at the time of how the parcels market operated, as well as our desire to exclude true intermediaries within the parcel market. Specifically, our policy intention was to exclude the revenue from such parcel operators who simply handed over a parcel to another parcel operator for final mile end delivery, and where such parcel operators were acting as 'true intermediaries', as they

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<sup>6</sup> Ofcom, January 2019 statement, paragraphs 2.9-2.11.

would not be expected to have any responsibility over the parcel once this was passed onto the parcel operator who is conducting final mile delivery. We remain of the view that in those instances turnover from such services should be excluded for the purposes of CPC1, because such intermediary operators are unlikely to be responsible for any issues in parcel delivery in relation to the recipient and therefore unlikely to drive the costs of the CABs' postal work.

- 3.7 In all cases, other than that of 'true intermediaries', our original policy intention of the cost recovery mechanism, was to capture all postal operators responsible in some way for the delivery of the parcel, irrespective of the form of the final mile delivery arrangements (for example, irrespective of whether postal operators used their own employees, self-employed workers, contractors or sub-contractors, etc).
- 3.8 We continue to believe that, where a parcel operator remains responsible in some way for an item to the recipient, it is ultimately their responsibility to ensure the safe transit of the parcel to the recipient, through whatever final mile delivery arrangements the parcel operators chooses (unless they are handing it over to another parcel operator as a true intermediary, as stated above). This is because, if there is a problem with the delivery of the parcel, the recipient will likely contact the main, original parcel operator – who has overall responsibility for safe delivery to the recipient. Consumers are unlikely to be contacting and complaining to sub-contractors, individual contractors, or other types of agents.
- 3.9 We referred to this briefly in the guidance in our January 2019 statement, Annex 2 ("Guidance to relevant postal operators") when we explained that postal operators deliver parcels "through own delivery network or agents".

## **Reasons for changing the meaning of an intermediary**

- 3.10 In light of stakeholder feedback, we recognise that that the meaning of an intermediary is open to different interpretations. In particular, we have become aware of some divergence among some stakeholders in their application of the intermediary exclusion. This is leading to an inconsistent approach in interpreting CPC1 and the understanding and application of the 'intermediary exclusion' within the relevant parcels postal services.
- 3.11 We also consider that improved regulatory certainty is necessary because a wide interpretation of the meaning of intermediaries would likely exclude a large part of parcel operators' delivery chain and may result in the unintended consequence of excluding large parcel operators, who, for example, rely on subcontractors rather than employees for delivery from the cost recovery mechanism. In addition, we consider that an inconsistent interpretation of the meaning of intermediaries by different operators would not adhere to our guiding principle of fairness for the cost recovery mechanism.

## Our proposed new intermediary exclusion

- 3.12 Therefore, we are proposing to amend the wording of the exclusion relating to intermediaries under CPC1.1.2(o) by replacing it with the following new exclusion (with text in bold and highlighted in yellow showing proposed new text):

[...]

services provided while acting in the capacity of an intermediary postal operator, that is to say a postal operator **(‘Operator A’) who acts as an intermediary for one or more postal operators and intended recipients** that hands over relevant parcels to another postal operator (including but not limited to the universal service provider) **(‘Operator B’) for subsequent conveyance and delivery to the intended recipients of the relevant parcels but for which conveyance and delivery Operator A is not responsible in relation to the intended recipients; for the purposes of this exclusion, Operator A shall also be deemed not to be an intermediary where:**

- a) Operator A directs, controls or otherwise seeks to influence the manner in which Operator B conveys and delivers the relevant parcels; or**
- b) Operator B is employed by Operator A either as an employee or a worker (within the meanings of those expressions under section 230 of the Employment Rights Act 1996) for that conveyance and delivery; and**

[...]

- 3.13 That proposed new exclusion seeks to capture our concern set out above that there could be an inconsistency in the interpretation of the intermediary exclusion that does not align with our original policy intention, namely that postal operators report relevant revenues for all parcels for which they are responsible. Therefore, we aim to clarify, firstly, that a parcel operator (Operator A) should not be able to rely on the intermediary exclusion to exclude revenue when they remain responsible for the parcel to the recipient, even if they hand the parcel over to another operator for delivery (Operator B). Secondly, we propose to supplement that main change by ensuring that Operator A would also be unable to rely on the intermediary exclusion in two specific circumstances.
- 3.14 The first circumstance is where our proposed new wording states: *“Operator A directs, controls or otherwise seeks to influence the manner in which Operator B conveys and delivers the relevant parcels”*. By *‘directs, controls or otherwise seeks to influence the manner...’*, we would consider the following to be only some examples of delivery options which we consider would be caught by this first circumstance:

Operator A provides Operator B with an application (‘app’) or a device which does any of the following:

- i) provides suggested delivery routes for Operator B to take;
- ii) provides delivery routes which Operator B is required to take;

- iii) provides recommended or required targets for Operator B to meet (e.g. number of parcels drops per given time period, etc);
  - iv) scans the parcel to provide tracking/proof of delivery;
  - v) requires the recipient to sign on the device to confirm they have received the parcel; and
  - vi) monitors the performance of Operator B.
- 3.15 The second circumstance is where our proposed new wording states: “*Operator B is employed by Operator A either as an employee or a worker (within the meanings of those expressions under section 230 of the Employment Rights Act 1996) for that conveyance and delivery*”. In accordance with the judicial construction in similar circumstances, we have adopted a broad definition of employee and worker.
- 3.16 An example is where Operator A is employing Operator B as an individual contractor (e.g. a single individual driving their own car). In that regard, we note that the meaning of a worker is potentially broad under section 230 of the Employment Rights Act 1996 and as such an individual worker should not be treated as a separate operator to Operator A. Indeed, if the individual worker’s delivery would be subject to complaint by the recipient, we consider it likely that the recipient would complain to Operator A and not to the individual worker. Accordingly, complaints to Operator A would potentially drive CABs’ work in relation to such deliveries.
- 3.17 Therefore, for the purpose of the cost recovery mechanism, we do not consider the following would qualify as an intermediary where the original parcel operator retains an element of control over the delivery: an operator who uses final-mile deliveries by an individual worker, temporary or seasonal employment agency workers, arrangement with individual contractors or formalised arrangements via sub-contracted companies or any such other delivery options.
- 3.18 We have also considered whether the issue of divergence in the interpretation of this exclusion could be addressed by removing the intermediary exclusion altogether from the definition of a ‘relevant parcels postal service’. However, as stated above, we consider that there remain instances where postal operators simply hand over the parcel to another postal operator – acting as a true intermediary – in which case they do not add to the CABs’ work and therefore should not be liable to contribute towards their fees.<sup>7</sup>
- 3.19 We also consider that there may be a need for an intermediary exclusion for bulk mail letters operators who may also provide parcels but appoint Royal Mail (or another parcel operator) to deliver parcels. Likewise, it is possible to envisage a situation in the future where a third party could be considered a true intermediary, such as a ‘parcel

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<sup>7</sup> We have previously stated why we do not believe access operators should contribute towards CAB fees; see Ofcom, January 2019 Statement, paragraph 3.78.

consolidator<sup>8</sup> who would be effectively acting as an access operator (as in the example stated previously) within the parcel industry. Therefore, we consider an exclusion is needed.

3.20 In the letters market, we believe there is no longer a need for the intermediary exclusion. This is because the main form of competition in the letters market is access competition, where access operators inject mail into Royal Mail’s network. Access operators are already excluded from the scope of the cost recovery mechanism, by virtue of a specific exclusion (under CP1.1.2(m)(6)), because they do not provide final mile delivery.

3.21 An intermediary exclusion would therefore only be needed if an operator (Operator A) handed over letters to another operator than Royal Mail (Operator B) for final delivery. This is because Operator A would not qualify as an access operator in the absence of an access relationship with Royal Mail. Given that Whistl has now exited the market for final mile letter delivery, and there is little prospect of scale E2E competition in that market<sup>9</sup>, we do not consider that this scenario would arise, and therefore we believe the intermediary exclusion is now redundant.

Question 1: Do you agree with our proposed changes to the intermediary exclusion in the definition of ‘relevant parcels postal service’ and the deletion of intermediary exclusion for the definition of ‘relevant letters postal service’ in CPC1? Please include your reasoning and relevant evidence in your response.

## Appropriate turnover allocation for bundled services

3.22 As referenced above, the parcels market is complex, and increasingly so, with both a wide variety of delivery methods and business models. This has become more prevalent with the rise of e-commerce in recent years. As such, new business models for delivering parcels may exist now or emerge in the future. This includes, for example, organisations which offer non-postal services alongside parcel delivery and therefore still providing a relevant parcels postal service.

3.23 Our definition of a ‘relevant parcels postal service’ was set out in our January 2019 statement. In that statement, we set out how our decision was impacted by recent cases in the Court of Justice of the European Union.<sup>10</sup> As such, we stated that:

*“where a third-party retailer uses an e-commerce marketplace, and uses a delivery network provided by the marketplace to fulfil these orders, in this instance, we would consider the part of the e-commerce marketplace which is fulfilling the orders to be acting as a postal operator”.*

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<sup>8</sup> By a ‘parcel consolidator’, we mean someone who consolidates demand from different senders and then chooses (on the behalf of the sender) which final mile company or delivery method to use (but is not active in his own right in final mile delivery).

<sup>9</sup> Postal operators who provide single piece end-to-end letter services and/or bulk (excluding access) mail services are excluded from the scope of the cost recovery mechanism if they generate ‘relevant turnover’ below £10 million per year

<sup>10</sup> Ofcom, January 2019 Statement, paragraphs 3.80-3.86 and Annex 2.

3.24 Moreover, in the guidance in our January 2019 statement, we said:

*“We recognise that some postal operators who provide a relevant parcels postal service may offer several models of delivery options for consumers<sup>11</sup> and/or ancillary services as part of providing a delivery service,<sup>12</sup> and therefore have different charging models for delivery. In such instances where a postal operator offers such bundled services, it is for such postal operators to allocate an appropriate proportion from its bundled services revenue to parcels delivery that is representative of the cost of such delivery when submitting its relevant turnover to Ofcom”<sup>13</sup>*

3.25 We are now proposing to strengthen our guidance by including the requirement within the regulatory condition itself and therefore making the inclusion of a reasonable proportion of bundled turnover a regulatory obligation. We are proposing to do this to bring about greater clarity for operators who provide a ‘relevant parcels postal service’ and/or ‘relevant letters postal service’ as part of a bundled service, that they have an obligation to allocate a reasonable proportion of their revenues from such bundled services to postal services. This would also provide greater clarity for industry generally.

3.26 In the absence of such clarity, some postal operators may take an interpretation of our guidance which is inconsistent with our intention and this may again lead to a divergence in approach to the reporting of relevant turnover. We consider that this would not be in line with our guiding principle of fairness for the cost recovery mechanism.

3.27 Therefore, we are proposing to add a new definition in CPC1, which states that where relevant postal operators who offer or provide a relevant parcels postal services and/or relevant letters postal service, as part of a bundled service, then such relevant postal operators should allocate a reasonable proportion of such bundled turnover as part of their relevant turnover for the purposes of CPC1. We believe this addition will not only bring about greater clarity and certainty for the postal industry, but it will also future proof CPC1 to reflect new postal business and / or delivery models which may emerge in the future.

3.28 For the avoidance of doubt, this requirement applies to those operators who offer bundled services, where part of the bundled service is providing a ‘relevant letters postal service’ and/or a ‘relevant parcels postal service’.

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<sup>11</sup> For instance, in addition to offering consumers the chance to pay for delivery per item, some companies offer the ability to subscribe for a one-off or recurring fee and receive an unlimited amount of deliveries for free.

<sup>12</sup> For example, fees for providing space on a company’s website.

<sup>13</sup> Ofcom, January 2019 Statement, paragraph A2.30.

- 3.29 Accordingly, we propose to insert the following new apportionment of turnover requirement as CP1.2.1A:

Where a postal operator generates turnover (whether as part of a subscription fee or otherwise) for a bundle of goods or services that include relevant letters postal services or relevant parcels postal services, that operator shall allocate a reasonable proportion of such turnover to be included in its total relevant turnover from relevant letters postal service or relevant parcels postal service for the purpose of CP 1.2.1(a) and (b).

- 3.30 In that regard, we note that there is no precise definition of reasonable allocation of turnover. However, we would expect a reasonable allocation to align with internal accounting processes where appropriate and that relevant postal operators should record their reasoning on the reasonableness of any such allocation. We may use our information gathering powers to review the justifications of a postal operator’s reasonable allocation of turnover. If necessary, we will consider giving more guidance on that concept in the future.
- 3.31 In light of our new proposed requirement on bundled turnover allocation, we have made two small amendments to the exclusions from relevant services of services for which the postal operator has not received any payment, reward, profit or advantage with respect to the conveyance of the relevant letters and parcels (CP1.2.1(m)(1) and CP1.2.1(o)(1) for letters and parcels respectively).
- 3.32 Our amendment makes these exclusions subject to our new proposed requirement on bundled turnover allocation. This is because postal services included within a bundled service which generates revenue may appear to be offered for “free”, but the fee for those services is included in the price of the bundled service. In that scenario, the operator must still allocate a reasonable proportion of the postal services to relevant revenue, and cannot rely on the exclusion from relevant turnover of postal services where no payment, reward, profit or advantage is received to avoid allocating appropriate revenue.

Question 2: Do you agree with our proposed introduction of the bundled turnover allocation requirement in CPC1? Please include your reasoning and relevant evidence in your response.

## Definition of ‘relevant parcel’

- 3.33 As we set out in our January 2019 statement, postal operators’ contributions to the CABs work are based on their total relevant turnover. The relevant turnover is the turnover that derives from relevant postal services, namely, ‘relevant letters postal service’ and ‘relevant parcels postal service’. These are subsequently determined by the definitions of a ‘relevant letter’ and ‘relevant parcel’.
- 3.34 Our definitions of a ‘relevant letter’ (in CP 1.1.2(l)) and ‘relevant parcel’ (in CP 1.1.2(n)) are currently as follows:

(l) “**relevant letter**” means a postal packet that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g;

(n) “**relevant parcel**” means a postal packet that is larger in dimensions than a relevant letter, and weighs no less than 750g but no more than 31.5kg;

- 3.35 We initially adopted those definitions for the purposes of CPC1 to be aligned with corresponding definitions under our current Essential Condition 1 (EC1), given that CPC1 was regulating similar services and we therefore sought regulatory alignment, where possible, across our postal regulation.
- 3.36 Since our legal instrument took effect in July 2019, we have been informed by Royal Mail that there may be a gap between these two definitions – specifically, that small, lightweight parcels, which are bigger than the dimensions of a standard large letter (353mm x 250mm x 25mm, as set out in the definition of a relevant letter) but less than 750g in weight, would not be covered by either of the aforementioned definitions.
- 3.37 Since the implementation of our legal instrument, Royal Mail has voluntarily included revenue from postal packets that fell within the gap of the definition of relevant letter and relevant parcel, as part of their relevant revenue. Given our knowledge of the parcels market,<sup>14</sup> we did not deem this to significantly affect other parcel operators’ contributions to the funding mechanism, and in any event, we are not aware that they excluded small lightweight parcels from the relevant revenues they reported for the purpose of the cost recovery mechanism.
- 3.38 However, for regulatory certainty, and given we are making other minor amendments to CPC1, we believe it is an opportune time to ensure the accuracy of our policy intentions are reflected in our legal instruments and to future proof the condition. Our policy position remains unchanged – we continue to believe all parcels of all weights below 31.5kg should be included as a relevant parcel.
- 3.39 We believe it is important to clarify this for all stakeholders, to the extent that this may affect any future relevant postal operators liable to contribute to CAB fees, who may offer either a ‘relevant parcels postal service’ and/or a ‘relevant letters postal service’.
- 3.40 Therefore, we are proposing to remove the words “no less than 750g but” from our definition of relevant parcel (marked up change below), to ensure all parcels below 31.5kg are captured.

“relevant parcel” means a postal packet that is larger in dimensions than a relevant letter, and weighs ~~no less than 750g but~~ no more than 31.5kg;

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<sup>14</sup> For instance, in our most review of the postal market in 2017, we noted Royal Mail had a 60-80% share of the 0-2kg parcels market for both single piece and bulk parcels (Ofcom, [Review of Royal Mail Regulation](#), Statement, 3 March 2017, paragraphs 3.129-3.130, 3.145, 4.20)

Question 3: Do you agree with our proposed change to the definition of ‘relevant parcel’ in CPC1? Please include your reasoning and relevant evidence in your response.

## Legal tests

### Relevant legal test for changing CPC1

3.41 Our proposed modifications to CPC1 in order to reflect above proposals are specified in our statutory notification published in Annex 1. Our proposed modifications are also made accessible in Annex 2 for readers having difficulties with reading this consultation document in PDF format. We consider that they satisfy the relevant tests set out in paragraph 1 of Schedule 6 to the 2011 Act, which must be met where we may impose or modify a regulatory condition, namely that they:

- are objectively justifiable;
- do not unduly discriminate against a particular person or a particular description of persons;
- are proportionate; and
- are transparent in relation to what they are intended to achieve.

3.42 We consider that our proposed amendments of CPC1 satisfy those tests, in particular:

- **Objectively justifiable** - we believe that our proposed changes to the scope of CPC1 are objectively justifiable because they recover the costs of the CABs from postal services that materially drive the work of the CABs, and therefore they aim to ensure that the cost recovery mechanism is fair and equitable, and cost-reflective; in particular we consider that our proposed changes to the meaning of an intermediary would ensure that postal operators that are not acting as true intermediaries report turnover from relevant ‘parcels postal services’ under CPC1 and thereby, ensuring cost-reflectiveness; our proposed new apportionment of turnover requirement seeks to ensure fairness and equity in apportionment of relevant turnover by requiring that postal operators who provide relevant letters postal service or relevant parcel postal service, as part of a bundled service, allocate a reasonable proportion of such turnover.
- **Not unduly discriminatory** - we believe that our proposed changes to CPC1 are not unduly discriminatory, in particular our proposed changed meaning of an intermediary would continue to ensure that our regulation is targeted at those postal operators that we consider are appropriate to meet our regulatory objective of ensuring the recovery of the CABs’ costs of consumer advocacy in the postal market, and will apply to both those providing a ‘relevant letters postal service’ and a ‘relevant parcels postal service’.
- **Proportionate** - we believe that our proposed changes to CPC1 are proportionate because they only impose requirements that we consider are appropriate and necessary to ensure that only true intermediaries take advantage of the relevant exclusion and that those that have bundled turnover allocate a fair reasonable proportion, without imposing an undue burden on those relevant postal operators which would be subject to obligations under CPC1.

- **Transparent** - we consider that our proposed changes to the meaning of intermediary and introduction of bundled turnover allocation CPC1 are transparent because CPC1 clearly sets out what is expected from relevant postal operators.

3.43 In addition, in making these proposed modifications to CPC1 and having had regard to their potential impact, we have overall considered and acted in accordance with our duty in section 29 of the 2011 Act and our general duties in section 3 of the Communications Act 2003. Ofcom has also had regard to the Statement of Strategic Priorities in making the proposals referred to in the Notification set out in Annex 1.

## Impact assessment

3.44 The analysis presented in this consultation represents an impact assessment, as defined in section 7 of the Communications Act 2003.

3.45 Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policymaking. This is reflected in section 7 of the Communications Act 2003, which means that generally we have to carry out impact assessments where our proposals would be likely to have a significant effect on businesses or the general public, or when there is a major change in Ofcom's activities. However, as a matter of policy Ofcom is committed to carrying out and publishing impact assessments in relation to the great majority of our policy decisions. For further information about our approach to impact assessments, see our guidelines entitled 'Better Policy Making: Ofcom's approach to Impact Assessment', which are available on our website.<sup>15</sup>

## Equality Impact Assessment (EIA)

3.46 Section 149 of the Equality Act 2010 (the "2010 Act") imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.

3.47 Section 75 of the Northern Ireland Act 1998 (the "1998 Act") also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom's Revised Northern Ireland Equality Scheme explains how we comply with our statutory duties under the 1998 Act.

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<sup>15</sup> Ofcom, [Better Policy Making – Ofcom's approach to impact assessment](#), 21 July 2005.

- 3.48 To help us comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.
- 3.49 We have considered whether our proposed modifications to CPC1 (as discussed above) would have an adverse impact on promoting equality. We have looked at whether our proposals would have a different or adverse effect on UK consumers and citizens in the following equality groups: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation, and, in Northern Ireland, political opinion and persons with dependents. Our assessment is that they would not and therefore, we do not consider that our proposals have equality implications under the 2010 Act or the 1998 Act.

## Next Steps

- 3.50 This consultation is open for six weeks beginning with the day after the day this consultation document is published, i.e. until 18 August 2021.
- 3.51 Subject to any stakeholder responses to this consultation, we aim to reach our decision on this proposal in time to allow us to recover the monies from liable relevant postal operators in this charging year (i.e. 2021/22).
- 3.52 Specifically, we plan to publish a statement by early autumn. Alongside publishing that statement, we also plan to issue our final information requests to relevant postal operators shortly thereafter with a likely two-week period to reply. On that timetable, we expect to be able to invoice operators by mid-October for the charging year 2021/22.

# A1. Statutory notification: Proposed Modification of Consumer Protection Condition 1

## NOTIFICATION OF PROPOSED MODIFICATIONS TO CONSUMER PROTECTION CONDITION 1 PURSUANT TO SECTION 51 OF, AND IN ACCORDANCE WITH SECTION 53 OF, AND PARAGRAPH 3 OF SCHEDULE 6, TO THE POSTAL SERVICES ACT 2011

### BACKGROUND

- (A) On 27 March 2012, following consultation, Ofcom published a statement *entitled ‘Securing the Universal Postal Service: Decision on the new regulatory framework’*<sup>16</sup> setting out various decisions, including the imposition of consumer protection conditions to make provision for matters set out in section 51 of the Act, such as Consumer Protection Condition 1 (“**version 1 of CPC1**”).
- (B) On 28 March 2013, following consultation, Ofcom published a statement *entitled ‘Decision on modification to Consumer Protection Condition 1: Statement to modify Consumer Protection Condition 1 to reflect the change in the provision of consumer advice for postal services to Citizens Advice and Citizens Advice Scotland’*<sup>17</sup> setting out its decision to modify version 1 of CPC1 in order to allow Ofcom to collect payments from regulated postal operators relating to the expenses of Citizens Advice and Citizens Advice Scotland (“**version 2 of CPC1**”).
- (C) On 1 April 2014, following consultation, Ofcom published a statement *entitled ‘Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions’*<sup>18</sup> setting out various decisions, including the revocation of version 2 of CPC1 and the imposition of a new Consumer Protection Condition 1 (“**version 3 of CPC1**”).
- (D) On 4 December 2015, following consultation, Ofcom published a statement *entitled ‘Modification to Consumer Protection Condition 1: Collection of qualifying consumer expenses of the Consumer Advocacy Bodies’*<sup>19</sup> setting out its decision to modify version 3 of CPC1 to correct an error in the drafting of CP1 with regard to the calculation of the contributions of postal operators to the qualifying consumer expenses of the Consumer Advocacy Bodies (“**version 4 of CPC1**”).
- (E) On 16 January 2019, following consultation, Ofcom published a statement *entitled ‘Recovering consumer advocacy costs’*<sup>20</sup> setting out its decision to modify version 4 of CPC1 by giving effect,

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<sup>16</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0029/74279/Securing-the-Universal-Postal-Service-statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0029/74279/Securing-the-Universal-Postal-Service-statement.pdf)

<sup>17</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0033/37689/statement.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0033/37689/statement.pdf)

<sup>18</sup> <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/Statement.pdf>

<sup>19</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/84165/cp1\\_statement\\_04dec2015.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/84165/cp1_statement_04dec2015.pdf)

<sup>20</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/recovering-postal-regulation-costs>

with some modifications, to its proposals, with Annex 1 to that statement containing Ofcom’s notification of the modified CPC1 in its entirety (“**version 5 of CPC1**”).

- (F) On 26 July 2019, following consultation, Ofcom published a statement entitled ‘*Recovering consumer advocacy costs – Supplementary statement on excluding international letters and parcels from Consumer Protection*’<sup>21</sup> setting out its decision to modify version 5 of CPC1 by giving effect with some modifications, to its proposals, so that international mail is excluded from the scope of the cost recovery mechanism, with Annex 1 to that statement containing Ofcom’s notification of the modified CP1 in its entirety (“**version 6 of CPC1**”).
- (G) Ofcom is now consulting on some discrete changes to version 6 of CPC1 described below.

## PROPOSALS

1. Ofcom hereby proposes, in accordance with section 53 of, and paragraph 3(3) of Schedule 6 to, the Act and pursuant to its powers under section 51 of the Act, to modify version 6 of CPC1 in order to make further provisions for matters set out in that section 51.
2. The proposed modifications to version 6 of CPC1 are —
  - a) specified in the Schedule to this Notification, marked up against version 6 of CPC1 to show the changes which Ofcom is proposing to its substance, as highlighted in yellow and in red font for new text and highlighted in yellow and in strikethrough black font for deleted text (which mark-ups, for the avoidance of doubt, do not themselves form part of the proposed modifications);
  - b) being proposed to come into force with effect from the date of a publication in accordance with section 53 of, and paragraph 3(1) of Schedule 6 to, the Act.
3. The effect of, and Ofcom’s reasons for making, these proposals are set out in the accompanying consultation document.

## OFCOM’S DUTIES AND LEGAL TESTS

4. Ofcom is satisfied that these proposals satisfy the general test in paragraph 1 of Schedule 6 to the Act.
5. In making these proposals, 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. Ofcom has also had regard to the Statement of Strategic Priorities in making the proposals referred to in this Notification.

## MAKING REPRESENTATIONS

6. Representations may be made to Ofcom about the proposals set out in this Notification by no **later than 18 August 2021**.

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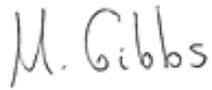
<sup>21</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/recovering-postal-regulation-costs>

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 section 24A of the Communications Act 2003.
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 paragraph 6 of 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.

## INTERPRETATION

9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act.
10. In this Notification—
  - a) “**Act**” means the Postal Services Act 2011 (c.5);
  - b) “**Ofcom**” means the Office of Communications;
  - c) “**Statement of Strategic Priorities**” means the Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services designated by the Secretary of State for Digital, Culture, Media and Sport for the purposes of section 2A of the Communications Act 2003 on 29 October 2019; and
  - d) “**version 6 of CPC1**” has the meaning given to it in recital (F) to this Notification.
11. For the purpose of interpreting this Notification—
  - a) headings and titles shall be disregarded;
  - b) expressions cognate with those referred to in this Notification shall be construed accordingly; and
  - c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
12. The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in black ink that reads "M. Gibbs". The letters are cursive and slightly slanted to the right.

**Marina Gibbs**  
**Director of Post**

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

**7 July 2021**

**SCHEDULE**

**CONSUMER PROTECTION CONDITION 1**

**PAYMENTS RELATING TO QUALIFYING EXPENSES**

**1.1. Application, Definitions and Interpretation**

<p>CP 1.1.1 <i>Application</i></p>	<p>This consumer protection condition (“<b>CP Condition</b>”) shall apply to every <u>relevant postal operator</u> to whom any of the obligations to make payments to <u>OFCOM</u> prescribed in CP 1.2.1 apply.</p>
<p>CP 1.1.2 <i>Definitions</i></p>	<p>In this CP Condition—</p> <p>(a) “<b>Act</b>” means the Postal Services Act 2011 (c.5);</p> <p>(b) “<b>appointed day</b>” means 1 October 2011;</p> <p>(c) “<b>assessment year</b>” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “<b>calls relating to a relevant postal operator</b>” means calls to a <u>consumer advocacy body</u> recorded by such a body as relating to a specific <u>relevant postal operator</u> save that where a call is recorded by a <u>consumer advocacy body</u> as relating to more than one specific <u>relevant postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>relevant postal operator</u>;</p> <p>(e) “<b>closed user group network</b>” means a system providing for the conveyance of <u>postal packets</u> (and the incidental services of receiving, collecting, sorting and delivering <u>postal packets</u>) between—</p> <p style="padding-left: 40px;">(1) the premises of one firm and another firm;</p> <p style="padding-left: 40px;">(2) a government department and a third party firm;</p> <p style="padding-left: 40px;">(3) branches and/or units in the same firm; or</p> <p style="padding-left: 40px;">(4) government departments,</p> <p style="padding-left: 40px;">where both the sender and the recipient of the <u>postal packets</u> have entered into specific arrangements with the <u>postal operator</u> for the conveyance of <u>postal packets</u> to or from other members of that system, which, for the avoidance of doubt, includes a document exchange;</p> <p>(f) “<b>consumer advocacy body (or bodies)</b>” means each of the following—</p> <p style="padding-left: 40px;">(1) <u>Citizens Advice</u>;</p> <p style="padding-left: 40px;">(2) <u>Citizens Advice Scotland</u> or such other body that provides, in or as regards Scotland, consumer advocacy and advice to which section 51(2)(ca) of the Act refers; and</p> <p style="padding-left: 40px;">(3) the General Consumer Council for Northern Ireland;</p>

	<p>(g) “<b>express and secured service</b>” means a service involving the conveyance of <u>postal packets</u> and any incidental services of collecting, sorting and delivering those <u>postal packets</u> which have at least one of the following features—</p> <p style="padding-left: 40px;">(1) a guarantee for delivery by a certain time or date;</p> <p style="padding-left: 40px;">(2) a facility enabling the sender and the recipient to monitor the progress of a <u>postal packet</u> through the <u>postal operator’s</u> network, including confirmation of delivery;</p> <p>(h) “<b>public holiday</b>” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(i) “<b>qualifying calls expenses</b>” has the meaning given to it in CP 1.2.4;</p> <p>(j) “<b>qualifying calls threshold</b>” has the meaning given to it in CP 1.2.4;</p> <p>(k) “<b>qualifying expenses</b>” has the meaning given to it in CP 1.2.2;</p> <p>(l) “<b>relevant letter</b>” means a <u>postal packet</u> that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g;</p> <p>(m) “<b>relevant letters postal service</b>” means a service of conveying <u>relevant letters</u> which have been sent from one location within the United Kingdom to another location within the United Kingdom by post and the incidental services of receiving, collecting, sorting and delivering such <u>relevant letters</u>, excluding—</p> <p style="padding-left: 40px;">(1) <b>subject to CP 1.2.1A</b>, services for which the <u>postal operator</u> has not received any payment, reward, profit or advantage with respect to the conveyance of the <u>relevant letters</u>;</p> <p style="padding-left: 40px;">(2) services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;</p> <p style="padding-left: 40px;">(3) <u>express and secured services</u>;</p> <p style="padding-left: 40px;">(4) services consisting of the conveyance of <u>relevant letters</u> within a <u>closed user group network</u>;</p> <p style="padding-left: 40px;"><del>(5) services provided while acting in the capacity of an intermediary postal operator, that is to say a <u>postal operator</u> that hands over <u>postal packets</u> to another <u>postal operator</u> (including but not limited to the <u>universal service provider</u>) for subsequent conveyance and delivery to the intended recipients of the <u>postal packets</u>; and</del></p> <p style="padding-left: 40px;"><b>(5)</b> <del>(6)</del> services provided by a party to a <u>USP Access Agreement</u> with the <u>universal service provider</u> to other <u>postal operators</u> and <u>users of postal services</u> by obtaining access to the <u>universal service provider’s postal network</u> under, or as a result of, the party’s <u>USP Access Agreement</u>; for the</p>
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	<p>avoidance of doubt, services provided by the <u>universal service provider</u> itself to a party to a <u>USP Access Agreement</u> do not fall under this exclusion;</p> <p>(n) “<b>relevant parcel</b>” means a <u>postal packet</u> that is larger in dimensions than a <u>relevant letter</u>, and weighs <del>no less than 750g but</del> no more than 31.5kg;</p> <p>(o) “<b>relevant parcels postal service</b>” means a service of conveying <u>relevant parcels</u> which have been sent from one location within the United Kingdom to another location within the United Kingdom by post and the incidental services of receiving, collecting, sorting and delivering such <u>relevant parcels</u>, excluding—</p> <p>(1) <b>subject to CP 1.2.1A</b>, services for which the <u>postal operator</u> has not received any payment, reward, profit or advantage with respect to the conveyance of the <u>relevant parcels</u>;</p> <p>(2) services consisting of the conveyance of <u>relevant parcels</u> within a <u>closed user group network</u>;</p> <p>(3) services provided while acting in the capacity of an intermediary postal operator, that is to say a <u>postal operator</u> (<b>‘Operator A’ who acts as an intermediary for one or more postal operators and intended recipients</b>) that hands over <u>relevant parcels</u> to another <u>postal operator</u> (including but not limited to the <u>universal service provider</u>) (<b>‘Operator B’</b>) for subsequent conveyance and delivery to the intended recipients of the <u>relevant parcels</u> <b>but for which conveyance and delivery Operator A is not responsible in relation to the intended recipients; for the purposes of this exclusion, Operator A shall also be deemed not to be an intermediary where:</b></p> <p style="padding-left: 40px;"><b>(i) Operator A directs, controls or otherwise seeks to influence the manner in which Operator B conveys and delivers the relevant parcels;</b> <b>or</b></p> <p style="padding-left: 40px;"><b>(ii) Operator B is employed by Operator A either as an employee or a worker (within the meanings of those expressions under section 230 of the Employment Rights Act 1996) for that conveyance and delivery; and</b></p> <p>(4) services consisting of the conveyance of <u>relevant parcels</u> provided by the <u>postal operator</u> only as part of a sales contract between the <u>postal operator</u> and a user under which the <u>postal operator</u> conveys and delivers such <u>relevant parcels</u> that are subject of that contract directly to the user without any arrangements with another <u>postal operator</u>; in this exclusion “a sales contract” refers to a contract by which the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration;</p> <p>(p) “<b>relevant postal operator</b>” means each of the following—</p> <p>(1) a <u>postal operator</u> that provides a <u>relevant letters postal service</u>;</p>
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	<p>(2) a <u>postal operator</u> that provides a <u>relevant parcels postal service</u>;</p> <p><b>(q)</b> “<b>relevant turnover</b>” means each of the following—</p> <p>(1) turnover from <u>relevant letters postal services</u>;</p> <p>(2) turnover from <u>relevant parcels postal services</u></p> <p><b>(r)</b> “<b>relevant year</b>” means any year beginning on 1 April, the first year of which begins on 1 April 2019;</p> <p><b>(s)</b> “<b>Scottish consumer advice amounts</b>” mean such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to <u>users of postal services</u>; and</p> <p><b>(t)</b> “<b>USP Access Agreement</b>” means an agreement under which the <u>universal service provider</u> provides access to its <u>postal network</u> in accordance with requirements set out in a condition imposed under section 38 of the Act.</p>
<p><b>CP 1.1.3</b> <i>Interpretation</i></p>	<p>For the purpose of interpreting this CP Condition—</p> <p><b>(a)</b> except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act<sup>22</sup>;</p> <p><b>(b)</b> headings and titles shall be disregarded;</p> <p><b>(c)</b> expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p><b>(d)</b> the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p><b>(e)</b> references to a “<b>day</b>” are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays.</p>

## 1.2. Payments relating to qualifying expenses

<p>CP 1.2.1 <i>Obligations to make payments to OFCOM</i></p>	<p>A <u>relevant postal operator</u> is liable to make payments to <u>OFCOM</u> in one or more (as applicable to that operator) of the following three circumstances—</p> <p><b>(a)</b> where a <u>postal operator</u> that provides <u>relevant letters postal services</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u>, that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion</p>
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<sup>22</sup> A table for information identifying such defined terms is provided at the end of this CP Condition. This table is intended only as a guide and does not form a part of this CP Condition. We make no representations as to its accuracy or completeness.

	<p>(calculated in accordance with CP 1.2.3) as <u>OFCOM</u> may specify of the <u>qualifying expenses</u>;</p> <p><b>(b)</b> where a <u>postal operator</u> that provides <u>relevant parcels postal services</u> that generated <u>relevant turnover</u> exceeding £350 million in the <u>assessment year</u>, that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion (calculated in accordance with CP 1.2.3) as <u>OFCOM</u> may specify of the <u>qualifying expenses</u>;</p> <p><b>(c)</b> where a <u>relevant postal operator</u> has reached the <u>qualifying calls threshold</u> in the <u>relevant year</u>, that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion (calculated in accordance with CP 1.2.5) as <u>OFCOM</u> may specify of <u>qualifying calls expenses</u>.</p>
<p><b>CP 1.2.1A</b> <b>Apportionment of turnover</b></p>	<p><b>Where a <u>postal operator</u> generates turnover (whether as part of a subscription fee or otherwise) for a bundle of goods or services that include <u>relevant letters postal services</u> or <u>relevant parcels postal services</u>, that operator shall allocate a reasonable proportion of such turnover to be included in its total <u>relevant turnover from relevant letters postal services</u> or <u>relevant parcel postal services</u> for the purpose of CP 1.2.1(a) and (b).</b></p>
<p>CP 1.2.2 <i>Meaning of “qualifying expenses”</i></p>	<p>The “<b>qualifying expenses</b>” are—</p> <p><b>(a)</b> the <u>qualifying consumer expenses of Citizens Advice</u>;</p> <p><b>(b)</b> the <u>qualifying consumer expenses of the General Consumer Council for Northern Ireland</u>;</p> <p><b>(c)</b> the <u>Scottish consumer advice amounts</u>; and</p> <p><b>(d)</b> the <u>qualifying consumer expenses of the Secretary of State</u>, likely to be incurred during the <u>relevant year</u> in respect of functions other than the <u>consumer advocacy bodies’ functions in dealing with calls relating to relevant postal operators</u>.</p>
<p>CP 1.2.3 <i>Calculation of proportion for the purposes of CP 1.2.1(a) and (b)</i></p>	<p>The proportion referred to in CP 1.2.1(a) and (b) will be calculated by multiplying the sum of the total <u>qualifying expenses</u> referred to in CP 1.2.2 by that <u>relevant postal operator’s share of relevant turnover</u> expressed as a percentage of the total <u>relevant turnover generated by all relevant postal operators</u> to which CP 1.2.1(a) and (b) refer in the <u>assessment year</u> in question.</p>

<p>CP 1.2.4</p> <p><i>Meanings of “qualifying calls threshold” and of “qualifying calls expenses”</i></p>	<p>A <u>relevant postal operator</u> shall be liable to make payments to <u>OFCOM</u> for the purposes of CP 1.2.1(c) only where the following calculation gives an amount greater than £100 (the “<b>qualifying calls threshold</b>”)—</p> <p>(a) take the total <u>qualifying calls expenses</u> in the <u>relevant year</u>,</p> <p>(b) multiply it by that <u>relevant postal operator’s</u> share of <u>calls relating to relevant postal operators</u> in the <u>relevant year</u> expressed as a percentage of the total <u>calls relating to relevant postal operators</u>.</p> <p>The “<b>qualifying calls expenses</b>” are—</p> <p>(a) the <u>qualifying consumer expenses of Citizens Advice</u>;</p> <p>(b) the <u>qualifying consumer expenses of the General Consumer Council for Northern Ireland</u>; and</p> <p>(c) the <u>Scottish consumer advice amounts</u>,</p> <p>likely to be incurred during the <u>relevant year</u> in respect of the <u>consumer advocacy bodies’</u> functions in dealing with <u>calls relating to relevant postal operators</u>.</p>
<p>CP 1.2.5</p> <p><i>Calculation of proportion for the purposes of CP 1.2.1(c)</i></p>	<p>The proportion referred to in CP 1.2.1(c) to be paid by a <u>relevant postal operator</u> reaching the <u>qualifying calls threshold</u> will be calculated by multiplying the total <u>qualifying calls expenses</u> in the <u>relevant year</u> by that <u>relevant postal operator’s</u> share of <u>calls relating to relevant postal operators</u> falling within CP1.2.4 expressed as a percentage of the total <u>calls relating to relevant postal operators</u> falling within CP1.2.4.</p>
<p>CP 1.2.6</p> <p><i>Adjusted amounts payable under CP 1.2.1(a) and (b)</i></p>	<p>The amounts payable under CP 1.2.1(a) and (b) in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.</p>
<p>CP.1.2.7</p> <p><i>Adjusted amounts payable under CP 1.2.1(c)</i></p>	<p>The amounts payable under CP 1.2.1(c) in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>relevant postal operator</u> in the previous <u>relevant year</u>, based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to relevant postal operators</u> (including to calls relating to that specific <u>relevant postal operator</u>) and actual <u>qualifying calls</u></p>

	<u>expenses</u> . Where the latter exceeds the former, the amount of the difference shall be treated as a negative amount.
CP 1.2.8 <i>Payments due dates</i>	The amount due under each of the three circumstances specified in CP 1.2.1 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>relevant postal operator</u> of such amount.

**Table of terms defined in the Act**

*This table is provided for information and does not form a part of this CP Condition. We make no representations as to its accuracy or completeness. Please refer to the Act.*

<b>Defined term</b>	<b>Section</b>
<i>Citizens Advice</i>	65(1)
<i>Citizens Advice Scotland</i>	65(1)
<i>Letter</i>	65(1)
<i>OFCOM</i>	90
<i>postal network</i>	38(3)
<i>postal operator</i>	27(3)
<i>postal packet</i>	27(2)
<i>postal services</i>	27(1)
<i>qualifying consumer expenses of Citizens Advice</i>	51(4)(a) to (c)
<i>qualifying consumer expenses of the General Consumer Council for Northern Ireland</i>	51(4)(g)
<i>qualifying consumer expenses of the Secretary of State</i>	51(4ZA)
<i>universal service provider</i>	65(1) and Schedule 9 paragraph 3(3)
<i>User</i>	65(1)

## A2. Accessibility of proposed modifications of Consumer Protection Condition 1

### A. Introduction

We have published in Annex 1 our statutory notification specifying in its Schedule our proposed modifications of the existing Consumer Protection Condition 1 (“CPC1”).

In that Schedule, we have marked up the text of the existing CPC1 to show the changes which we are proposing to its substance. Specifically, that Schedule includes yellow highlighted text in red font for new proposed text, as well as yellow highlighted strikethrough text in black for existing text that we propose to delete.

Documents published in PDF form (such as this consultation document) might make our marked-up text in the above-mentioned Schedule more difficult to read for some people (including those visually impaired).

We seek in this Annex 7 to make our proposed modifications of the existing CPC1 accessible also for such readers in line with the accessibility requirements set out in the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.

Specifically, we seek to do so in two ways:

- in Part B below, we explain the substantive (textual) changes we are actually proposing to make to the CPC1 (i.e. those marked up in the above-mentioned Schedule, which mark-ups may not be accessible to all readers); and
- in Part C below, we set out a clean version of our proposed new CPC1, which includes the substantive proposed changes explained in Part B.

For the avoidance of doubt, if anything in this Annex is in conflict with, or inconsistent with, our statutory notification published in Annex 1, the proposals as set out in that notification shall prevail.

### B. Our proposed substantive (textual) changes

Part of the Existing CPC1	Our proposed substantive changes
CP 1.1.2(m)  Definitions – “ <b>relevant letters postal service</b> ”	(1): Insert the words “subject to CP 1.2.1A,” at the start of the sentence.  (5): Delete the whole of the provision under 1.1.2 (m)(5) from “services provided while...” to “...recipients of the <u>postal packets</u> .”  (6): Amend the numbering of exclusion (6) to (5) to account for the deletion of exclusion (5)

<p>CP 1.1.2(n) Definitions – “<b>relevant parcel</b>”</p>	<p>Delete the wording “no less than 750g but” from the definition.</p>
<p>CP.1.1.2(o) Definitions – “<b>relevant parcels postal service</b>”</p>	<p>(1): Insert the words “subject to CP 1.2.1A,” at the start of the sentence.</p> <p>(2): After the words “...that is to say a <u>postal operator</u>”, insert the words “(‘Operator A’) who acts as an intermediary for one of more <u>postal operators</u> and intended recipients”;</p> <p>(3): After the words “...another <u>postal operator</u> (including but not limited to the <u>universal service provider</u>)”, insert the words “(‘Operator B’)”;</p> <p>(4): After the words “...delivery to the intended recipients of the <u>relevant parcels</u>”, insert the words “but for which conveyance and delivery Operator A is not responsible in relation to the intended recipients; for the purposes of this exclusion, Operator A shall also be deemed not to be an intermediary where:</p> <p>(i) Operator A directs, controls or otherwise seeks to influence the manner in which Operator B conveys and delivers the relevant parcels; or</p> <p>(ii) Operator B is employed by Operator A either as an employee or a worker (within the meanings of those expressions under section 230 of the Employment Rights Act 1996) for that conveyance and delivery; and”</p>
<p>CP 1.2.1A Apportionment of turnover</p>	<p>After CP 1.2.1, insert the wording “CP 1.2.1A Apportionment of turnover” as a new condition which states:</p> <p>“Where a <u>postal operator</u> generates turnover (whether as part of a subscription fee or otherwise) for a bundle of goods or services that include <u>relevant letter postal services</u> or <u>relevant parcels postal services</u>, that operator shall allocate a reasonable proportion of such turnover to be included in its total <u>relevant turnover</u> from <u>relevant letter postal services</u> or <u>relevant parcels postal services</u> for the purpose of CP 1.2.1(a) and (b).”</p>

## C. Clean version of our proposed new CPC1

### SCHEDULE

#### CONSUMER PROTECTION CONDITION 1

#### PAYMENTS RELATING TO QUALIFYING EXPENSES

##### 1.1. Application, Definitions and Interpretation

<p>CP 1.1.1 <i>Application</i></p>	<p>This consumer protection condition (“<b>CP Condition</b>”) shall apply to every <u>relevant postal operator</u> to whom any of the obligations to make payments to <u>OFCOM</u> prescribed in CP 1.2.1 apply.</p>
<p>CP 1.1.2 <i>Definitions</i></p>	<p>In this CP Condition—</p> <p>(a) “<b>Act</b>” means the Postal Services Act 2011 (c.5);</p> <p>(b) “<b>appointed day</b>” means 1 October 2011;</p> <p>(c) “<b>assessment year</b>” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “<b>calls relating to a relevant postal operator</b>” means calls to a <u>consumer advocacy body</u> recorded by such a body as relating to a specific <u>relevant postal operator</u> save that where a call is recorded by a <u>consumer advocacy body</u> as relating to more than one specific <u>relevant postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>relevant postal operator</u>;</p> <p>(e) “<b>closed user group network</b>” means a system providing for the conveyance of <u>postal packets</u> (and the incidental services of receiving, collecting, sorting and delivering <u>postal packets</u>) between—</p> <ol style="list-style-type: none"> <li>(1) the premises of one firm and another firm;</li> <li>(2) a government department and a third party firm;</li> <li>(3) branches and/or units in the same firm; or</li> <li>(4) government departments,</li> </ol> <p>where both the sender and the recipient of the <u>postal packets</u> have entered into specific arrangements with the <u>postal operator</u> for the conveyance of <u>postal packets</u> to or from other members of that system, which, for the avoidance of doubt, includes a document exchange;</p> <p>(f) “<b>consumer advocacy body (or bodies)</b>” means each of the following—</p> <ol style="list-style-type: none"> <li>(1) <u>Citizens Advice</u>;</li> <li>(2) <u>Citizens Advice Scotland</u> or such other body that provides, in or as regards Scotland, consumer advocacy and advice to which section 51(2)(ca) of the Act refers; and</li> </ol>

	<p>(3) the General Consumer Council for Northern Ireland;</p> <p><b>(g) “express and secured service”</b> means a service involving the conveyance of <u>postal packets</u> and any incidental services of collecting, sorting and delivering those <u>postal packets</u> which have at least one of the following features—</p> <p>(1) a guarantee for delivery by a certain time or date;</p> <p>(2) a facility enabling the sender and the recipient to monitor the progress of a <u>postal packet</u> through the <u>postal operator’s</u> network, including confirmation of delivery;</p> <p><b>(h) “public holiday”</b> means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p><b>(i) “qualifying calls expenses”</b> has the meaning given to it in CP 1.2.4;</p> <p><b>(j) “qualifying calls threshold”</b> has the meaning given to it in CP 1.2.4;</p> <p><b>(k) “qualifying expenses”</b> has the meaning given to it in CP 1.2.2;</p> <p><b>(l) “relevant letter”</b> means a <u>postal packet</u> that is up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g;</p> <p><b>(m) “relevant letters postal service”</b> means a service of conveying <u>relevant letters</u> which have been sent from one location within the United Kingdom to another location within the United Kingdom by post and the incidental services of receiving, collecting, sorting and delivering such <u>relevant letters</u>, excluding—</p> <p>(1) subject to CP 1.2.1A, services for which the <u>postal operator</u> has not received any payment, reward, profit or advantage with respect to the conveyance of the <u>relevant letters</u>;</p> <p>(2) services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;</p> <p>(3) <u>express and secured services</u>;</p> <p>(4) services consisting of the conveyance of <u>relevant letters</u> within a <u>closed user group network</u>; and</p> <p>(5) services provided by a party to a <u>USP Access Agreement</u> with the <u>universal service provider</u> to other <u>postal operators</u> and <u>users</u> of <u>postal services</u> by obtaining access to the <u>universal service provider’s postal network</u> under, or as a result of, the party’s <u>USP Access Agreement</u>; for the avoidance of doubt, services provided by the <u>universal service provider</u> itself to a party to a <u>USP Access Agreement</u> do not fall under this exclusion;</p>
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	<p>(n) “<b>relevant parcel</b>” means a <u>postal packet</u> that is larger in dimensions than a <u>relevant letter</u>, and weighs no more than 31.5kg;</p> <p>(o) “<b>relevant parcels postal service</b>” means a service of conveying <u>relevant parcels</u> which have been sent from one location within the United Kingdom to another location within the United Kingdom by post and the incidental services of receiving, collecting, sorting and delivering such <u>relevant parcels</u>, excluding—</p> <p>(1) subject to CP 1.2.1A, services for which the <u>postal operator</u> has not received any payment, reward, profit or advantage with respect to the conveyance of the <u>relevant parcels</u>;</p> <p>(2) services consisting of the conveyance of <u>relevant parcels</u> within a <u>closed user group network</u>;</p> <p>(3) services provided while acting in the capacity of an intermediary postal operator, that is to say a <u>postal operator</u> (‘Operator A’) who acts as an intermediary for one or more postal operators and intended recipients that hands over <u>relevant parcels</u> to another <u>postal operator</u> (including but not limited to the <u>universal service provider</u>) (‘Operator B’) for subsequent conveyance and delivery to the intended recipients of the <u>relevant parcels</u> but for which conveyance and delivery Operator A is not responsible in relation to the intended recipients; for the purposes of this exclusion, Operator A shall also be deemed not to be an intermediary where:</p> <p>(i) Operator A directs, controls or otherwise seeks to influence the manner in which Operator B conveys and delivers the relevant parcels; or</p> <p>(ii) Operator B is employed by Operator A either as an employee or a worker (within the meanings of those expressions under section 230 of the Employment Rights Act 1996) for that conveyance and delivery; and</p> <p>(4) services consisting of the conveyance of <u>relevant parcels</u> provided by the <u>postal operator</u> only as part of a sales contract between the <u>postal operator</u> and a user under which the <u>postal operator</u> conveys and delivers such <u>relevant parcels</u> that are subject of that contract directly to the user without any arrangements with another <u>postal operator</u>; in this exclusion “a sales contract” refers to a contract by which the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration;</p> <p>(p) “<b>relevant postal operator</b>” means each of the following—</p> <p>(1) a <u>postal operator</u> that provides a <u>relevant letters postal service</u>;</p> <p>(2) a <u>postal operator</u> that provides a <u>relevant parcels postal service</u>;</p> <p>(q) “<b>relevant turnover</b>” means each of the following—</p> <p>(1) turnover from <u>relevant letters postal services</u>;</p>
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	<p>(2) turnover from <u>relevant parcels postal services</u></p> <p><b>(r)</b> “<b>relevant year</b>” means any year beginning on 1 April, the first year of which begins on 1 April 2019;</p> <p><b>(s)</b> “<b>Scottish consumer advice amounts</b>” mean such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to <u>users of postal services</u>; and</p> <p><b>(t)</b> “<b>USP Access Agreement</b>” means an agreement under which the <u>universal service provider</u> provides access to its <u>postal network</u> in accordance with requirements set out in a condition imposed under section 38 of the Act.</p>
<p><b>CP 1.1.3</b> <i>Interpretation</i></p>	<p>For the purpose of interpreting this CP Condition—</p> <p><b>(f)</b> except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act<sup>23</sup>;</p> <p><b>(g)</b> headings and titles shall be disregarded;</p> <p><b>(h)</b> expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p><b>(i)</b> the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p><b>(j)</b> references to a “<b>day</b>” are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays.</p>

## 1.2. Payments relating to qualifying expenses

<p>CP 1.2.1 <i>Obligations to make payments to OFCOM</i></p>	<p>A <u>relevant postal operator</u> is liable to make payments to <u>OFCOM</u> in one or more (as applicable to that operator) of the following three circumstances—</p> <p><b>(d)</b> where a <u>postal operator</u> that provides <u>relevant letters postal services</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u>, that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion (calculated in accordance with CP 1.2.3) as <u>OFCOM</u> may specify of the <u>qualifying expenses</u>;</p> <p><b>(e)</b> where a <u>postal operator</u> that provides <u>relevant parcels postal services</u> that generated <u>relevant turnover</u> exceeding £350 million in the <u>assessment year</u>,</p>
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<sup>23</sup> A table for information identifying such defined terms is provided at the end of this CP Condition. This table is intended only as a guide and does not form a part of this CP Condition. We make no representations as to its accuracy or completeness.

	<p>that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion (calculated in accordance with CP 1.2.3) as <u>OFCOM</u> may specify of the <u>qualifying expenses</u>;</p> <p>(f) where a <u>relevant postal operator</u> has reached the <u>qualifying calls threshold</u> in the <u>relevant year</u>, that operator shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion (calculated in accordance with CP 1.2.5) as <u>OFCOM</u> may specify of <u>qualifying calls expenses</u>.</p>
<p>CP 1.2.1A</p> <p><i>Apportionment of turnover</i></p>	<p>Where a <u>postal operator</u> generates turnover (whether as part of a subscription fee or otherwise) for a bundle of goods or services that include <u>relevant letters postal services</u> or <u>relevant parcels postal services</u>, that operator shall allocate a reasonable proportion of such turnover to be included in its total <u>relevant turnover</u> from <u>relevant letters postal services</u> or <u>relevant parcels postal services</u> for the purpose of CP 1.2.1(a) and (b).</p>
<p>CP 1.2.2</p> <p><i>Meaning of “qualifying expenses”</i></p>	<p>The “<b>qualifying expenses</b>” are—</p> <p>(a) the <u>qualifying consumer expenses of Citizens Advice</u>;</p> <p>(b) the <u>qualifying consumer expenses of the General Consumer Council for Northern Ireland</u>;</p> <p>(c) the <u>Scottish consumer advice amounts</u>; and</p> <p>(d) the <u>qualifying consumer expenses of the Secretary of State</u>,</p> <p>likely to be incurred during the <u>relevant year</u> in respect of functions other than the <u>consumer advocacy bodies’ functions in dealing with calls relating to relevant postal operators</u>.</p>
<p>CP 1.2.3</p> <p><i>Calculation of proportion for the purposes of CP 1.2.1(a) and (b)</i></p>	<p>The proportion referred to in CP 1.2.1(a) and (b) will be calculated by multiplying the sum of the total <u>qualifying expenses</u> referred to in CP 1.2.2 by that <u>relevant postal operator’s share of relevant turnover</u> expressed as a percentage of the total <u>relevant turnover</u> generated by all <u>relevant postal operators</u> to which CP 1.2.1(a) and (b) refer in the <u>assessment year</u> in question.</p>
<p>CP 1.2.4</p> <p><i>Meanings of “qualifying calls threshold” and</i></p>	<p>A <u>relevant postal operator</u> shall be liable to make payments to <u>OFCOM</u> for the purposes of CP 1.2.1(c) only where the following calculation gives an amount greater than £100 (the “<b>qualifying calls threshold</b>”)—</p> <p>(a) take the total <u>qualifying calls expenses</u> in the <u>relevant year</u>,</p>

<p>of “qualifying calls expenses”</p>	<p>(b) multiply it by that <u>relevant postal operator’s</u> share of <u>calls relating to relevant postal operators</u> in the <u>relevant year</u> expressed as a percentage of the total <u>calls relating to relevant postal operators</u>.</p> <p>The “<b>qualifying calls expenses</b>” are—</p> <p>(a) the <u>qualifying consumer expenses of Citizens Advice</u>;</p> <p>(b) the <u>qualifying consumer expenses of the General Consumer Council for Northern Ireland</u>; and</p> <p>(c) the <u>Scottish consumer advice amounts</u>,</p> <p>likely to be incurred during the <u>relevant year</u> in respect of the <u>consumer advocacy bodies’</u> functions in dealing with <u>calls relating to relevant postal operators</u>.</p>
<p>CP 1.2.5</p> <p><i>Calculation of proportion for the purposes of CP 1.2.1(c)</i></p>	<p>The proportion referred to in CP 1.2.1(c) to be paid by a <u>relevant postal operator</u> reaching the <u>qualifying calls threshold</u> will be calculated by multiplying the total <u>qualifying calls expenses</u> in the <u>relevant year</u> by that <u>relevant postal operator’s</u> share of <u>calls relating to relevant postal operators</u> falling within CP1.2.4 expressed as a percentage of the total <u>calls relating to relevant postal operators</u> falling within CP1.2.4.</p>
<p>CP 1.2.6</p> <p><i>Adjusted amounts payable under CP 1.2.1(a) and (b)</i></p>	<p>The amounts payable under CP 1.2.1(a) and (b) in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.</p>
<p>CP.1.2.7</p> <p><i>Adjusted amounts payable under CP 1.2.1(c)</i></p>	<p>The amounts payable under CP 1.2.1(c) in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>relevant postal operator</u> in the previous <u>relevant year</u>, based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to relevant postal operators</u> (including to calls relating to that specific <u>relevant postal operator</u>) and actual <u>qualifying calls expenses</u>. Where the latter exceeds the former, the amount of the difference shall be treated as a negative amount.</p>
<p>CP 1.2.8</p>	<p>The amount due under each of the three circumstances specified in CP 1.2.1 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month</p>

<i>Payments due dates</i>	from the day on which <u>OFCOM</u> serve notice on the <u>relevant postal operator</u> of such amount.
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**Table of terms defined in the Act**

*This table is provided for information and does not form a part of this CP Condition. We make no representations as to its accuracy or completeness. Please refer to the Act.*

<b>Defined term</b>	<b>Section</b>
<i>Citizens Advice</i>	<i>65(1)</i>
<i>Citizens Advice Scotland</i>	<i>65(1)</i>
<i>Letter</i>	<i>65(1)</i>
<i>OFCOM</i>	<i>90</i>
<i>postal network</i>	<i>38(3)</i>
<i>postal operator</i>	<i>27(3)</i>
<i>postal packet</i>	<i>27(2)</i>
<i>postal services</i>	<i>27(1)</i>
<i>qualifying consumer expenses of Citizens Advice</i>	<i>51(4)(a) to (c)</i>
<i>qualifying consumer expenses of the General Consumer Council for Northern Ireland</i>	<i>51(4)(g)</i>
<i>qualifying consumer expenses of the Secretary of State</i>	<i>51(4ZA)</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>
<i>User</i>	<i>65(1)</i>

## A3. Responding to this consultation

### How to respond

- A3.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 18 August 2021.
- A3.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-2/recovering-consumer-advocacy-costs>. You can return this by email or post to the address provided in the response form.
- A3.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [gianpiero.roscelli@ofcom.org.uk](mailto:gianpiero.roscelli@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after 18 August 2021.
- A3.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
  - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A3.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A3.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A3.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A3.8 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 6. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom’s proposals would be.
- A3.9 If you want to discuss the issues and questions raised in this consultation, please contact Gianpiero Roscelli by email to [gianpiero.roscelli@ofcom.org.uk](mailto:gianpiero.roscelli@ofcom.org.uk).

### Confidentiality

- A3.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that

everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.

- A3.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A3.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A3.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A3.14 Following this consultation period, Ofcom plans to publish a statement in autumn 2021.
- A3.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A3.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 6.
- A3.17 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A3.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A4. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A4.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

#### During the consultation

- A4.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A4.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A4.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A4.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A4.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A4.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A5. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

## A6. Consultation questions

Question 1: Do you agree with our proposed changes to the intermediary exclusion in the definition of 'relevant parcels postal service' and the deletion of intermediary exclusion for the definition of 'relevant letters postal service' in CPC1? Please include your reasoning and relevant evidence in your response.

Question 2: Do you agree with our proposed introduction of the bundled turnover allocation requirement in CPC1? Please include your reasoning and relevant evidence in your response.

Question 3: Do you agree with our proposed change to the definition of 'relevant parcel' in CPC1? Please include your reasoning and relevant evidence in your response.