



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to Ofcom's draft Annual Plan 2013/14

February 2013

About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy-makers to put consumers at the heart of what they do. We tackle the issues that matter to consumers, and give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Following the recent consumer and competition reforms, the Government has asked Consumer Focus to establish a new Regulated Industries Unit by April 2013 to represent consumers' interests in complex, regulated markets sectors. The Citizens Advice service will take on our role in other markets from April 2013.

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Our response

Consumer Focus welcomes the opportunity to comment on Ofcom's Draft Annual Plan 2013/14. As the postal watchdog we have worked closely with Ofcom over the past year as it has settled into its role as the postal regulator. We have contributed research and policy responses to its work on price controls, delivery to neighbour and end to end competition. In particular, we were pleased that Ofcom was able to make use of our research into consumers' future needs from the universal postal service as part of its own user needs review. We have a full programme of work on a diverse range of relevant issues that we will implement over the coming year, which we will be happy to share with Ofcom to ensure that the clear benefits to consumers that flow from our relationship continue. We will use this response to comment on several of Ofcom's priorities and proposed actions, drawing on our expertise in both the postal and telecoms sectors.

Strategic Purpose 1: Promote effective competition and informed choice

Promote effective choice for consumers by ensuring that clear and relevant information is readily available

Postal issues

Royal Mail has a virtual monopoly for postal services for residents and small and medium enterprises (SMEs) by virtue of being the universal service provider. There is therefore little choice for postal consumers – at least for letter post and for those who send low volumes, and this situation is unlikely to change in the near future. Ofcom has therefore not included the postal market in its discussion of this Strategic Purpose, which focuses mostly on telecoms, broadband and switching. However, Ofcom has stated that it will intervene to ensure suitable consumer information in cases where the market does not provide sufficient information and where the information is important to consumer choice. This should lead to a final outcome in which consumers are able to make choices and decisions in the market, based on clear and complete information that is accessible, understandable, verifiable and comparable. These actions should help with its aim of empowering consumers through information, an aim that we believe is also important in the postal market.

Our evidence for believing that informed choice is an issue for postal consumers comes from research into consumers' knowledge of Royal Mail's products that formed the basis of our report [Getting the most from the post](#).¹ Our omnibus research found that consumers often did not choose the most appropriate universal postal service products to fulfil particular posting needs and that they were often unaware of the features that these products offer. Taken together these findings imply that consumers' suboptimal product choices are as a result of their low awareness of the features of these products. This report also detailed the findings from mystery shopping looking at the product and sales advice offered in both High Street post offices and the pilot branches of Post Office Locals. If the advice that counter staff give is accurate and appropriate to consumers' needs this could help to mitigate the fact that consumers' spontaneous knowledge of these products is low, at least for those products that are posted across the counter.

¹ <http://bit.ly/Vo8eMY>

However, we found that post office counter staff did not consistently ask the questions that would have allowed them to identify the correct product to meet the shoppers' needs, and did not always provide the correct pricing and product advice.

This report made several recommendations for concrete actions that Royal Mail, Post Office Limited (POL) and Ofcom should take to improve consumers' awareness of, and access to, postal services. For example, one of these was that Royal Mail should consider changing the names of its products to better reflect the features they offer in a 'does what it says on the tin' approach. We were therefore pleased that Royal Mail recently [consulted](#)² on its decision to change the name of Recorded Signed For to 'Royal Mail Signed For', a change that we believe should help to clarify to consumers what they are buying. Royal Mail also proposed changing the name of Special Delivery Next Day to 'Royal Mail Special Delivery Guaranteed by 1pm' which does not, in our view, achieve the aim of clarifying the features it provides. We recognise that renaming Special Delivery is more problematic, since it bundles several security features with guaranteed next day delivery. This design is enshrined in regulation, and we believe that Ofcom should consider amending the universal service product portfolio to unbundle the features of Special Delivery. This would then allow Royal Mail to offer consumers the option to purchase only those features that they need as a bolt-on to a delivery service using names that better reflect these features.

This is the type of action that we believe Ofcom needs to consider over the coming year. We believe our research indicates that postal consumers are not able to make simple, informed decisions to access the products they require. Ofcom needs to take a broad view on the reforms that are necessary to bring the service back into alignment with consumers' needs, tolerances and understandings.

This includes greater consideration than it has previously given to how these products are accessed in post offices. This is particularly true given the proposed amendments to parcels and compensation Royal Mail made in its consultation discussed above, not all of which are directly beneficial to consumers. Several of the concerns we raised around these changes would be much allayed if we felt confident that the advice consumers receive in post offices was accurate and aimed at ensuring consumers receive the most appropriate product for their needs. Recent years have seen (and will continue to see) two substantial changes to the post office network. As of 1 April 2012, Royal Mail Group Ltd and POL became separate companies linked by an Inter Business Agreement. This means that two companies with separate profit motives are now responsible for providing universal service postal products. It seems reasonable to question whether this split will have implications for consumers enquiring about or purchasing Royal Mail's products via the Post Office network, particularly because we suspect that consumer awareness of the split is very low.

Looking forward, the ongoing three-year Network Transformation programme will see 6,000 branches (half of the network) convert to either a Post Office Main (4,000 branches) or Post Office Local (2,000 branches). The magnitude and speed of these changes are unprecedented in the history of the UK Post Office network. In particular, the Post Office Local model brings with it changes to existing staffing arrangements, product range and opening hours. Our mystery shopping found that pricing advice in pilot Locals was inaccurate and inconsistent, and staff in Locals branches were less likely to ask relevant questions about the postal items. However, under the new contractual relationship and during Network Transformation and beyond, Royal Mail retains responsibility for ensuring that consumers can access its universal postal service products, including those that are offered via post offices.

² <http://bit.ly/XqpKni>

Royal Mail is responsible for the way that its universal service products are sold across post office counters, and Ofcom should do more to satisfy itself that consumers are receiving the correct advice.

The issues of effective competition and informed choice also increasingly apply to the parcels market in which there are many more players. Consumer Focus will be investigating how well competition is working for consumers as senders of parcels, and as delivery initiators through retailers when ordering fulfilment goods online, over the next year.

Telecoms issues

We support Ofcom's commitment to decrease information asymmetry for consumers and improve information remedies. In particular, we welcome Ofcom's plans to carry out further work in the area of broadband speeds, consumer complaints and traffic management practices.

However, with regard to traffic management practices we urge Ofcom not to limit the scope of its work to transparency issues only. For example, our report [Lost on the broadband super highway](#),³ in which we investigated consumer understanding of information on traffic management, concludes that increased transparency alone is unlikely to effectively safeguard the open internet and prevent discriminatory restrictions online. Our research found that consumers were not aware of traffic management practices, and even if they found information on traffic management restrictions on providers' websites they could not digest the meaning of unfamiliar terms such as P2P or VoIP. This conclusion is reinforced by the findings of a [Body of European Regulators for Electronic Communications \(BEREC\) investigation](#)⁴ and Ofcom's Infrastructure Report that show that many broadband providers place restrictions on access to online applications and services despite a regulatory framework designed to foster transparency. Therefore, in our view, Ofcom needs to scrutinise the issue further – not just in terms of transparency, but also fair competition for access to network infrastructure. It also needs to announce the outcomes of such investigation annually via the Open Internet reports.

In addition, we would also suggest that Ofcom continues its work on the role of information provided not only by the regulator and product or service provider, but also by intermediaries (eg price comparison websites) which are increasingly popular among consumers. Consumer Focus plans to develop further work on consumer empowerment through a new generation of emerging intermediary services that can help consumers to engage with complex regulated markets, making it simpler, faster and more convenient to identify the deal that is in their best interest. We would like to engage with Ofcom to further develop work in this area.

Develop and implement policies that will improve the ease of switching between communication providers

According to Ofcom's Communications Market Reports, switching levels in the telecommunications market remain persistently low, even in comparison to other markets perceived as challenging to consumers. We therefore support Ofcom's proposals on the introduction of gaining provider-led (GPL) switching processes, announced in its switching consultation in February 2012. However, we are disappointed at the further delay of Ofcom's announcement of next steps planned only in Q4 2012/13, which is likely to be detrimental to consumers.

³ <http://bit.ly/11Sf72d>

⁴ <http://bit.ly/VDHK0x>

Strategic Purpose 3: Promote opportunities to participate

Ofcom has stated that its approach to this Strategic Purpose includes securing the universal postal service. As part of this process during 2012/13 it carried out extremely extensive and thorough quantitative and qualitative research to inform its review of users' needs from the universal postal service, which will be completed by March 2013.

We were very impressed with Ofcom's approach to this review. It now has a substantial body of evidence, supplemented by the related [Consumer Focus research](#)⁵ that presents a forward-looking view of consumers' future needs from the service. We were pleased that Ofcom has recently shared its research findings from this review with Consumer Focus Wales on a national basis; we welcome the mutual sharing of data both generally and at the national level.

We urge Ofcom to make use of the extensive amount of converging evidence available to it to go beyond its theoretical position and take the opportunity to act on some of the clear conclusions that follow from its robust research. Royal Mail is operating in a world undergoing rapid external changes, and if it does not act Ofcom runs the risk that the universal postal service will become increasingly obsolete, over-providing on some services while not meeting consumers' core needs. Ofcom states that its final outcome from this work should be a financially sustainable universal postal service that meets the needs of consumers. It needs to consider whether this outcome can be achieved in the medium-term if it does not implement the changes we believe would help to safeguard the universal service by ensuring that consumers' needs are met more appropriately. We also urge Ofcom to continue to work with Royal Mail to gain a greater insight into the costs of the universal service, as this information will assist Ofcom in analysing the costs and benefits of removing or changing elements of the service.

Looking forward to how the postal market is likely to change in the future, one issue that was raised as part of Ofcom's user needs review is convenient parcel deliveries. On this issue Ofcom has a clear advantage as the regulator of the communications market as its awareness of trends within the broader communication sector provides it with a great insight into current and future issues in each market. Ofcom's research has identified huge growth in e-commerce that is fuelling the demand for convenient parcel deliveries,⁶ although its research also shows that the postal sector has been unable to meet the demands of this trend. As parcels become an increasingly important element of Royal Mail's mail bag, Ofcom should focus on reducing the detriment consumers will continue to experience unless more pressure is placed on Royal Mail to explore alternative convenient delivery options.

Consumer Focus recognises the importance of the financial sustainability of the universal service and that Royal Mail is currently the only operator capable of providing it. We are therefore pleased that Ofcom has reaffirmed its commitment to ensuring the financial sustainability of the universal service. However, a universal service that is not provided efficiently will result in prices set high above efficient costs that require consumers to pay more than they should for the service. It is therefore encouraging to see that Ofcom continues to emphasise the importance of the efficient provision of the universal service by Royal Mail. We support Ofcom's proposed assessment of appropriate efficiency measurements for Royal Mail, as Royal Mail's ability to understand and therefore control its costs is crucial for the universal service to be sustainable without taxpayer or industry subsidy.

⁵ <http://bit.ly/TrFQy2>

⁶ In the past three years e-commerce has grown at 10 times the rate of retail sales on the high street, increasing by 44 per cent between February 2010 and February 2012. This compares to a 4 per cent increase in the value of retail sales on the high street. Ofcom (2012) *Communications Market Review*

We are therefore very interested in the progress of the analysis and any recommendations that flow from it. We are also pleased to see that Ofcom has committed to investigate issues around affordability in postal services, including for consumers in vulnerable situations. We look forward to engaging with Ofcom in this investigation and as it continues with its ongoing monitoring of affordability.

Ofcom mentions that it will continue to assess the impact of end-to-end competition on the provision of the universal service. We were pleased to be able to contribute [our consultation response](#)⁷ to this assessment, and we will continue to follow this significant issue with interest. We hope that Ofcom will continue to engage with key stakeholders and industry, along with publishing any legal advice that it has received that has informed its decision-making process.

Consumer Focus is currently conducting a postal market review which we think will complement Ofcom's work as it will focus on the wider issue of the effects of competition on consumers and the universal service. We will be publishing our findings in the spring and look forward to discussing them and the implications for the universal service with Ofcom.

Other issues

Engaging with the nations

We welcome Ofcom's commitment to continue to assess the impact of cross-border communications service on consumers and business users. We encourage Ofcom to explore the issue of cross-border mail between Northern Ireland and Republic of Ireland. Our 2010 report [Cross Border Post](#) outlines the importance of a fit for purpose cross-border postal service for businesses and consumers.

The success of many Northern Ireland businesses, and indeed the Northern Ireland economy, depends to a considerable extent on an efficient cross-border postal service. Many companies rely on it for their communication and business needs. We consider that the current postal service, while meeting EU performance targets (of up to three working days) is unambitious and unhelpful in the important task of building bridges between the communities and economies of North and South.

The Republic of Ireland offers unique trading opportunities to businesses in Northern Ireland, not only because of its proximity but because it is the only part of the UK that has a land border with a country in the Eurozone. Controls along the border between Northern Ireland and Republic of Ireland have relaxed and all-island trade has increased as a result. A large proportion of Northern Ireland trade with Republic of Ireland is carried out by small to medium-sized enterprises with many businesses successfully trading on both sides of the border.

With the current economic climate, we believe an efficient and fit for purpose cross-border postal service between Northern Ireland and Republic of Ireland is even more relevant in 2013.

⁷ <http://bit.ly/11SfidY>



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