

**CWU SUBMISSION TO OFCOM CONSULTATION:**  
**SAFEGUARD CAP FOR LARGE LETTERS AND PACKETS**

**Introduction**

1. The Communication Worker's Union (CWU) is the largest union in the communications sector in the UK, representing over 200,000 employees in the postal, telecoms and related industries. It is the recognised union in the Royal Mail Group for all non-management grades.
2. The CWU welcomes Ofcom's consultation on the proposed safeguard cap for Large Letters and packets, and the opportunity to contribute toward the development of a new regulatory model.
3. The CWU has made clear our position on price control of Universal Service products in previous Ofcom consultations on Securing the Universal Postal Service, and this response should be read in conjunction with those previous, more substantial, submissions.
4. We support greater flexibility for Royal Mail, and recognise the need for some price rises in order to secure the future of Royal Mail and the universal service.
5. However we believe it is important that appropriate monitoring and control mechanisms remain for all universal service products to ensure affordability. We therefore support the extension of the price control mechanism to a broader category of universal service products than originally proposed by Ofcom.
6. We continue to have concerns about the affordability of universal products, in particular for vulnerable consumers and small businesses. Ofcom's methodology for assessing affordability is inadequate, especially given the importance in the legislative framework of this aspect of the universal service.
7. It is important to note that packets are the principle growth area in the UK postal market, as a result of increased e-commerce, so that regulatory decisions on the pricing of large letters and packets have the potential to significantly affect Royal Mail, its customers and the postal sector as a whole.

**Summary of Ofcom's proposals**

8. In October 2011 Ofcom published an extensive consultation, 'Securing the Universal Postal Service Proposals for the Future Framework for Economic Regulation', which was followed in December 2011 by a further consultation, 'Review of Regulatory Conditions'. Those

consultations recognised significant failings in the previous regulatory regime, which have greatly contributed to the financial difficulties now faced by Royal Mail, and in the long term threatened the company's ability to deliver the universal postal service.

9. Accordingly, Ofcom proposed a set of essentially deregulatory measures, which include the removal of long standing price controls for all Royal Mail services, with the exception of the price of a second class stamp which is to be capped. In March 2012 Ofcom responded to these consultations in 'Decision on the New Regulatory Framework', which broadly implemented the proposals contained in the consultation documents.
10. One significant change was Ofcom's decision to extend the 2<sup>nd</sup> class price cap to cover a wider range of products. Ofcom now propose applying a price cap to 2<sup>nd</sup> class large letters and packets. This consultation seeks stakeholder views on that decision, as well as on the detail of the cap, including the appropriate price.

## **CWU response**

### Scope of the cap

11. In their March 2012 document, Ofcom decided to extend the scope of the 2<sup>nd</sup> class price cap to include large letters and packet products, up to 2kg in weight. It is proposed this cap would apply from April 2013, and take into account the increase in prices for these products introduced by Royal Mail in April 2012.
12. The CWU supports the extension of the price cap, which we have consistently argued for.
13. The CWU urges Ofcom to extend the price cap to all universal service products, as it is vital the universal service is affordable for all users, and excessive pricing may cause long-term decline in demand for postal services. Ofcom argue that above the 2kg weight step, competition is more significant, and therefore justifies deregulated pricing. However, Ofcom concede that many of these competitive options are not available to all consumers, for example those living in rural areas. No attempt is made to quantify the proportion of users excluded from competitive options. There are important social benefits to ensuring users living in rural and remote communities are able to benefit from affordable packet deliveries, not least in the context of increasing e-commerce, and Ofcom's current proposal will not ensure these are achieved.
14. Ofcom argue that the retention of price controls on a limited range of universal service products establishes an affordable basic universal service product available to all consumers. We are concerned by the

implication that affordability is being sacrificed for products outside this limited range. It is vital, and required by European and UK law, that all universal service products remain affordable. We examine the compliance issues raised by Ofcom's approach further below.

### Structure of the cap

15. Ofcom propose to impose a price cap across a basket of large letter and packet products, rather than capping each individual price point.
16. The CWU agrees that pricing in this part of the postal market may not be at optimal levels. As such, there may well be efficiency advantages to allowing Royal Mail commercial flexibility to vary prices within the bundle of goods.
17. We note however that the proposed structure does leave open the theoretical possibility of targeted price increases within the basket of products to the detriment of users of that product, and consider that Ofcom should retain some monitoring capacity to protect against this possibility.

### Level of the cap

18. Ofcom propose to set the cap to allow a maximum 53% increase on 2011 prices, in line with the cap imposed in March 2012 on 2<sup>nd</sup> class standard letters. Given that Royal Mail increased the price of large letters and packets by 14% in 2012, Ofcom propose that the cap would allow for further flexibility of 34% over the next six years.
19. The CWU's concerns over the level of this cap reflect the points previously raised in relation to the cap on letters. We are concerned that such significant increases in price risk making the service unaffordable for certain users.
20. We are concerned that Ofcom's treatment of the issue of affordability is not sufficiently rigorous. As we and a number of other stakeholders have previously argued, it is difficult to assess affordability of a particular price rise without establishing the principles on which this is measured. We urge Ofcom, once again, to look more carefully at different measures of affordability, especially for small businesses and vulnerable consumers.

### Ofcom's legal duties

21. We are concerned that Ofcom's treatment of affordability could be interpreted as failing to comply with the requirements of European and UK law governing the universal service.
22. The Postal Directive imposes the condition that universal service products must be affordable for all users. This condition applies to all

universal service products, whereas Ofcom's approach appears to be to ensure affordability for a limited subset of these products. This runs the risk of excluding some users from the universal service, against the wishes of legislators.

23. In our response to Ofcom's December consultation, we stressed that the move to define the universal service characteristics, rather than a list of products, must preserve all the products currently included in the universal service. That the affordability for some universal products appears not to be guaranteed by Ofcom is therefore of some concern.

24. We are also concerned that Ofcom's rationale for limiting the scope of the cap to packets weighing less than 2kg does not hold for significant parts of the population. Ofcom acknowledge this with reference to residents in rural or isolated communities, where competitors either refuse to operate, or charge punitive premiums.

25. Given the fact that residents in such areas may well as a result of Ofcom's decision lose access to affordable large packet services, there is a risk that the general duty under s.3(4) of the Communications Act 2003 is not met, for example with regard to the different interests of persons in the different parts of the United Kingdom.

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