

## Annex 12

# Statutory Notification: notification condition

### NOTIFICATION OF DECISION TO IMPOSE A REGULATORY CONDITION IN ACCORDANCE WITH SECTION 41 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

- (A) On 13 December 2011, at Annex 15 to the consultation document entitled 'Review of Regulatory Conditions: Postal Regulation', OFCOM published a notification in accordance with section 41 of, and paragraph 3(3) of Schedule 6 to, the Act setting out their proposals to impose on regulated postal operators a notification condition pursuant to their powers in section 41 of the Act (the "**First Notification**").
- (B) A copy of the First Notification was sent to the Secretary of State in accordance with Schedule 6 paragraph 5(1)(a) of the Act.
- (C) In the First Notification (and the accompanying consultation document), OFCOM invited representations about any of the proposals set out therein by 31 January 2012.
- (D) By virtue of section 41 of, and paragraph 3(5) of Schedule 6 to, the Act OFCOM may give effect, with or without modifications, to a proposal with respect to which they have published a notification only if they—
  - (i) have considered every representation about the proposal that is made to them within the period specified in the First Notification; and
  - (ii) have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State.
- (E) OFCOM received responses to the First Notification and have considered every such representation made to them in respect of the proposals set out in the First Notification (and the accompanying consultation document); and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose

### DECISION

1. OFCOM hereby imposes a notification condition, in accordance with section 41 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers in section 41 of the Act, on postal operators (as defined in the conditions), to make provision for matters set out in that section 41.
2. The notification condition is specified in the Schedule hereto.
3. The effect of, and OFCOM's reasons for making, this decision are set out in the accompanying explanatory statement.

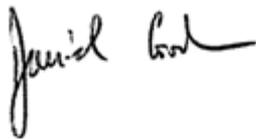
## OFCOM'S DUTIES AND LEGAL TESTS

4. OFCOM is satisfied that this proposal satisfies the general test in paragraph 1 of Schedule 6 to the Act.
5. In making this decision, 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.

## INTERPRETATION

6. 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.
7. In this Notification—
  - (a) “**Act**” means the Postal Services Act 2011 (c.5); and
  - (b) “**First Notification**” has the meaning given to it in recital (A) above.
8. 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;
  - (c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
9. The Schedule to this Notification shall form part of this Notification.
10. Unless otherwise is stated in that Schedule, this Notification shall take effect on 1 April 2012.

Signed by **Daniel Gordon**



**Competition Policy Director**

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

**27 March 2012**

## SCHEDULE

### NOTIFICATION CONDITION 1

#### 1.1 Application, Definitions and Interpretation

<b>N1.1.1</b>	This Notification Condition shall apply to any person who is providing, or is intending to provide, a <u>service within the scope of the universal service</u> of a description specified in Condition N1.2.1 of this Notification Condition.
<b>N1.1.2</b>	In this Notification Condition—  <b>(a)</b> “ <b>Act</b> ” means the Postal Services Act 2011 (c.5);  <b>(b)</b> “ <b>letters</b> ” has the same meaning as set out in section 65(1) of the Act save that it does not include postal packets as defined in subsection (b) of that definition;  <b>(c)</b> “ <b>letters business</b> ” has the same meaning as set out in section 41(7) of the Act, save that the meaning of “letters” in that definition shall have the meaning set out in this Notification Condition;  <b>(d)</b> “ <b>Relevant Period</b> ” means any period of three consecutive months.
<b>N1.1.3</b>	For the purpose of interpreting this Notification Condition—  <b>(a)</b> except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in paragraph 2 of this Part above 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;  <b>(b)</b> headings and titles shall be disregarded;  <b>(c)</b> expressions cognate with those referred to in this Notification Condition shall be construed accordingly; and  <b>(d)</b> the Interpretation Act 1978 (c. 30) shall apply as if this Notification Condition were an Act of Parliament.

#### 1.2. Requirement to notify intention to provide specified delivery services

<b>N1.2.1</b>	Any person must give written notice to <u>OFCOM</u> at least three months before the person intends to do any of the following:
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	<p>(a) provide a <u>letters business</u> consisting of the delivery of at least two and a half million <u>letters</u> in all or any part of the United Kingdom within a <u>Relevant Period</u>;</p> <p>(b) where the person is already providing a <u>letters business</u> that meets the specification set out in subparagraph (a) of this Condition N1.2.1, and regardless of whether the person has previously made one or more notifications under this Condition, the expansion of that <u>letters business</u> through the delivery of an additional two and a half million or more <u>letters</u> in all or any part of the United Kingdom within a <u>Relevant Period</u>.</p>
<b>N1.2.2</b>	<p>Written notice given to <u>OFCOM</u> pursuant to Condition N1.2.1 must include the following information:</p> <p>(a) details of the forecast volume of <u>letters</u> to be delivered within the <u>Relevant Period</u> to which the notification relates;</p> <p>(b) details of the geographical areas in which the <u>letters business</u> to which the notification relates is forecast to operate; and</p> <p>(c) details of when the <u>letters business</u> to which the notification relates is to be put into effect.</p>
<b>N1.2.3</b>	<p>This Notification Conditions shall not apply to such extent as <u>OFCOM</u> may direct.</p>
<b>N1.2.4</b>	<p>Any person to whom this Notification Condition applies shall comply with any direction <u>OFCOM</u> may make from time to time under this Notification Condition.</p>

**Table of terms defined in the Act**

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

<b>Defined term</b>	<b>Section of the Act</b>
Service within the scope of the universal service	40
OFCOM	90