



Review: Mail Integrity and Postal Common Operational Procedures

Call for inputs

Call for inputs

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Contents

| Section | | Page |
|--------------|--|-------------|
| 1 | Review of Mail Integrity and Postal Common Operational Procedures Codes of Practice | 1 |
| 2 | Mail Integrity Code of Practice | 3 |
| 3 | Postal Common Operational Procedures Code of Practice and Postal Common Operational Procedures Agreement | 8 |
| Annex | | Page |
| 1 | Responding to this call for inputs | 12 |
| 2 | Ofcom's consultation principles | 14 |
| 3 | Call for inputs responses cover sheet | 15 |
| 4 | Call for inputs: questions | 17 |
| 5 | Essential Condition 1 and Mail Integrity Code of Practice | 19 |
| 6 | Consumer Protection Condition 2 and Post Common Operational Procedures Code of Practice | 29 |

Section 1

Review of Mail Integrity and Postal Common Operational Procedures Codes of Practice

Introduction

- 1.1 Ofcom is the regulator for the communications sector. Our principal duty for postal services, under the Postal Services Act 2011, is to carry out our functions in a way that we consider will secure the provision of a universal postal service.
- 1.2 After taking over responsibility for the regulation of postal services in the UK in October 2011, we published a consultation setting out our proposals on the future framework for the economic regulation of the postal sector (the 'October 2011 consultation').¹ After consideration of the responses to this consultation we published in March 2012 a statement (the 'March 2012 statement')² setting out the new regulatory framework to secure the universal postal service.
- 1.3 In the March 2012 statement we confirmed policy proposals regarding the Mail Integrity Code of Practice ('MICOP') and the Postal Common Operational Procedures Code of Practice ('PCOP Code'), collectively referred to in this document as 'the Codes'. In particular, we confirmed our intention to extend the scope of the Codes to include access mail³ to ensure consistency of protection for any item at all points in the network. We considered that the increasing volume of access mail (items sent by customers using access services grew from 10% of total mail volumes in 2006 to 44% in 2012)⁴ and the multi-operator market increased the importance of the PCOP Code to facilitate network interoperability. Furthermore, as access mail is injected into another network, the chance of mail going astray is increased; as access mail is generally of low intrinsic value, the financial incentive to ensure the security of mail may be reduced.
- 1.4 We also set out in the March 2012 statement that we would review the Codes before extending the scope of the Codes to cover access mail. This was in light of stakeholder responses to the October 2011 consultation which had raised concerns with specific provisions in the Codes (such as the reporting requirements) and the fact the effectiveness of the Codes had not been formally reviewed since their introduction in 2006.
- 1.5 This call for inputs follows some informal discussions with postal operators regarding issues associated with the Codes, and is the first formal stage of the review of the

¹ *Securing the Universal Postal Service*

<http://stakeholders.ofcom.org.uk/binaries/consultations/securing-the-postal-service/summary/condoc.pdf>

² *Securing the Universal Postal Service – Decision on the new regulatory framework*

<http://stakeholders.ofcom.org.uk/consultations/review-of-regulatory-conditions/statement/>

³ Access mail is where a postal service operator receives mail from customers, processes and sorts it, and then hands the mail over to Royal Mail for delivery to the final recipient.

⁴ Ofcom, Communications Market report, July 2012, available at:

<http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr12/uk/>

Codes. It will help us identify and better understand any issues with specific provisions, and the effectiveness, of the Codes before making formal proposals as part of a consultation.

Next steps

- 1.6 Stakeholders have until 25 April 2013 to respond to this call for inputs and provide their qualitative views on the matters set out in this paper.
- 1.7 Our goal is then to publish a consultation with our policy proposals in summer 2013, with a final policy statement currently scheduled for late 2013.

Section 2

Mail Integrity Code of Practice

(MICOP)

- 2.1 The Postal Services Act 2000 (the '2000 Act'), requires all postal operators to take all reasonable steps to prevent interference with the mail. Section 83 of the Act makes interference with the mail a criminal offence, punishable by fines and/or imprisonment.⁵
- 2.2 Section 49 of the Postal Services Act 2011 (the '2011 Act') gives Ofcom a power to impose an essential condition on all postal operators or certain categories of postal operators in connection with any one or more of the following purposes:
- safeguarding confidentiality in connection with the sending, conveyance and delivery of letters;
 - safeguarding security where dangerous goods are transported;
 - safeguarding the confidentiality of information conveyed;
 - guarding against the theft or loss of or damage to postal packets; and
 - securing the delivery of postal packets to the intended addressee.
- 2.3 Collectively, these listed items are considered to relate to protecting the integrity of mail. It is important that consumers can have confidence that the items they send (and that are sent to them) are handled in a manner that minimises the risk of loss, damage or delay.
- 2.4 Ofcom has exercised its powers under section 49 of the 2011 Act and has imposed an essential condition on all regulated postal operators (as defined in the condition).⁶
- 2.5 We consider it important to distinguish between the criminal offence under section 83 (and the need for operators to have appropriate preventative policies in place governing their mail operations), and the need to manage and reduce the risk of mail being lost, stolen and damaged. First, section 49 of the 2011 Act clearly foresees the possibility of preventative action in relation to mail integrity issues. Secondly, we note in particular that postal operators have a choice of approaches to take where they find issues with mail integrity, including the criminal prosecution of individuals suspected of being involved in mail interference offences. Therefore, unless Ofcom otherwise consents, Essential Condition 1 requires compliance at all times with MICOP⁷ and MICOP is annexed to the Essential Condition. MICOP applies to postal packets conveyed in the provision of a regulated postal service or a universal service.
- 2.6 MICOP sets minimum standards to:

⁵ Postal Services Act 2000, part V, offences in relation to postal services

⁶ Essential Condition 1 can be found here:

<http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/annex13.pdf>

⁷ See Annex 4 for a full copy of MICOP.

- minimise the exposure of mail carried by regulated postal operators to the risk of loss, theft, damage or interference;
- minimise the risk of offences under the 2000 Act of interfering with the mail occurring in relation to mail carried by regulated postal operators; and
- maintain and improve regulated postal operators' performance in these areas.

2.7 The principal areas covered in the MICOP are:

- recruitment and training of relevant employees;
- disciplinary procedures;
- the security of mail (establishing policies and procedures to facilitate achievement of the mail integrity objectives);
- information and reporting requirements; and
- application to agents and sub-contractors.

2.8 MICOP has not been formally reviewed since its introduction by Postcomm in January 2006. In our March 2012 statement we decided that whilst it remained appropriate in principle to extend the application of MICOP to access operators, before any change was made, we should review MICOP.

2.9 In our October 2011 consultation, we proposed to extend MICOP to cover access mail. Stakeholders raised a number of issues in response to this.⁸

2.10 The Mail Competition Forum and UK Mail, DX Group and TNT (all members of the Mail Competition Forum) considered that access operators were sufficiently incentivised by the criminal sanctions arising from section 83 of the 2000 Act and commercial obligations to their customers to address mail integrity issues. They considered that a requirement for access operators to comply with MICOP would be expensive, particularly because of the current reporting requirements. They also suggested that there was no evidence of a mail integrity problem in relation to access mail which required regulation.

2.11 The CWU suggested that the application of MICOP be extended to cover all end-to-end operators as it was important for consumer protection. However, other stakeholders such as Royal Mail (on behalf of Parcelforce) and UK Mail considered that the parcel industry already had significant commercial incentives to ensure the integrity of their mail, due in main, to the intrinsic value of the items that they carry.

Questions for stakeholders on MICOP

2.12 We seek stakeholders' views on the current MICOP and whether and how it should be amended. We are interested in stakeholders' views on the particular issues set out below, as well as any other matters on which respondents may wish to comment.

⁸ The March 2012 statement set out a summary of responses. Here we set out a selection of the issues raised either as a result of subsequent consultations or following informal discussions with Royal Mail and some postal operators to stimulate inputs to this call for inputs.

Ownership and scope of MICOP

- 2.13 Currently, MICOP is annexed to Essential Condition 1. Should any MICOP stakeholder wish to make changes to it, they have to make a request to Ofcom to make those changes. Ofcom then considers those requests and makes a decision as to whether to change the condition. Ofcom also has powers to enforce compliance with the condition.
- 2.14 An alternative to this might be for MICOP to be owned and managed by the postal operators to whom it applies. This might involve amending the Essential Condition to remove MICOP, and instead include a more general requirement on specific types of postal operator to put together and then comply with a code of practice relating to the matters set out in section 49(2) of the 2011 Act. Ofcom would need to retain an ability to step in if, for example, it was not satisfied with the terms of the industry agreed code of practice, and / or to ensure that the requirements of the Postal Services Directive (including in particular the provision relating to the essential requirements as defined in the Directive) are met.

Q2.1 Should MICOP remain part of Essential Condition 1 as set by Ofcom, or should it be owned and managed by the industry subject to Ofcom supervision?

- 2.15 A stakeholder suggested that the application of the Code be extended to cover all end-to-end operators as it is an important consumer protection measure. Other stakeholders considered that the parcel industry already has significant commercial incentives to ensure the integrity of their mail – largely due to the intrinsic value of the items that they carry, and the fact that they tend to be tracked items.

Q2.2 Should MICOP be extended to cover all postal operators or specific types of postal operator, in addition to access operators and regulated postal operators? If so, please set out your reasons for this proposed extension.

Current MICOP requirements

- 2.16 Section 7 of MICOP sets out the current reporting requirements. Some access operators have suggested that there is no need for fixed reporting requirements as Ofcom can use its information gathering powers as required. This raises the question of how we would become aware of mail integrity incidents that warrant regulatory intervention. Some access operators have also stated that if the current reporting requirements were applied, it would result in significant extra costs for access operators. We note that, to date, no regulated postal operators have raised substantive concerns about significant compliance costs even though many small end-to-end operators comply with MICOP.
- 2.17 Currently, MICOP requires that regulated postal operators provide annual reports to Ofcom which are to include:
- the number of (or, where precise numbers are not known, reasonable estimates of the numbers of) Code Postal Packets⁹ during the relevant year which were lost, stolen, damaged or interfered with;

⁹ Defined in Essential Condition 1 as a postal packet conveyed in the provision of a regulated postal service or a universal service.

- details of any trends, patterns or other notable features (such as above average incident levels at certain premises) in relation to the incidence of loss or theft of, damage to, or interference with, Code Postal Packets; and
- a statement of the measures that the regulated postal operator intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of Code Postal Packets lost, stolen, damaged or interfered with.

Q2.3 Do you think that the current reporting requirements are appropriate? If not, what do you suggest should be included and/or deleted? Please set out your reasons.

- 2.18 Currently, these reports are provided to us on a confidential basis. While we appreciate that regulated postal operators would wish certain detailed mail integrity data to remain confidential it might be appropriate for some data to be made public. For example, it might be appropriate to identify areas of improvement, or of particular concern.

Q2.4 Do you think that the publication of certain reported information would provide a benefit to postal users? If so, what data would you consider it appropriate to make public? Please set out your reasons.

- 2.19 To ensure that Royal Mail provides a good quality of service, targets are set for Royal Mail to meet. We use Royal Mail's performance against these targets to inform our decisions as to whether Royal Mail is complying with its obligations. When published, these targets (and performance against them) are also useful for postal users in terms of identifying whether Royal Mail is operating effectively both nationally, and in their local area.
- 2.20 The approach to consumer complaints is similar: regulated postal operators are required to publish annually a consumer complaints report showing the number of complaints received (broken down by no more than ten of the main causes of complaint) and the number of complaints completed (responded to and closed) by the operator.
- 2.21 MICOP essentially imposes operational requirements on postal operators to protect the integrity of the mail they carry. An alternative approach would be just to require reporting against targets for mail integrity, with the potential for enforcement action by Ofcom in the event that targets were not met.

Q 2.5 Should Ofcom impose obligations on regulated postal operators to meet certain identified standards in relation to mail integrity rather than imposing operational requirements in MICOP? Please set out your reasons.

- 2.22 One stakeholder considered that the current MICOP contained more low level detail than is required to achieve the objectives of the Code; in particular, the areas relating to recruitment, training and disciplinary procedures were seen to be more detailed than required.

Q2.6 Do you think the current level of detail in the requirements of MICOP is appropriate? Please set out your reasons.

- 2.23 We are also interested to hear from stakeholders about whether they consider the costs of complying with MICOP to be proportionate to the benefit it provides.

Q2.7 Do you think the costs of complying with MICOP are proportionate? Please set out your reasons.

Other issues relating to MICOP

Q2.8 Are there any issues relating to MICOP on which you believe we should consult, that are not set out in this document? Please set out your reasons.

Section 3

Postal Common Operational Procedures Code of Practice and Postal Common Operational Procedures Agreement

(PCOP Code & PCOP Agreement)

- 3.1 Section 51 of the 2011 Act gives Ofcom a power to impose consumer protection conditions on all postal operators or certain categories of postal operators. We have exercised these powers and have imposed a number of consumer protection conditions.¹⁰
- 3.2 Consumer Protection Condition 2 ('CP2') applies to regulated postal operators, and requires them to comply with the PCOP Code.

The PCOP Code

- 3.3 The purpose of the PCOP Code is to minimise the risk of mis-posted, mis-directed and mis-collected mail not being repatriated to the correct regulated postal operator, sending customer or addressee. It also covers the handling of mis-directed or mis-collected letters, as well as mis-directed complaints and enquiries.
- 3.4 The PCOP Code currently applies:
- in respect of postal packets smaller than specified dimensions and no heavier than 2kg, of Royal Mail and regulated postal operators acting in the capacity of an access operator or intermediary;
 - to letters weighing less than 350g and costing no more than £1, of other regulated postal operators, including an access operator or intermediary not acting in the capacity of an access operator or intermediary; and
 - to any postal packet deemed to be a Code Letter in accordance with CP2.3.12.¹¹
- 3.5 The PCOP Code has not been formally reviewed since its introduction in January 2006. In our March 2012 statement we decided that, whilst it remained appropriate in principle to extend the application of the PCOP Code to access operators, before any change was made we should review the Code.
- 3.6 In response to our proposal to extend the PCOP Code to cover access mail and any postal packet conveyed in the provision of a universal service, stakeholders raised a number of issues.
- 3.7 Royal Mail considered that the PCOP Code should exclude the vast majority of items carried by parcel operators, express couriers etc which, because they are usually

¹⁰ See: <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/annex8.pdf>

¹¹ See CP2 for further details.

tracked, are much less likely to be mis-directed. It considered that the PCOP Code should only apply to:

- Royal Mail and access operators for postal packets up to the maximum Royal Mail access contract size at any time (currently 5kg); and,
 - regulated postal operators providing regulated postal services for postal packets weighing up to 2kg and costing less than £5 (as it considered that there were numerous opportunities for such items to end up in the Royal Mail network via Royal Mail business collections, franked mail pouches and bags of stamped packets).
- 3.8 The CWU suggested that the scope of the PCOP Code should be extended to cover all postal operators' items as this would improve customer protection. However, other stakeholders such as Royal Mail (on behalf of Parcelforce) and UK Mail objected to such an extension on the basis that the parcel industry already had significant commercial incentives to ensure their mail is correctly delivered or repatriated, due in main, to the intrinsic value of the items that they carry.
- 3.9 The Mail Competition Forum and UK Mail (a member of the Mail Competition Forum) did not consider there was any evidence of a problem that required regulation. UK Mail considered that it would remain good industry practice to operate in a manner that is consistent with the principles of PCOP Code without being subject to regulatory obligations. The Mail Competition Forum also questioned whether Code Identifiers¹² still needed to be issued by Ofcom as operators should be able to specify their own identifier as long as the operator was clearly identifiable.
- 3.10 DX Group (also a member of the Mail Competition Forum) considered that the effectiveness of the PCOP Code would be enhanced if the Secretary of the PCOP Agreement (currently Royal Mail) arranged and chaired an annual meeting for signatories of the PCOP Agreement to discuss their experiences and the effectiveness of the PCOP Code during the previous year.

The PCOP Agreement

- 3.11 CP2 and the PCOP Code require regulated postal operators to become and remain party to the PCOP Agreement¹³ unless other arrangements have been established relating to the treatment of mis-directed mail and mis-collected mail. The current PCOP Agreement acts as a default agreement to ensure that in the absence of any bespoke negotiated arrangements regulated postal operators will be able to comply with the PCOP Code. The PCOP Agreement itself is not part of the regulatory conditions, however, CP2 provides for a process that Ofcom must follow when modifying the PCOP Agreement if it receives a proposal for change from a signatory to the Agreement.

Questions for stakeholders on PCOP Code

- 3.12 We seek stakeholders' views on the current PCOP Code and whether and how it should be amended. We are interested in stakeholders' views on the particular

¹² Ofcom currently issues Code Identifiers to regulated postal operators on request to allow them to comply with the PCOP Code.

¹³ The current PCOP Agreement can be found here:

<http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/Annex15.pdf>

issues set out below, as well as any other matters on which respondents may wish to comment.

- 3.13 Currently, the PCOP Code is part of CP2. Should any PCOP Code stakeholder wish to make changes to it, they have to make a request to Ofcom to make those changes. Ofcom then considers those requests and makes a decision as to whether to change the condition. Ofcom also has powers to enforce compliance with the condition.
- 3.14 An alternative to this might be for the PCOP Code to be owned and managed by the postal operators to whom it applies. This might involve amending CP2 to remove the PCOP Code, and instead include a more general requirement on specific types of postal operator to put together and then comply with a code of practice relating to a specified set of matters. Ofcom would need to retain an ability to step in if, for example, it was not satisfied with the terms of the industry agreed code of practice, and / or to enforce compliance.

Q3.1 Should the PCOP Code remain part of CP2 as set by Ofcom or should it be owned and managed by the industry subject to Ofcom supervision?

- 3.15 A stakeholder suggested that the application of PCOP Code be extended to cover all end-to-end operators as it was an important consumer protection. However, other stakeholders considered that the parcel industry already had significant commercial incentives to ensure their mail is correctly delivered or repatriated, due in main, to the intrinsic value of the items that they carry.

Q3.2 Should the PCOP Code be extended to cover all postal operators or specific types of postal operator (in addition to or instead of access operators and regulated postal operators)? If so, please set out your reasons for this proposed extension.

- 3.16 The current scope of the PCOP Code is defined by reference to that set out in Royal Mail's access contract. An alternative would be to define mail items to which the Code should apply, independently of this contract. In such circumstances, the definition may be different to that currently set out – for example, it may apply to a wider range of postal packets, in terms of size or dimension.

Q3.3 Do you think the current scope of the PCOP Code (in relation to the type of items to which it applies) is appropriate? Please set out your reasons.

- 3.17 We are also interested to hear from stakeholders about whether they consider the costs of complying with the PCOP Code are proportionate to the benefit it provides.

Q3.4 Do you think the costs of complying with the PCOP Code are proportionate? Please set out your reasons.

Questions for stakeholders on the PCOP Agreement

- 3.18 We seek stakeholders' views on the current PCOP Agreement and whether, and if so how, it should be amended. We are interested in stakeholders' views on the particular issues set out below, as well as any other matters on which respondents may wish to comment.
- 3.19 Currently, there is a requirement under CP2 for postal service operators to become signatories to the PCOP Agreement. An alternative to this approach would be to

require operators to negotiate and enter into bi-lateral arrangements with each other as required.

Q3.5 Are the current requirements in CP2 and the PCOP Code appropriate? Please set out your reasons.

- 3.20 The current process for modifying the PCOP Agreement is set out in CP2 2.5. This process allows Ofcom to modify the Agreement only where we receive a request from a signatory to the Agreement to do so. It may be more appropriate for the PCOP Agreement to be managed by the postal operators to whom it applies. This would require relevant postal operators to manage any modifications to the PCOP Agreement in future.

Q3.6 Should the modification process for the PCOP Agreement remain part of CP2 or should it be managed by the industry? Please set out your reasons.

Other issues relating to the PCOP Code and PCOP Agreement

Q3.7 Are there any issues relating to the PCOP Code or the PCOP Agreement on which you believe we should consult, that are not set out in this document? Please set out your reasons.

Annex 1

Responding to this call for inputs

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 25 April 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/mail-integrity/>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger responses - particularly those with supporting charts, tables or other data – please email Sean.O'Hara@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.
- Sean O'Hara
Floor 2
Consumer Affairs
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Sean O'Hara on 020 7981 3657.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. 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

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 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 to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Call for inputs responses cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom call for inputs

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?

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)

Annex 4

Call for inputs: questions

- A4.1 We have included a number of specific questions throughout this document and we would like you to consider these when responding. However, we are not seeking to limit the issues on which respondents may wish to comment, and respondents are invited to include representations on any issues that they consider relevant.

Section 2 - MICOP

Q2.1 Should MICOP remain part of Essential Condition 1 as set by Ofcom, or should it be owned and managed by the industry subject to Ofcom supervision?

Q2.2 Should MICOP be extended to cover all postal operators or specific types of postal operator, in addition to access operators and regulated postal operators? If so, please set out your reasons for this proposed extension.

Q2.3 Do you think that the current reporting requirements are appropriate? If not, what do you suggest should be included and/or deleted? Please set out your reasons.

Q2.4 Do you think that the publication of certain reported information would provide a benefit to postal users? If so, what data would you consider it appropriate to make public? Please set out your reasons.

Q 2.5 Should Ofcom impose obligations on regulated postal operators to meet certain identified standards in relation to mail integrity rather than imposing operational requirements in MICOP? Please set out your reasons.

Q2.6 Do you think the current level of detail in the requirements of MICOP is appropriate? Please set out your reasons.

Q2.7 Do you think the costs of complying with MICOP are proportionate? Please set out your reasons.

Q2.8 Are there any issues relating to MICOP on which you believe we should consult, that are not set out in this document? Please set out your reasons.

Section 3 – the PCOP Code and PCOP Agreement

Q3.1 Should the PCOP Code remain part of CP2 as set by Ofcom or should it be owned and managed by the industry subject to Ofcom supervision?

Q3.2 Should the PCOP Code be extended to cover all postal operators or specific types of postal operator (in addition to or instead of access operators and regulated postal operators)? If so, please set out your reasons for this proposed extension.

Q3.3 Do you think the current scope of the PCOP Code (in relation to the type of items to which it applies) is appropriate? Please set out your reasons.

Q3.4 Do you think the costs of complying with the PCOP Code are proportionate? Please set out your reasons.

Q3.5 Are the current requirements in CP2 and the PCOP Code appropriate? Please set out your reasons.

Q3.6 Should the modification process for the PCOP Agreement remain part of CP2 or should it be managed by the industry? Please set out your reasons.

Q3.7 Are there any issues relating to the PCOP Code or the PCOP Agreement on which you believe we should consult, that are not set out in this document? Please set out your reasons.

Annex 5

Essential Condition 1 and Mail Integrity Code of Practice

ESSENTIAL CONDITION 1

1.1. Application, Definitions and Interpretation

| | |
|---------|---|
| E 1.1.1 | This Essential Condition shall apply to <u>regulated postal operators</u> . |
| E 1.1.2 | <p>In this Essential Condition—</p> <ul style="list-style-type: none"> (a) “Act” means the Postal Services Act 2011 (c.5); (b) “Appointed Day” means 1 October 2011; (c) “Code Postal Packet” means a <u>postal packet</u> conveyed in the provision of a <u>regulated postal service</u> or a universal service; (d) “Council” means the National Consumer Council established by s.1 of the Consumers, Estate Agents and Redress Act 2007; (e) “Damage” means, in relation to a <u>Code Postal Packet</u>, any physical damage to a <u>Code Postal Packet</u> (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that <u>Code Postal Packet</u> by the relevant <u>regulated postal operator</u> and before its delivery to the person to whom or at the premises to which it is addressed; (f) “Interference” means interference with a <u>Code Postal Packet</u> contrary to sections 83 or 84 of the Postal Services Act 2000; (g) “Loss” means the physical loss of a <u>Code Postal Packet</u>, other than as a result of: <ul style="list-style-type: none"> (a) having been <u>stolen</u>, (b) being incorrectly addressed, <p>at any time after the acceptance of that <u>Code Postal Packet</u> by the <u>regulated postal operator</u> and before its delivery to the person to whom or at the premises to which it is addressed. Save where the context otherwise indicates, loss includes a failure by the <u>regulated postal operator</u> to deliver that <u>Code Postal Packet</u> within 15 <u>working days</u> of its due day of delivery;</p> |

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| | <p>(h) “Mail Integrity Code” means the document of that name annexed to this Condition;</p> <p>(i) “Mail Integrity Objectives” has the meaning given by paragraph 1.1 of the Mail Integrity Code;</p> <p>(j) “public holiday” includes, in relation to a particular territory, any day in relation to which OFCOM has by direction stated that exceptional circumstances require it to be treated as a public holiday;</p> <p>(k) “Regulated postal operator” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>Appointed Day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(l) “Regulated postal service” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p> <p>(m) “Relevant Employees” means permanent, temporary, casual or part time employees or workers (including those under a contract for service), who are (or may be) involved in conveying, receiving, collecting, sorting, delivering or otherwise handling <u>Code Postal Packets</u> or who are reasonably likely to have access to <u>Code Postal Packets</u> in the course of their work;</p> <p>(n) “Relevant year” means any year beginning on 1 April;</p> <p>(o) “Royal Mail” means Royal Mail Group Limited (registered number 4138203);</p> <p>(p) “Serious incident” has the meaning given in paragraph 2.6 of the Mail Integrity Code;</p> <p>(q) “Stolen” means misappropriated contrary to the Theft Act 1968;</p> <p>(r) “Theft” means misappropriation contrary to the Theft Act 1968;</p> <p>(s) “Working day” means any day which is not a Sunday or a <u>public holiday</u>.</p> |
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| E 1.1.3 | <p>For the purpose of interpreting this Essential Condition—</p> <p>(a) 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 Act¹⁴;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this Essential Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this Essential Condition were an Act of Parliament;</p> <p>(e) references to a day 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, a Bank Holiday, Christmas Day, Good Friday or other public holiday</p> <p>(f) the following shall be deemed to be directions issued by <u>OFCOM</u> agreeing that a day should be treated as a <u>public holiday</u> for the purposes of the definition of “public holiday” in this Essential Condition:</p> <ul style="list-style-type: none"> • <i>Exceptions to Royal Mail’s universal service obligation – for 26 December 2009 in the UK, bank holidays on Saturdays in the UK, as local holidays in Northern Ireland and Scotland: a decision document</i> (Postal Services Commission, October 2009). |
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1.2. Obligation to comply with the Mail Integrity Code

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| E 1.2.1 | <p>Unless OFCOM otherwise consents, a <u>regulated postal operator</u> shall at all times comply with the <u>Mail Integrity Code</u>.</p> <p>For the purposes of this Condition E 1, any consent issued and not withdrawn by the Postal Services Commission prior to the <u>Appointed Day</u>, relating to:</p> <p>(a) Condition 8 of the licence held by Royal Mail under the Postal Services Act 2000 immediately before the <u>Appointed Day</u>; or</p> <p>(b) Condition 3 of a licence held by any other <u>postal operator</u> under the Postal Services Act 2000 immediately before the <u>Appointed Day</u>,</p> <p>shall be deemed to be a consent issued by <u>OFCOM</u> under this Condition.</p> |
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¹⁴ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

Annex to Essential Condition 1 - Mail Integrity Code

Protecting the Integrity of Mail – A Code of Practice

1 Introduction

- 1.1 This is the Code of Practice covering the protection of the integrity of mail. Its purpose is to achieve the following objectives (the "Mail Integrity Objectives"):
- (a) minimising the exposure of Code Postal Packets to the risk of loss, theft, damage and/or interference; and
 - (b) maintaining and improving regulated postal operators' performance in respect of the matters referred to in paragraph 1.1(a).
- 1.2 This Code sets out the requirements and procedures to be followed in order to satisfy the Mail Integrity Objectives.
- 1.3 This Code applies to:
- (a) regulated postal operators; and
 - (b) all Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by regulated postal operators.
- 1.4 Regulated postal operators should allocate responsibility to specific personnel within their organisations for implementation of and compliance with this Code.
- 1.5 In meeting their obligations under this Code, regulated postal operators should have due regard to the size and nature of their organisations and operations.

2 Definitions and rules of interpretation

- 2.1 In this Code, unless the context requires otherwise, the words include, including and in particular are to be construed as being by way of illustration or emphasis and do not limit or prejudice the generality of any foregoing words. The singular includes the plural and vice versa.
- 2.2 Nothing in this Code is to be construed as requiring a regulated postal operator to act unlawfully (for example, by breaching employment law in meeting the recruitment and vetting requirements set out in paragraph 3 of this Code).
- 2.3 This Code shall not be interpreted in any way which is inconsistent with the Mail Integrity Objectives.
- 2.4 Where this Code requires a policy to be established, that policy must be in writing and a copy must be given to the specific personnel within the regulated postal operator's organisation who are responsible for implementation of and compliance with the policy.
- 2.5 Where this Code requires regulated postal operators to allocate responsibility to specific personnel within their organisations to be responsible for implementation of and compliance with this Code (including any policy required by this Code), the

personnel responsible for implementation may be different from those responsible for compliance.

- 2.6 A **serious incident** for the purpose of this Code is an incident in relation to which the percentage of Code Postal Packets lost, stolen, damaged or interfered with in one incident exceeds 10% of the total volume of Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by a Relevant Employee that day.

3 Recruitment of Relevant Employees

- 3.1 If a regulated postal operator employs or uses (or intends to employ or use) Relevant Employees, the regulated postal operator must:

- (a) establish, maintain and adhere to a recruitment policy in relation to the employment or use of Relevant Employees designed to facilitate the achievement of the Mail Integrity Objectives; and
- (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that recruitment policy.

- 3.2 The recruitment policy should include:

- (a) an explanation of the jobs, roles or types of work, as the case may be, in respect of which the recruitment policy should apply;
- (b) the types of information about a prospective Relevant Employee that the regulated postal operator requires;
- (c) the steps that the regulated postal operator requires to be taken to satisfy itself of the identity of the prospective Relevant Employee;
- (d) the steps which the regulated postal operator expects to be taken in order to confirm a prospective Relevant Employee's work history over at least the immediately preceding 5 years (or the entire period of that Relevant Employee's working life, if that period is shorter than 5 years);
- (e) a requirement for prospective Relevant Employees to declare any criminal convictions or any cautions or conditional discharges for offences relating to:
 - (i) postal packets; or
 - (ii) dishonest conduct generally (in particular, theft, obtaining property by deception or fraud)

and guidelines on how any such convictions, cautions or conditional discharges declared by prospective Relevant Employees will be taken into consideration in deciding whether or not to employ the prospective Relevant Employee.

- 3.3 For the avoidance of doubt, in respect of any regulated postal operator's existing permanent, temporary, casual or part-time employee or worker (including those under a contract for service) who is not (or might not be) involved in conveying,

receiving, collecting, sorting, delivering or otherwise handling Code Postal Packets in the course of his or her work and who is to be redeployed such that he or she will (or might be) so involved, such redeployment should be treated for the purposes of this paragraph 3 as effectively the employment or use of that individual as a Relevant Employee and be subject to the other provisions of this paragraph 3.

- 3.4 Regulated postal operators must reasonably regularly monitor implementation of and compliance with the recruitment policy.
- 3.5 Regulated postal operators must reasonably regularly review the recruitment policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

4 Training Relevant Employees

- 4.1 If a regulated postal operator employs or uses Relevant Employees, the regulated postal operator must:
- (a) establish, maintain and adhere to a training policy that provides for Relevant Employees to receive initial and ongoing training so as to facilitate achievement of the Mail Integrity Objectives; and
 - (b) allocate responsibility to specific personnel within its organisation for the implementation of and compliance with that policy.
- 4.2 Without prejudice to the generality of paragraph 4.1, all Relevant Employees must be informed of the provisions of sections 83 and 84 of the Postal Services Act 2000 and made aware of the seriousness of the offences detailed in those sections.
- 4.3 The training policy should include:
- (a) the levels of training required to facilitate achievement of the Mail Integrity Objectives;
 - (b) the levels of training required according to the differing responsibilities of, and work undertaken by, Relevant Employees in relation to Code Postal Packets;
 - (c) details of the minimum level of training required;
 - (d) an explanation of how the training will be provided;
 - (e) the frequency with which training should be provided; and
 - (f) details of how training is to be given, recorded and monitored.
- 4.4 Regulated postal operators must reasonably regularly monitor implementation of and compliance with the training policy.
- 4.5 Regulated postal operators must reasonably regularly review the training policy and, where necessary, update or amend the policy to ensure that it continues to meet the Mail Integrity Objectives.

5 Disciplinary Procedures

- 5.1 If a regulated postal operator employs or uses Relevant Employees, the regulated postal operator must:
- (a) make Relevant Employees aware of the standards of conduct in relation to facilitating achievement of the Mail Integrity Objectives the regulated postal operator requires Relevant Employees to meet; and
 - (b) establish, maintain and adhere to a disciplinary policy in relation to the treatment of Relevant Employees who fail to meet the standards of conduct expected of them.
- 5.2 The standards of conduct and disciplinary policy should be such as to facilitate achievement of the Mail Integrity Objectives.
- 5.3 Regulated postal operators must allocate responsibility to specific personnel within their organisations for:
- (a) making Relevant Employees aware of the standards of conduct expected of them; and
 - (b) the implementation of and compliance with the disciplinary policy.
- 5.4 The disciplinary policy should include:
- (a) an explanation of what constitutes a failure to meet the standards of conduct and the action to be taken in relation to any failures;
 - (b) an explanation of how the regulated postal operator ensures that all Relevant Employees understand when a failure to meet the standards of conduct might also constitute a criminal offence and how this will be dealt with;
 - (c) provision for appropriate records to be maintained detailing any action taken against Relevant Employees for failure to meet the standards of conduct; and
 - (d) a process to identify consistent failure to meet the relevant standards of conduct and the taking of appropriate remedial action.
- 5.5 Regulated postal operators must reasonably regularly monitor implementation of and compliance with the:
- (a) standards of conduct; and
 - (b) disciplinary policy.
- 5.6 Regulated postal operators must reasonably regularly review the:
- (a) standards of conduct; and
 - (b) disciplinary policy

and, where necessary, update or amend the standards of conduct or disciplinary policy, as the case may be, to ensure that they continue to meet the Mail Integrity Objectives.

6 Security of Mail

- 6.1 Notwithstanding the other requirements of this Code, regulated postal operators must establish, maintain and adhere to such other policies and procedures as may reasonably be necessary to facilitate achievement of the Mail Integrity Objectives, in particular in relation to the security of relevant premises, and the use of vehicles and equipment in the collection, conveyance or delivery of Code Postal Packets.
- 6.2 Regulated postal operators must allocate responsibility to specific personnel within their organisations for the implementation of and compliance with the policies and procedures specified in paragraph 6.1.
- 6.3 The policies and procedures should include:
- (a) regular risk assessment;
 - (b) the maintenance of records so that regulated postal operators can identify, as far as is reasonably practicable, which Relevant Employees were responsible for the conveyance, receipt, collection, sortation, delivery or handling of specific Code Postal Packets that have been interfered with; and
 - (c) the measures to be taken, including monitoring, to prevent or detect loss or theft of, damage to, or interference with, Code Postal Packets from or at premises, vehicles or equipment.
- 6.4 Regulated postal operators must reasonably regularly review the policies and procedures and, where necessary, update or amend those policies and procedures to ensure that they continue to meet the Mail Integrity Objectives.

7 Information and Reporting Requirements

- 7.1 All incidents of loss or theft of, damage to, or interference with Code Postal Packets must be recorded in reasonable detail.
- 7.2 Without prejudice to the generality of paragraph 7.1, information to be recorded in relation to Serious Incidents includes:
- (a) the date, time and place of the incident;
 - (b) the number of (or where the precise number is not known, a reasonable estimate of the number of) Code Postal Packets the subject of the incident;
 - (c) as far as is reasonably practicable, the Relevant Employees involved in the conveyance, receipt, collection, sortation, delivery or handling, as the case may be, of the Code Postal Packets the subject of the incident; and
 - (d) any other particulars relating to the incident which it would be reasonable to record, including the factual circumstances in which the incident occurred.
- 7.3 Incidents which constitute Serious Incidents (together with details of the date, time and place of the incident and the number of, or a reasonable estimate of the number of, Code Postal Packets the subject of the incident) are to be reported to OFCOM as

soon as reasonably practicable and, in any event, within 48 hours of the regulated postal operator becoming aware of their occurrence. The information required to be recorded in accordance with paragraphs 7.2(c) and 7.2(d) and any other information in relation to the incident that OFCOM may require should be reported to OFCOM as soon as reasonably practicable.

- 7.4 In respect of each period of three months in any year (each year ending on 31 March), each regulated postal operator must submit to OFCOM (as soon as reasonably practicable, and in any event within 28 days, after the end of each such period) a report detailing any prosecutions which that regulated postal operator has instigated in the relevant period and provide such information in relation to any relevant incident and prosecution that OFCOM may require.
- 7.5 Regulated postal operators must reasonably regularly review the information recorded under this paragraph 7 with a view to identifying any trends, patterns or other notable features (such as above average incident levels at certain premises).
- 7.6 Regulated postal operators must submit to OFCOM and the Council annual reports not later than 3 months from the end of the year (being 31 March) to which those reports relate, which include:
- (a) the number of (or where precise numbers are not known, reasonable estimates of the numbers of) Code Postal Packets during the relevant year which were lost, stolen, damaged or interfered with; and
 - (b) details of any trends, patterns or other notable features (such as above average incident levels at certain premises) in relation to the incidence of loss or theft of, damage to, or interference with, Code Postal Packets.

For the purposes of these reports, the references to “lost” and “loss” exclude items that are delivered after 15 working days of their due day of delivery and within the reporting year. Such items are to be reported in these reports as “substantially delayed”.

- 7.7 Regulated postal operators must also submit to OFCOM and the Council with each annual report submitted under paragraph 7.6, a statement of the measures that the regulated postal operator intends to take to remedy any failures or patterns of failure to achieve the Mail Integrity Objectives and to reduce the numbers of Code Postal Packets lost, stolen, damaged or interfered with.
- 7.8 Regulated postal operators must allocate responsibility to specific personnel within their organisations for meeting the recording, reporting and other requirements of this paragraph 7.

8 Agents and Sub-Contractors

- 8.1 Each regulated postal operator shall ensure that, so far as is reasonably practicable, all of:
- (a) its franchisees, agents or sub-contractors (if any) who are involved in the conveyance, receipt, collection, sortation, delivery or handling of Code Postal

Packets, comply with this Code as if this Code applied to the franchisee, agent or sub-contractor; and

- (b) its agents or sub-contractors (if any) who are responsible for providing Relevant Employees to work for the regulated postal operator, comply with this Code as if this Code applied to such agent or sub-contractor.

8.2 Where the franchisee, agent or sub-contractor is a regulated postal operator, it shall be sufficient for the regulated postal operator which lets the franchise, appoints the agent or engages the sub-contractor, as the case may be, to rely on the direct application of this Code to that regulated postal operator in fulfilment of its obligations under paragraph 8.1(a).

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.

| Defined term | Section |
|-----------------------------------|--|
| <i>letter</i> | <i>65(1)</i> |
| <i>OFCOM</i> | <i>90</i> |
| <i>postal packet</i> | <i>27(2)</i> |
| <i>universal service provider</i> | <i>65(1) and Schedule 9 paragraph 3(3)</i> |

Annex 6

Consumer Protection Condition 2 and Post Common Operational Procedures Code of Practice

CONSUMER PROTECTION CONDITION 2: POSTAL COMMON OPERATIONAL PROCEDURES

1. Application, Definitions and Interpretation

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| CP 2.1.1 | This consumer protection condition (“ CP Condition ”) shall apply to <u>regulated postal operators</u> . |
| CP 2.1.2 | <p>In this CP Condition—</p> <p>(a) “Access Indicator” means the Customer Access Indicator and the <u>Royal Mail Access Indicator</u> as those terms are defined in the relevant <u>USP Access Agreement</u>;</p> <p>(b) “Access Party” means a <u>regulated postal operator</u> (other than the <u>universal service provider</u>) that is party to a <u>USP Access Agreement</u>;</p> <p>(c) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(d) “appointed day” means 1 October 2011;</p> <p>(e) “Code Identifier” means such mark, number or other identifier unique to each <u>regulated postal operator</u> as may be allocated and notified to each <u>regulated postal operator</u> from time to time prior to the <u>Appointed Day</u> by the Postal Services Commission or, from the <u>Appointed Day</u>, by <u>OFCOM</u>;</p> <p>(f) “Code Letter” means</p> <p>(a) in the case of the <u>universal service provider</u> and a <u>regulated postal operator</u> acting in the capacity of an <u>Access Party</u> or <u>Intermediary</u>, a <u>postal packet</u> which is no larger than 460mm by 610mm by 460mm (or, if a tubular <u>postal packet</u>, the length plus twice the diameter does not exceed 1040mm with a maximum length of 900mm), and no heavier than 2kg;</p> <p>(b) in the case of any other <u>regulated postal operator</u> (including an <u>Access Party</u> or <u>Intermediary</u> not acting in the capacity of <u>Access Party</u> or <u>Intermediary</u>), a <u>Letter</u> which:</p> <p>(i) is conveyed in consideration of a payment of not more than £1 made by or on behalf of the person for whom it is conveyed; and</p> |

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| | <p>(ii) weighs less than 350 grams;</p> <p>(c) any <u>postal packet</u> deemed to be a <u>Code Letter</u> in accordance with CP 2.3.12 of this CP Condition;</p> <p>(g) “Code Objectives” means the objectives set out in CP 2.3.1;</p> <p>(h) “complainant” means a person who has made a <u>complaint</u>;</p> <p>(i) “complaint” means any expression of dissatisfaction made to a <u>postal operator</u>, related to one or more of its products or services or the manner in which the <u>postal operator</u> has dealt with any such expression of dissatisfaction, where a response is explicitly or implicitly required or expected to be provided;</p> <p>(j) “Council” means the National Consumer Council established by section 1 of the Consumers, Estate Agents and Redress Act 2007;</p> <p>(k) “Indicator” means in the case of an <u>Access Party</u> acting in that capacity, the relevant <u>Access Indicator</u>, and in all other cases, a payment indicator such as PPI;</p> <p>(l) “Intended Operator” means the <u>regulated postal operator</u> which, in accordance with arrangements agreed between that <u>regulated postal operator</u> and its customer, is responsible for the conveyance and delivery of the <u>Relevant Code Letters</u>;</p> <p>(m) “Intermediary” means a <u>regulated postal operator</u> (other than an <u>Access Party</u>) that is party to arrangements with the <u>universal service provider</u> under which that <u>regulated postal operator</u> delivers <u>Postal Packets</u> to the <u>universal service provider</u> for subsequent conveyance;</p> <p>(n) “Letter” has the meaning ascribed to it in the <u>Act</u> but excludes parcels;</p> <p>(o) “Miscollected Code Letters” means <u>Code Letters</u> which have been collected in error by a <u>regulated postal operator</u> which is not the <u>Intended Operator</u>;</p> <p>(p) “Misdirected Code Letters” means <u>Code Letters</u>, other than <u>Miscollected Code Letters</u> (but, for the avoidance of doubt, including <u>Mispasted Code Letters</u>), which have entered the <u>Postal Facilities</u> of a <u>regulated postal operator</u> which is not the <u>Intended Operator</u> in respect of those <u>Code Letters</u>;</p> <p>(q) “Mispasted Code Letters” means <u>Code Letters</u> which due to customer error have entered the <u>Postal Facilities</u> of a <u>regulated postal operator</u> which is not the <u>Intended Operator</u> in respect of those <u>Code Letters</u> and which have not been delivered to the relevant addressee;</p> <p>(r) “Postal Common Operational Procedures Code” means the</p> |
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| | <p>Code of Practice in section 3 of this Condition;</p> <p>(s) “Postal facilities” means the physical and human resources deployed by a <u>regulated postal operator</u> (and, where relevant, by its contractors and agents) for the purpose of providing <u>postal services</u>;</p> <p>(t) “Postal Packet” has the meaning ascribed to it in the <u>Act</u> but excludes parcels;</p> <p>(u) “Prohibited Code Letters” means any <u>Postal Packet</u> (including parcels) which contains items and/or material prohibited or restricted by the <u>Scheme</u>;</p> <p>(v) “public holiday” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(w) “Receiving Operator” means the <u>regulated postal operator</u> whose <u>Postal Facilities</u> the <u>Relevant Code Letters</u> (in respect of which it is not the <u>Intended Operator</u>) have entered;</p> <p>(x) “regulated postal operator” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(y) “Relevant Code Letters” means <u>Miscollected Code Letters</u> or <u>Misdirected Code Letters</u>, as the case may be;</p> <p>(z) “regulatory condition” means any condition of authorisation set by <u>OFCOM</u> under the <u>Act</u>;</p> <p>(aa) “Royal Mail” means Royal Mail Group Limited (registered number 4138203);</p> <p>(bb) “Scheme” means the Successor Postal Services Company Inland Letter Post Scheme 2001 made pursuant to section 89 of the Postal Services Act 2000 (or other comparable scheme made pursuant to that section);</p> <p>(cc) “Sender” in relation to any <u>letter</u> or other communication, means the person whose communication it is;</p> <p>(dd) “Voluntary Code Letter” means any <u>Postal Packet</u> (other than a <u>Prohibited Code Letter</u>) which is not a <u>Code Letter</u> for the purposes of paragraph (b) of the definition of <u>Code Letter</u> but which is no larger than 460mm by 610mm by 460mm (or, if a tubular <u>Postal Packet</u>, the length plus twice the diameter does not exceed 1040mm with a maximum length of 900mm), and no heavier than 2kg.</p> |
| <p>CP 2.1.3</p> | <p>For the purpose of interpreting this CP Condition—</p> |

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| | <p>(a) except in so far as the context otherwise requires, any word or expression shall have the meaning set out in CP 2.1.2 above and otherwise the same meaning as it has been ascribed for the purpose of Part 3 of the Act¹⁵;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a day 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 <u>public holidays</u>.</p> |
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2. Obligation to abide by the Postal Common Operational Procedures Code

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| CP 2.2.1 | Unless <u>OFCOM</u> otherwise consent, each <u>regulated postal operator</u> shall comply with the <u>Postal Common Operational Procedures Code</u> . |
| CP 2.2.2 | <p>Unless <u>OFCOM</u> otherwise consent, a <u>regulated postal operator</u> shall become and remain a party to the <u>Postal Common Operational Procedures Agreement</u> which shall apply insofar as:</p> <p>(a) it is consistent with, and deals with matters not provided for in, the terms and conditions of any <u>Access Agreement</u>, <u>Intermediary Agreement</u>, <u>USP Access Agreement</u> or <u>Access Code</u> to which the <u>regulated postal operator</u> is a party; and</p> <p>(b) the <u>regulated postal operator</u> has not established alternative arrangements with other <u>regulated postal operators</u> relating to the treatment of misdirected mail and miscollected mail.</p> |
| CP 2.2.3 | Unless <u>OFCOM</u> otherwise consent, a <u>regulated postal operator</u> shall at all times refrain from acting in a manner which is inconsistent with the <u>Code Objectives</u> or which is likely to prejudice the effective functioning of the <u>Postal Common Operational Procedures Code</u> ; |
| CP 2.2.4 | If nominated by <u>OFCOM</u> by direction in writing given for the purposes of this Condition generally to the office of Secretary of the <u>Postal Common Operational Procedures Agreement</u> , perform the functions of that office in an efficient, timely, impartial and professional manner, subject to reimbursement by <u>OFCOM</u> of the |

¹⁵ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

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| | costs reasonably incurred in the discharge of those functions. |
| <p>CP 2.2.5</p> | <p>The <u>Postal Common Operational Procedures Agreement</u> shall be modified in accordance with this paragraph if:</p> <p>(a) <u>OFCOM</u> have received a proposal to change the <u>Postal Common Operational Procedures Agreement</u> from a person entitled under its provisions to make such a proposal, and</p> <p>(b) that proposal has been submitted to <u>OFCOM</u> in the manner, and containing the information, provided for in the <u>Postal Common Operational Procedures Agreement</u>, and</p> <p>(c) <u>OFCOM</u>:</p> <p>(i) are of the opinion that modification of the <u>Postal Common Operational Procedures Agreement</u> in the manner proposed will enable the <u>Code Objectives</u> better to be fulfilled and that such modification is consistent with its statutory duties,</p> <p>(ii) have given notice of the proposed modification in accordance with CP 2.2.6 and 2.2.7;</p> <p>(iii) have considered any representations made in accordance with that notice and not withdrawn; and</p> <p>(iv) have directed by a direction given for the purpose of this Condition generally that the proposed modification be made.</p> |
| <p>CP 2.2.6</p> | <p>A notice under CP 2.2.5(c)(ii) shall be in accordance with this paragraph if it states:</p> <p>(a) that <u>OFCOM</u> propose to make the modification;</p> <p>(b) the effect of the proposed modification;</p> <p>(c) the reasons for the proposed modification; and</p> <p>(d) the period (of not less than 28 days starting with the date of publication of the notice) within which representations may be made in relation to the proposed modification.</p> |
| <p>CP 2.2.7</p> | <p>A notice under CP 2.2.5(c)(ii) shall be in accordance with this paragraph if it is given by:</p> <p>(a) serving a copy of the notice on each of the parties to the <u>Postal Common Operational Procedures Agreement</u> as at the date of such notice and on the <u>Council</u>, and</p> <p>(b) publishing the notice in such manner as <u>OFCOM</u> consider appropriate for the purpose of bringing the matters included in the notice to the attention of persons likely to be affected by them.</p> |

3. The Postal Common Operational Procedures Code

Introduction

CP 2.3.1 This is the Code of Practice covering common operational procedures for handling misdirected or miscollected mail and misdirected complaints or other enquiries. Its purpose is to achieve the following objectives in respect of such matters (the “**Code Objectives**”):

- (a) the furtherance of the interests of users of postal services;
- (b) ensuring that Miscollected Code Letters and Misdirected Code Letters are:
 - (i) returned to the Intended Operator; or
 - (ii) if such return is not reasonably practicable, otherwise handled (including, where appropriate, delivered to the intended user)in either case in an efficient, economic and timely manner;
- (c) ensuring complaints or other enquiries (including from customers) in relation to Code Letters made to a regulated postal operator which is not the regulated postal operator to which the complaint or other enquiry should have been made, are handled in an efficient, economic and timely manner; and
- (d) so far as is consistent with sub-paragraphs (a) to (c), the promotion of effective competition between regulated postal operators.

CP 2.3.2 The Code sets out the requirements and procedures to be followed in order to satisfy the Code Objectives.

CP 2.3.3 This Code applies to all regulated postal operators. Compliance is obligatory for all regulated postal operators in accordance with regulatory conditions.

CP 2.3.4 Regulated postal operators will need to enter into contractual arrangements separate to this Code in order to comply with and give effect to the provisions of the Code: for example, day-to-day arrangements for the repatriation of misdirected mail and any charges payable for that service will need to be established. Regulated postal operators are required to be party to a separate "default agreement" – the Postal Common Operational Procedures Agreement – so as to ensure that in the absence of any bespoke negotiated arrangements between regulated postal operators, regulated postal operators will be able to comply with this Code.

CP 2.3.5 This Code shall not be interpreted in any way which is inconsistent with the Code Objectives.

Code Identifier and voluntary application of the Code

General

CP 2.3.6 Subject to CP 2.3.7 - CP 2.3.12, each regulated postal operator must take all reasonable steps:

- (a) to ensure that its Code Identifier is clearly and legibly marked in accordance with industry practice on each Code Letter in respect of which it is the Intended Operator;
- (b) not to mark its Code Identifier on any Postal Packet (which for the purposes of CP 2.3.6 - CP 2.3.12 includes parcels) in respect of which it is the Intended Operator which is not a Code Letter.

The universal service provider

CP 2.3.7 Royal Mail will be taken to have satisfied its obligations under CP 2.3.6(a) if a Code Letter in respect of which Royal Mail is the Intended Operator bears:

- (a) a Royal Mail postage stamp; or
- (b) a mark or impression which includes the words "Royal Mail" or other reasonably recognisable Royal Mail text or symbol.

CP 2.3.8 In relation to all other Code Letters in respect of which Royal Mail is the Intended Operator which do not meet the requirements of CP 2.3.7, Royal Mail must comply with CP 2.3.6(a).

Access Parties and Intermediaries

CP 2.3.9 An Access Party or Intermediary will be taken to have satisfied its obligations under CP 2.3.6(a) if a Code Letter in respect of which the Access Party or Intermediary is the Intended Operator, is marked with that Access Party's or Intermediary's Indicator.

CP 2.3.10 In relation to all other Code Letters in respect of which an Access Party or Intermediary is the Intended Operator which do not meet the requirements of CP 2.3.9, that Access Party or Intermediary must comply with CP 2.3.6(a).

Voluntary application of the Code

CP 2.3.11 A regulated postal operator (other than the universal service provider acting in any capacity, and an Access Party and an Intermediary acting in those capacities) may elect to extend the application of the Code to Voluntary Code Letters.

CP 2.3.12 If a regulated postal operator makes an election in accordance with CP 2.3.11, those Voluntary Code Letters in respect of which the election is made:

- (a) must be clearly and legibly marked in accordance with industry practice with the relevant Code Identifier; and
- (b) if so marked, shall be deemed to constitute for all purposes of this Code, Code Letters.

Treatment of Misdirected Code Letters

CP 2.3.13 Regulated postal operators must take all reasonable steps to ensure that Misdirected Code Letters are:

- (a) returned to the Intended Operator; or
- (b) if such return is not reasonably practicable, otherwise handled (including, where appropriate, delivered to the intended user)

in either case, in an efficient, economic and timely manner.

CP 2.3.14 Regulated postal operators may:

- (a) charge the relevant Intended Operator for the reasonable costs properly and reasonably incurred in returning or otherwise handling the relevant Misdirected Code Letter in accordance with CP 2.3.13;
- (b) where in accordance with CP 2.3.13 they deliver or return the relevant Misdirected Code Letter to the relevant intended user or Sender, as the case may be, charge the user or Sender for such delivery or return on the same basis that they would be entitled to charge if they were the Intended Operator of the relevant Misdirected Code

Letter.

Treatment of Miscollected Code Letters

- CP 2.3.15 Regulated postal operators must take all reasonable steps to ensure that Miscollected Code Letters are returned to the Intended Operator or its customer, in either case, in an efficient, economic and timely manner.
- CP 2.3.16 Regulated postal operators may not charge for returning the relevant Miscollected Code Letters in accordance with CP 2.3.15.

Customer Service Enquiries

- CP 2.3.17 If a regulated postal operator receives a complaint or other enquiry in relation to a Code Letter that should have been made to another regulated postal operator, the regulated postal operator receiving the complaint or other enquiry shall:
- (a) treat that complaint or other enquiry with the same degree of care and importance that it would if the complaint or other enquiry should have been made to that regulated postal operator;
 - (b) explain to the complainant that the complainant should contact the other relevant regulated postal operator; and
 - (c) provide to the complainant the contact details of that other relevant regulated postal operator.
- CP 2.3.18 If a regulated postal operator receives a complaint or other enquiry where the identity of the regulated postal operator to which that complaint or other enquiry should have been made is not discernable from the relevant Code Letter, the regulated postal operator receiving the complaint or other enquiry is only required to refer the complainant to the Sender of the Code Letter.
- CP 2.3.19 Regulated postal operators must take all reasonable steps to ensure that they have sufficient personnel properly trained (and with access to all relevant information) in order to handle complaints or other enquiries in accordance with the other provisions of CP 2.3.17 – CP 2.3.18.

Information and Reporting

- CP 2.3.20 Within 3 months of 31 March each year, each regulated postal operator must provide to OFCOM details of:
- (a) the total number of Misdirected Code Letters in respect of which that regulated postal operator was the Receiving Operator during the relevant year ending 31 March; and
 - (b) where relevant, the total such number broken down by Intended Operator.

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.

| Defined term | Section of the Act |
|-----------------------------------|-----------------------------------|
| <i>OFCOM</i> | 90 |
| <i>postal operator</i> | 27(3) |
| <i>postal services</i> | 27(1) |
| <i>universal service provider</i> | 65(1) and Schedule 9, paragraph 3 |
| <i>user</i> | 65(1) |