

## ONEPOST response to Ofcom's consultation on the Review of Regulation of Royal Mail

We were looking forward to receiving Ofcom's consultation on what had been called a "Fundamental Review of Regulation" to see how it was proposing to address the concerns and issues that we, and many others in the industry, had raised in the evidence we submitted to Ofcom in September last year.

We are therefore disappointed that Ofcom appears to have decided to only propose minimal changes to the existing Regulation that neither address the specific issues that were raised in our submission and in meetings over the last few years (pricing, lack of efficiency incentives, protection of RM Access customers etc) nor provides any clear guidelines or measures of what is acceptable behaviour and performance.

Many in the industry believe that RM has failed the "key test" in Ofcom's 2012 decision document decision to justify allowing Royal Mail pricing freedom. It said that "it is likely that more intrusive regulation will have to be considered" if RM "shows a track record of consistently increasing prices and not improving efficiency" but, crucially, did not include any parameters to indicate what was likely to be acceptable.

We strongly believe that Ofcom should not miss this opportunity to clearly state what would be likely to trigger more intrusive regulation so that there is clarity both for the industry and RM itself during the next few years.

**Question 1:** *Do you agree that the evidence summarised in Section 4 and set out in more detail in the annexes to this consultation does not support the imposition of (i) further price controls on parts of Royal Mail's business or (ii) efficiency targets? Please state your reasons and provide evidence to support your view.*

No. We believe that the evidence submitted to Ofcom and presented in the consultation itself and the relevant annexes actually supports both some form of price control and efficiency targets.

### Prices

#### 1. Price increases

The key statement in the consultation document is that Ofcom does not consider "*that there are significant competitive constraints on Royal Mail's pricing of bulk letter mail overall*".

The fact that "*Royal Mail has not exercised its ability to raise prices to extent that it could have done*" does not provide any guide to its future behaviour since there have been constraints over the last few years that no longer exist (for instance End to End competition from Whistl and the Regulator carrying out a "fundamental" review of Regulation that could include price controls!).

The fact is that price increases have consistently been above inflation and that as a monopoly RM can increase prices as much as it needs to improve or maintain profitability. The 20% price increase for access mail implemented in 2011/2012; moving the date of price changes forward to December and giving customers 2 price increases within 12 months; and the recent price increases on CBC products to encourage take up of Mailmark provide ample evidence that RM is also prepared to ignore any apparent pricing constraints when it suits them.

In the absence of competition or any other significant constraint on pricing we believe that the Regulator has to provide some guidelines that will reassure RM's customers that they are not likely to face significant price increases and to signal to RM that to maintain or improve profitability it cannot simply rely on letter price increases. We would like to see Ofcom set an overall limit on RM's ability to increase prices and a cap on how much it could increase the price of any individual product including Access products. This would also provide an incentive for increasing efficiency to maintain margins.

#### 2. Access Pricing

We are disappointed that Ofcom is proposing not to implement the proposals covered by its recent Access Pricing Review. We believe that clear pricing that is based on accurate zonal

costings is vitally important since this can potentially impact on the surcharges applied to PP2 contracts. It also impacts on any future zonal contracts, regional price plans, bespoke packet contracts etc so we would urge Ofcom to reconsider and implement the proposals in the Access Pricing Review.

### 3. Efficiency

Although the consultation states that “Royal Mail’s future efficiency plans demonstrate greater ambition than its past performance” Ofcom’s view is that RM’s future targets are the minimum that should be achieved. This appears to be supported by both the Deloitte and WIK analyses since they both show that there is potential for RM to achieve much more.

Without the best incentive for efficiency improvement – competition – we believe that RM has little real incentive to improve efficiency. Although it has achieved some improvements historically (some of this has been achieved by passing cost onto mail producers and customers) a monopoly – even one with shareholders – does not have the same level of incentive as a company operating in a competitive market.

As we have said in our introduction we would like more clarity in understanding what, if anything, the implications for RM will be if it fails to achieve what Ofcom believes to be a “minimum” target for efficiency improvement.

### 4. Cost Allocation

One of the concerns that we and many others raised was a fair and accurate allocation of costs between letters and parcels when they are using the same network. This was prompted by the fact that some parcel prices had decreased whereas letter prices had consistently increased giving rise to a suspicion that the monopoly letter market was subsidising the competitive parcels market.

In the consultation Ofcom suggests that they will consider how to ensure that RM is allocating cost appropriately but we had expected to see more specific proposals from Ofcom to address this and reassure the industry that this would not be allowed to occur.

**Question 2:** *Do you agree that the regulatory framework should remain in place until March 2022 following the anticipated completion of Ofcom’s review by the end of 2016-17? Please state your reasons and provide evidence to support your view.*

We support the principle of stability in the Regulation of the Postal Market but would like more information around what circumstances might trigger either a minor or major review. There are likely to be significant changes in the postal market over the next few years – eg proportion of parcels v letters in the network – and we believe that it is highly unlikely that a Regulatory regime that is appropriate for 2017 will still be appropriate 5 years later without at least some minor changes.

**Question 3:** *Do you agree that the analysis summarised in Section 4 and set out in more detail in the annexes to this consultation accurately reflects the UK postal market? Please state your reasons and provide evidence to support your view.*

Yes – although RM’s clear dominance of the lightweight parcels market might justify Ofcom encouraging competition – such as mandating access – to benefit consumers.

**Question 4:** *Do you agree with our proposal not to amend the Universal Service Order or the DUSP conditions to include tracking as standard on First and Second Class single piece parcels? Please state your reasons and provide evidence to support your view.*

Yes

**Question 5:** *Do you agree with our proposal to retain the safeguard cap in its current form? Please state your reasons and provide evidence to support your view.*

Yes – since there are no pricing constraints it is appropriate to protect consumers with a price cap.

**Question 6:** *Do you agree that we should amend the USPA Condition so that it is clear that access operators cannot be required to accept general terms and conditions that include shorter notification periods than those provided for under USPA 7?*

Yes. We are, however, disappointed once again that Ofcom has not taken the opportunity to provide guidance on what is “fair and reasonable” behaviour. In 2012 it said that “it may be appropriate to provide guidance once the Regulatory framework had settled”. We believe that it is now appropriate for Ofcom to provide that guidance before implementing the Regulatory framework for the next 5 years.

**Question 7:** *Do you agree with our proposal to amend the scope of Essential Condition 1 to cover untracked letter and large letter mail, and single piece universal service parcels, and to remove the remaining universal service products from the scope of the Essential Condition 1?*

Yes

**Question 8:** *Do you agree with the proposed streamlining revisions to Essential Condition 1, including the removal of the Mail Integrity Code of Practice, as drafted in Annex 13?*

Yes. They are clearer and simpler.

**Question 9:** *Do you agree that the proposed drafting of Essential Condition 1 including relevant definitions accurately capture our intended objectives and the intended operators and mail types?*

Yes – we support the change from “Regulated” to “Relevant” operators and not to extend any requirements to parcels.

**Question 10:** *Do you agree with the proposed revisions to Consumer Protection 2, including the removal of the PCOP code and agreement, as drafted in Annex 13?*

Yes

**Question 11:** *Do you agree that the proposed drafting of CP 2 including relevant definitions accurately capture our intended objectives and the intended operators and mail types?*

Yes

**Question 12:** *Do you agree with our proposal to amend the scope of Consumer Protection Condition 3 so that it retains a minimum requirement for all postal operators, and that additional requirements in relation to redress and reporting would apply to Royal Mail as the universal service provider only?*

Yes

**Question 13:** *Do you agree with our proposed drafting of Consumer Protection Condition 3 given our proposal to only apply the additional requirements set out in CP 3.3 in relation to redress and reporting to Royal Mail as the universal service provider?*

Yes

**Question 14:** *Do you agree with our proposal to revoke Consumer Protection Condition 5?*

Yes

**Question 15:** *Do you agree with our proposal to remove the one-month notification period for price decreases to Royal Mail's universal service products and services?*

We support a reduction in notification but any price decrease to USO products will have an impact to suppliers and competitors and they should be given a reasonable time to react to these changes eg changing price lists, updating websites etc.

**Question 16:** *Do you agree with our proposal to reduce the advance notice period for specified collection times to one month (reduced from three months)?*

Yes

**Question 17:** *Do you agree with our proposal to remove the advance notice period for latest delivery times (currently at three months)?*

Yes

**Question 18:** *Do you agree with our proposed restructuring and drafting of Designated Universal Service Provider Conditions 1.10.1 and 1.10.2, and the removal of Designated Universal Service Provider Conditions 1.10.3?*

Yes