

Royal Mail plc

Response to Ofcom's May 2016 Fundamental Review of the Regulation of Royal Mail

Royal Mail Submission

August 2016

Public version

Confidential information which has been redacted from this document is indicated by: [X]



Table of Contents

Executive Summary.....	2
Chapter 1 – Letters pricing.....	5
Chapter 2 – Efficiency.....	16
Chapter 3 – The UK parcels sector.....	29
Chapter 4 – Cross-subsidy and cost allocation.....	39
Chapter 5 – Access.....	44
Chapter 6 – USO for the 21 st Century.....	57
Chapter 7 – Appropriate regulatory consumer protections in parcels.....	65
Chapter 8 – Appropriate regulatory consumer protections in letters.....	77
Chapter 9 – A new sustainability framework for the Universal Service.....	89
Annex 1.....	104
Annex 2.....	108
Annex 3.....	122
Annex 4.....	138

Executive Summary

We are the proud provider of the Universal Service. It plays a key part in the growth of the digital economy. We have made great strides in efficiency and innovation. We welcome Ofcom's decisions not to reintroduce efficiency targets or price controls. However, we continue to operate in a fragile ecosystem. There is a pressing need for a pro-active sustainability framework to help sustain the Universal Service.

Pricing, efficiency and our markets.

- i. **We have a track record of fair, reasonable and prudent pricing in letters and parcels.** We welcome Ofcom's decision not to re-introduce price controls. Ofcom found that postal delivery is the only sector it monitors which has seen an increase in consumer perception of value for money. Market forces are doing their job. The existing safeguard Second Class (2C) Universal Service Obligation (USO) price caps should be removed. (Chapter 1.)
- ii. **We welcome Ofcom's recognition of our progress in efficiency and its decision not to introduce binding efficiency targets.** We are implementing – at the same time and in a much shorter timeframe – changes that other major posts took years to introduce. We have stretching plans to deliver more efficiency improvements, including continuing to target avoiding c.£500 million in annualised cost, cumulative over the three financial years to 2017-18. In doing so, we continually judge the absorbable rate of change. (Chapter 2.)
- iii. **The UK parcels sector is one of the most competitive in Europe. Competition is intense and growing. There are a number of disruptive models.** Ofcom has not given sufficient weight to these market forces. Nor do we agree with the regulator's use of the Postcomm 2010 market segmentation, or its overreliance on market share estimates. We note Ofcom is not proposing to extend the mandated Access regime to parcels. But, it remains open to requests to do so subject to sufficient evidence. Mandated Access is unwarranted given the range of alternative providers available. It could undermine the financial sustainability of the Universal Service especially given the critical centrality of parcels revenue. (Chapters 3 and 4.)
- iv. **We welcome the regulator's positive comments on our Access consultation process.** We will amend our notification periods subject to changes to the proposed wording. We do not agree with the proposal to more than halve the timeframe to process applications for new Access services. It is neither appropriate nor feasible. **We do not agree either, in substance or in the form of guidance, with the proposal to introduce the main Access Pricing Review (APR) principles.** They are a materially retrogressive change from the 2012 framework. Their proposed application now – despite the absence of direct delivery competition – would restrict Royal Mail's commercial freedom in an unnecessary and disproportionate way. In order to be able to recover its costs overall, Royal Mail would be effectively required to tie zonal prices to fully allocated zonal costs. But we would not be able to price in a way which any normal, rational business may wish to and which is recognised as competitive market pricing. There is also a need to update and clarify the large letter definition. It has remained unchanged since 2006. (Chapter 5.)

A pressing need for a sustainability framework.

- v. **We operate in a fragile ecosystem.** The unique circumstances pertaining to post remain in place: structural decline in letters, and intense competition in parcels. **There are significant risks to the USO.** The sustainability duty to secure the Universal Service enshrined in the Postal Service Act (PSA) 2011 has few precedents elsewhere. **Ofcom should quickly progress this duty. It should implement the framework**

that is featured throughout this submission and set out in detail in Chapter 9. Alongside the existing high levels of parcel competition, it provides the best approach to securing the Universal Service. After-the-event solutions – like compensation funds – are typically too small to be of value and come too late. (Chapter 9.)

- vi. **The Universal Service plays a vital economic role.** It is a key part of the digital economy which is strategically important to the UK's economic future. **The current Universal Service specification gives optimal access to the revenue streams that are available from the market and essential to fund it. Any reduction in the scope of the Universal Service would adversely affect the market based funding model Parliament provided.** A market funded Universal Service, like post, needs to be contemporary and market facing. **Ofcom should enable the Universal Service to evolve,** e.g., by permitting end-to-end tracking of standard Universal Service parcels. If the regulator does not update the Universal Service, over time, it will remove Royal Mail's ability to access the new or existing revenue pools essential to fund it. The next User Needs Review should include the critical centrality of parcels and letters revenues as a main feature. (Chapter 6.)
- vii. **Sustainability also requires that a minimum set of consumer protection standards are applied in parcels and letters across the whole delivery industry.** The growth of e-commerce relies on a good delivery experience. Royal Mail adheres to a highly developed set of regulatory standards. Other major parcel operators have no regulatory standards applied to them or a light touch complaints handling requirement. In letters, we are concerned about the proposed removal of the modest protections that apply to a small number of operators. Royal Mail has a highly developed range of protections and we often operate over and above them. We are concerned too about Ofcom's proposals relating to outcomes based regulation and untracked letters. They would place an unnecessary and disproportionate burden on Royal Mail with no substantive evidence to warrant their introduction. (Chapters 7 and 8.)
- viii. In summary, although we welcome Ofcom's decision not to implement price controls or efficiency targets we are concerned that its current set of proposals – APR guidance, focus on promoting access competition, output based regulation for mails integrity, declining to allow the USO to evolve with changing market conditions, cost allocation review – will reduce our ability to respond commercially to changing market conditions. (Annex 1). The regulatory focus should be on sustainability. We set out the main elements of our sustainability framework below.

The Main Elements of the Sustainability Framework	
Sustaining the revenue pools that underpin the USO.	<ul style="list-style-type: none"> ● Maintain the current USO specification. ● The regulator commits to update the USO actively to sustain revenue pools. ● Remove prohibition on end-to-end tracking of standard parcels in the USO. ● The next User Needs Review actively considers revenue implications in detail. ● No regulatory intervention without detailed and due consideration of the effect on the revenues essential to fund the USO.
Focusing on the financial sustainability of the USO.	<ul style="list-style-type: none"> ● Ofcom acknowledges that market forces are doing their job. There is no need for regulation to incentivise more competition. ● No extension of mandated Access for letters. ● No mandated parcel Access to the Universal Service network. ● Remove the current 2C USO safeguard price caps. ● Remove the requirement to report Quality of Service to PCA level.

Raising consumer standards to enable e-commerce growth.	<ul style="list-style-type: none">• A single consumer protection standard for all “Relevant Postal Operators”, which includes all major existing and new players in both letters and parcels.• The standard should extend the mail integrity and complaints handling process requirements to all ‘Relevant Postal Operators’.• The standard should include an appropriate redress process and an Alternative Dispute Resolution (ADR) scheme, and appropriate financial compensation, for all major players offering ‘Single Piece’ services.
--	---

Chapter 1 – Letters pricing.

Ofcom questions 1, 3, and 5

Royal Mail has a track record of fair and reasonable pricing. Our products and services are excellent value for money. Ofcom has found that postal delivery is the only sector that it monitors which has seen an increase in customer perception of value for money¹. The UK Access market, the largest in the EU, is working well and has developed rapidly since its introduction in 2004. After the necessary Access price increases in 2011 and 2012, the average annual price increase for 2012-16 was similar to 2006 to 2010 when we faced strict price controls.

Royal Mail welcomes Ofcom's decision not to reintroduce price controls or implement efficiency targets (see Chapter 2). We have significant market-driven pricing incentives. We do not agree, however, with Ofcom's assessment of the UK letters market. The existing caps (Second Class letters, large letters and parcels) should be removed.

- **The letters market is significantly more competitive than Ofcom suggests.** E-substitution is a potent form of competition. As a result of e-substitution, total UKPIL Letter Revenue has declined from £4,585m² in 2011-12 to £4,470m³ in 2015-16. In addition, UKPIL addressed letter volumes have declined from 15,147m⁴ items in 2011-12 to 12,563m items in 2015-16⁵.
- **Ofcom has not adequately recognised the significant risk of hitting a 'tipping point' in letters volumes.** We are actively seeking to avoid replicating the experience of other European postal services who have experienced 'tipping points'.
- **Royal Mail does not agree with the Ofcom analysis underpinning its assessment of letters competition.** It relies on historical price elasticities. This does not take into account future changes in the market and their role as a driver of our pricing strategy. We also disagree with Ofcom's conclusion that relative price differences between applications indicate that we are not constrained by e-substitution. It is economically rational to price transactional and advertising mail in relation to their respective competitive constraints.
- **Given our pricing track record and the competitiveness of the postal market, the current price caps should be removed.** FTI Consulting shows that Royal Mail is the only major UK regulated company pricing below the price caps. The competitive postal landscape – not regulation – maintains downward pressure on prices. Price caps represent unnecessary regulation and are not in accordance with the principles of better regulation.

¹ Since 2005; Ofcom's Customer Experience Report 2015.

² Royal Mail plc Prospectus, not working day adjusted.

³ Royal Mail plc Annual Report and Financial Statements 2015-16, not working day adjusted.

⁴ Royal Mail plc Prospectus, not working day adjusted.

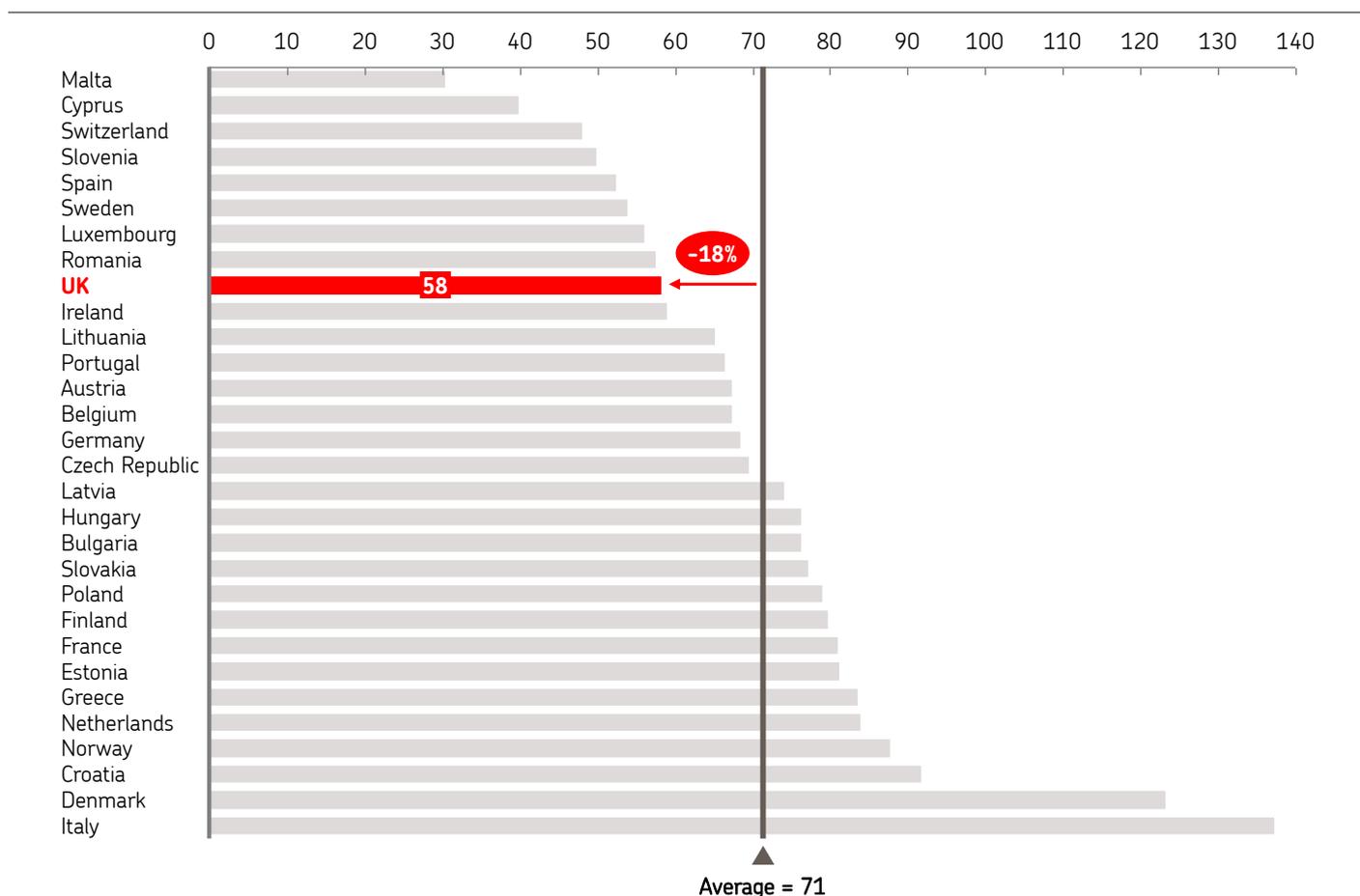
⁵ Royal Mail plc Annual Report and Financial Statements 2015-16, not working day adjusted.

Royal Mail has a track record of fair and reasonable letter pricing. Our products and services are excellent value for money.

Our products and services are excellent value for money. Our pricing compares favourably with other European posts.

1.1 As Ofcom found, postal costs are around 0.1% of total UK household expenditure for the majority of consumers⁶. In 2014-15, half of consumers reported that Second Class letters are good value for money, up from 40% in 2012-13⁷. **Ofcom has acknowledged that: “postal services and delivery is the only sector to see an increase in customers’ perception of value for money”⁸**. By contrast, value for money ratings have fallen for a range of other services; most markedly banks, gas and electricity providers, and supermarkets⁹. **When benchmarked against other EU posts, Royal Mail USO stamp prices¹⁰ are 13 pence (or 18%) cheaper than the European average** for First Class and Second Class addressed inland letter stamps (see Exhibit 1.1).

Exhibit 1.1: First Class-Second Class average inland letter prices for 0-100g, 2016 (UK pence, converted at PPP)¹¹.



⁶ Ofcom, Annual monitoring update on the postal market: Financial Year 2014-15.

⁷ Ofcom, Annual monitoring update on the postal market: Financial Year 2014-15.

⁸ Perceived value for money increased from 5.92 in 2005 to 6.91 in 2015. Ofcom's Customer Experience Report 2015.

⁹ Ofcom Consumer Experience Report 2015. Research Annex page 67.

¹⁰ Weighted average of First Class and Second Class inland letter prices.

¹¹ Royal Mail, Fundamental Regulatory Review submission, Sep 2015 – updated to 2016. Note: Only the UK, Switzerland and Ireland operate 0-100g pricing. All other countries operate different USO letter pricing structures. Comparisons are based on the 51-100g price point where a 0-100g price point does not exist. Stamp prices based on information published on operators' websites. Average prices calculated using UK volume weights and prices converted to UK pence using PPP exchange rates (European average = 71p).

Royal Mail has pursued a reasonable pricing strategy. The Access market is working well. Our pricing has been fair and reasonable.

- 1.2 **Royal Mail has pursued an appropriate pricing strategy.** The April 2012 price increases were an essential re-calibration to return Royal Mail to profitability and ensure the financial sustainability of the Universal Service. Under the previous regulatory regime the operating loss for UKPIL had risen to £120mn¹² in 2010-11. **The overall increase in letters prices since April 2012 was c.0.7% p.a. above RPI¹³ across all addressed inland letters and large letters.**
- 1.3 **Mandating Access to Royal Mail's network, together with the introduction of a headroom control which disincentivised Royal Mail to compete for letters volume on price were the key planks in the regulatory regime designed to stimulate competition in the letters market. The Access market is working well. It has developed rapidly since its introduction in 2004.** It is now by far the biggest postal Access market in the EU (see Exhibit 1.2). Access accounts for c.59%¹⁴ of all inland addressed letter volume (c.7 billion items per year), and c.70%¹⁵ of the addressed letter volume posted by large businesses. Our Access letters pricing has been fair and reasonable. **Access customers compete with each other and with Royal Mail for customer volumes in a market that is in structural decline. Large contracts are won and lost over a fraction of a penny.** Since the necessary price increases in April 2011 and April 2012, the average increase in Access prices has been c.0.3% p.a. above RPI¹⁶.

¹² After modernisation costs.

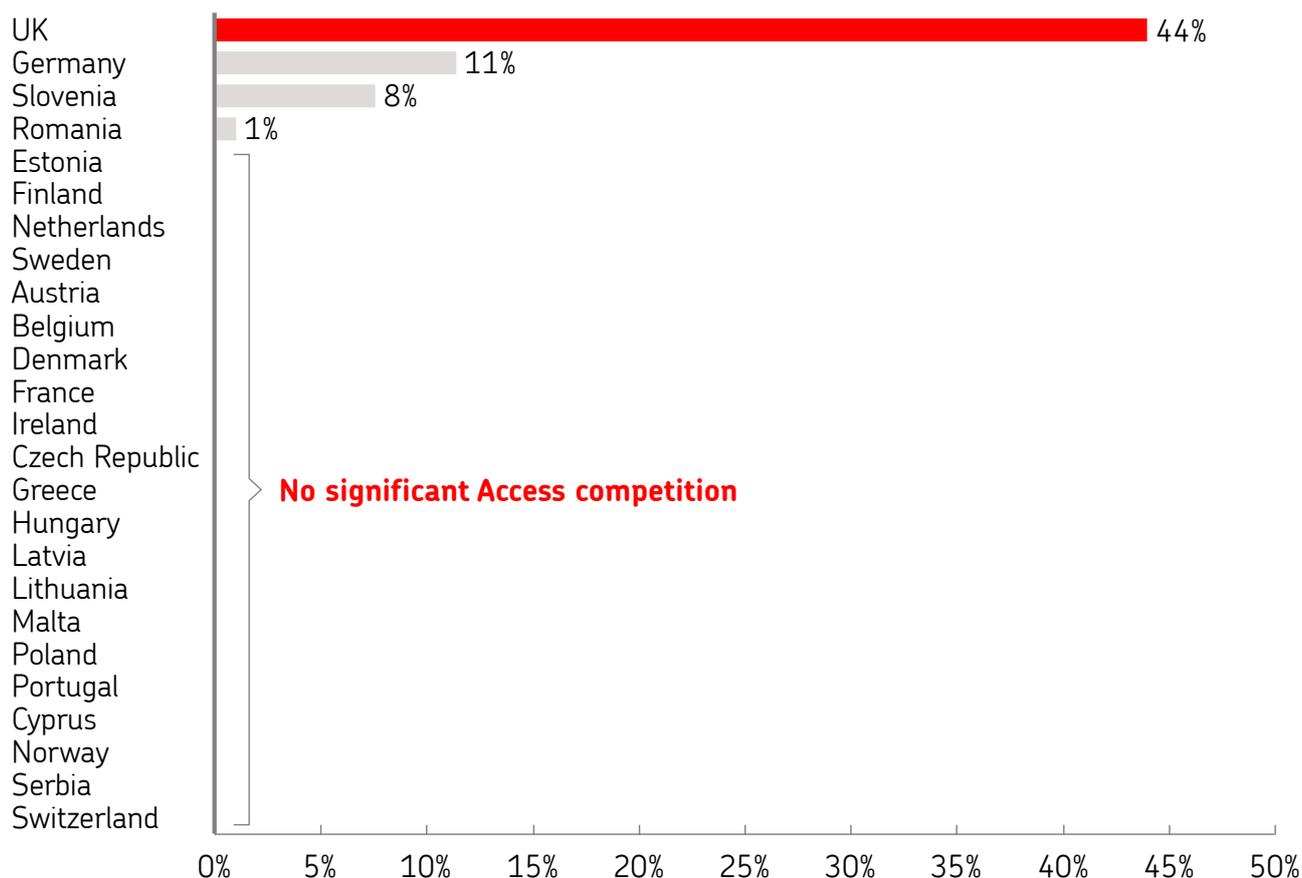
¹³ Internal Royal Mail calculations.

¹⁴ Royal Mail Full Year 2015-16 results presentation, % of inland addressed letters.

¹⁵ Ofcom, Review of the Royal Mail Regulation, 25 May 2016.

¹⁶ Internal Royal Mail calculations.

Exhibit 1.2: Access operators' share of letter volumes April 2013, %¹⁷.



Royal Mail faces significant competition in letters. Moreover, e-substitution is a potent form of competition that materially constrains our pricing. So too is the risk of 'tipping points'.

- 1.4 Ofcom accepts that Royal Mail faces some constraints from e-substitution in single piece letters, large letters, and bulk mail. It argues however, that other factors such as political pressure, negative publicity, and its monitoring regime had a greater impact on our prices. **We do not agree with this analysis. Ofcom has not placed sufficient weight on the threat of increased e-substitution and the significant risk posed by tipping points.**
- 1.5 Ofcom provides no evidence that we have not raised prices as much as we profitably could have due to 'other factors' such as political pressures, fear of negative publicity, or its monitoring. **Ofcom's "other factors" are marginal in comparison to the threat of increasing the long-term rate of e-substitution by triggering a 'tipping point'.** [38]¹⁸. Moderate price increases reflect the risk that customers could switch away permanently, primarily to digital alternatives. Competitive constraints - rather than the "other factors" on which Ofcom places weight - have incentivised a conservative pricing strategy.

¹⁷ ERGP 2014 Report on E2E Competition and Access in EU Postal Markets - <http://ec.europa.eu/DocsRoom/documents/14345/attachments/1/translations/en/renditions/native>. 2013 figures from ERGP. ERGP cites a lower figure for Royal Mail than the 59% Royal Mail recognises. Royal Mail understands, from our own analysis, that the ERGP bases its calculation on the proportion of unaddressed and addressed inland mail that is handled by Access operators which understates the true share of mail handled by access operators in the UK and depresses the other countries' figures against the UK figure. Royal Mail bases its calculation on the proportion of mail posted by large businesses that are handled by Access operators. However, taking relative sizes, it indicates that German Access operators hold approximately four times less of the market than do operators in the UK.

¹⁸ [38].

1.6 **E-substitution is driving structural decline in letters.** This was acknowledged when the 2012 regulatory regime was put in place. As the Hooper report said¹⁹: “*if something is digitisable, postal operators should act on the basis that it will sooner or later be digitised.*” Online communication continues to grow:

- Over **84% of households in the UK have internet access**²⁰.
- **78% of adults used the internet on a daily basis in 2015**, up from 76% in 2014, and c.35% in 2006²¹.
- **Ofcom**²² has found that **77% of 16-34 year olds who are sending less post than two years ago have replaced this with email.** 47% of 16-34 year olds use SMS as a replacement for post, 37% use voice calls on mobile phones, 37% use social networking, and 16% use instant messaging instead of post

1.7 **E-substitution is a series of technological advances which have led to customers – both consumers and business – using less mail.** Around 2003, e-substitution began to drive a wedge between letter volume growth and GDP. Whilst GDP has remained an important driver of volumes, the relationship has become more complex. As new technologies mature and their usage evolves over time, analysis undertaken using historical data is unlikely to reflect future long-term substitution trends. As Exhibit 1.3 below demonstrates, the evolution of new technologies is an ongoing dynamic process driven by individual technologies overlapping i.e. as an “*old technology*” starts to plateau a new one emerges.

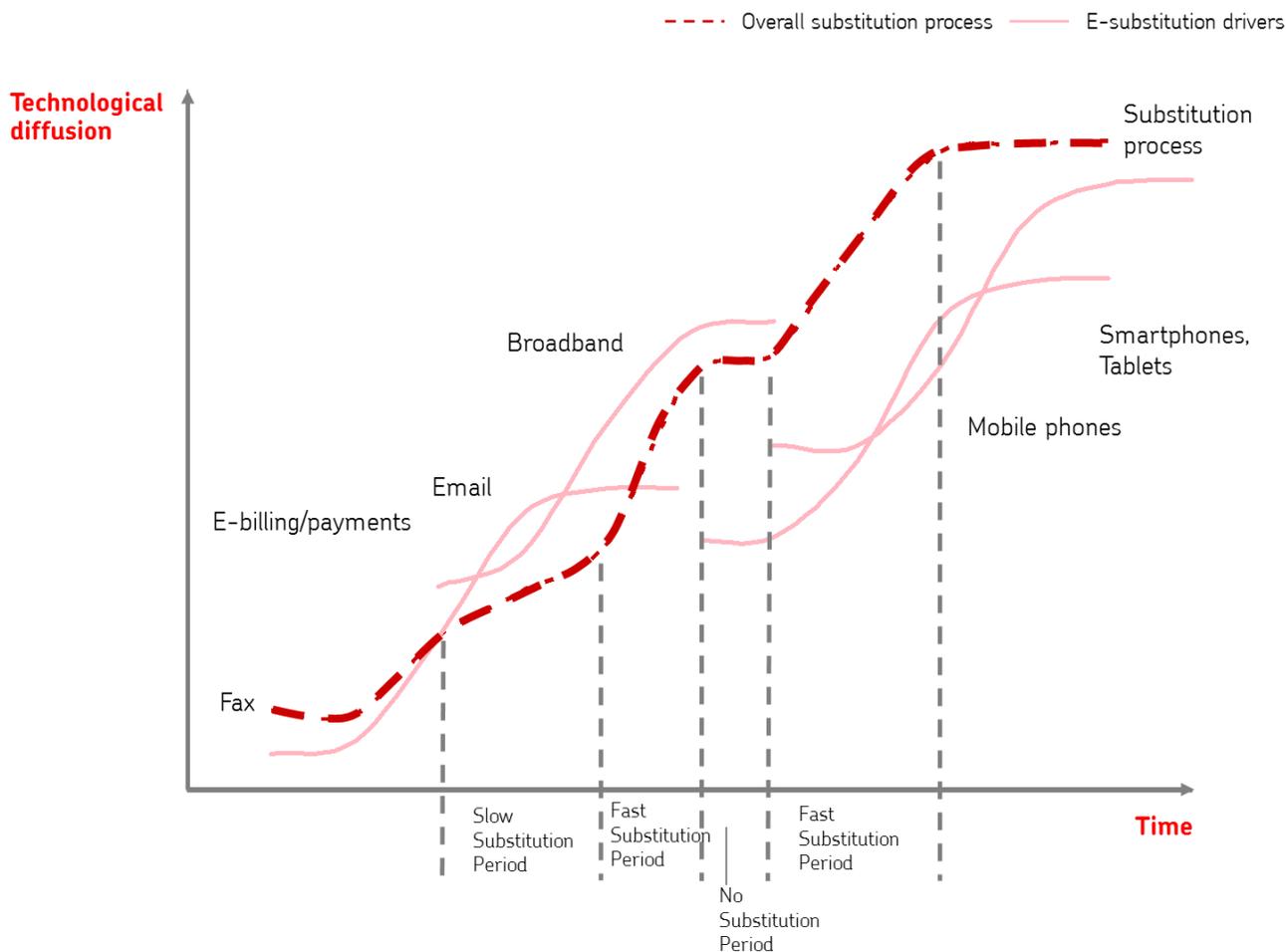
¹⁹ Hooper (2010), Saving the Royal Mail's universal postal service in the digital age.

²⁰ ONS (2015) Internet Access - Households and Individuals: 2015.

²¹ ONS (2015) Internet Access - Households and Individuals: 2015.

²² Ofcom, Communications Market Report 2015, paragraph 6.3.1.

Exhibit 1.3: E-substitution is a dynamic and evolving process²³.



1.8 E-substitution is driving volume decline in all letters segments. E-substitution risk, however, in transactional mail is high.

- **Transactional mail declined by [X] between 2010-11 and 2015-16²⁴.** Large customers are switching to digital alternatives. For example, the Driver and Vehicle Licensing Agency (DVLA) has already digitised significantly, ceasing to issue paper tax discs.
- There is a high concentration of transactional mail customers. This **could open the door to mass digitisation**. In 2013, PwC found that 25% of transactional mail in the UK is sent by the top 5 banks and other financial services companies account for an additional 10%²⁵. There are many examples of banks and utilities companies migrating customers from paper to online²⁶:
 - » Energy companies Eon and Southern Electric now offer a £5-6 discount for each product (gas/electricity) where a customer opts for paperless billing.
 - » TSB Bank offers higher interest rates to customers who go paperless.
 - » Barclays have set 'online statements only' as the default; and

²³ Nikali, Heikki (2008), 'Substitution of Letter Mail for Different Sender-Receiver Segments', in M.A. Crew and P.R. Kleindorfer (eds), Competition and Regulation in the Postal and Delivery Sector, Cheltenham, UK and Northampton, MA, USA: Edward Elgar, pp.89-106.

²⁴ Internal Royal Mail analysis, not working day adjusted.

²⁵ PwC report, The outlook for UK mail volumes to 2023, July 2013.

²⁶ FTI Consulting, Competitive Constraints on Pricing, September 2015, paragraphs 3.7 and 3.8.

- » Lloyds and RBS automatically send quarterly instead of monthly paper statements, unless requested otherwise.

- 1.9 **Advertising mail also faces significant competitive constraints. Advertising mail spend faces major competitive constraints due to competition from TV and online advertising.** It has declined by [§<] over the past five years (2010-11 to 2015-16)²⁷. By contrast, revenues from online advertising have increased by more than 50% in real terms over the same period. Spending on online advertising is roughly four times that on mail advertising²⁸.
- 1.10 **The UK, in common with many other European countries, will continue to experience rapid levels of decline in addressed letter volumes of between 4% and 6% per annum in the medium term**²⁹. Ofcom acknowledges this decline. It states that between 2010 and 2014, total letter volumes declined by 18.5%. Royal Mail sets prices in a manner that takes into account the threat to our revenues from increasing the long-term rate of e-substitution. Our pricing seeks to avoid triggering a tipping point. **Ofcom does not fully address the potential for the sudden - and irreversible - large volume declines that could arise due to e-substitution.** Examples from other countries show dramatic reductions in mail from large customers can happen quickly. High letter prices carry an asymmetric risk of triggering mass digitisation. Research we commissioned³⁰ highlights the potential risk of a steeper decline. This is particularly the case if large customers decided to adopt more aggressive e-substitution strategies in the face of higher price increases. The risk would increase considerably if large mailers took coordinated action. For example, in Denmark, mail volumes declined by 50% in six years, partly due to the expansion of the 'e-books' electronic document system. Other European countries have experienced significant declines in volume over the last decade: Netherlands (50%), and Italy (44%)³¹. **We are actively trying to avoid replicating the experience of other European postal operators.**

Ofcom's analysis seems to rely on historical price elasticities. By contrast, Royal Mail's pricing decisions are forward-looking, reflecting fundamental changes in the letters market.

- 1.11 Ofcom has not published its analysis that concluded that Royal Mail does not face significant competitive pressure in the letters market. If it relies on historical average elasticities, it is likely to overestimate the price increases we could profitably make. **We do not believe that pricing decisions should be made based on measured price elasticities alone. They fail to take into account the changing nature of the letters market and the changing effects of digitisation.** Estimated elasticities for all letter segments are low. Our pricing strategy is based on management's commercial judgment. Management considers the need to maintain a large enough base to financially sustain the Universal Service and expected future changes in the market, including the threat of accelerated e-substitution. Modelling from FTI Consulting demonstrated that, given the ongoing decline in the letters market, Royal Mail will rationally price more conservatively. This is because current prices have an impact on the size of the market in the future³². FTI Consulting also showed that analysis which relied exclusively on average historical elasticities would overestimate the extent of price rises that we could profitably make. While we would experience a short term benefit, over a medium period this strategy would mean lower overall revenues as e-substitution causes our volumes to fall. This would reduce the revenues essential to financially sustain the Universal Service.

²⁷ Internal Royal Mail estimates. Not working day adjusted.

²⁸ Advertising Association/Warc.

²⁹ http://www.royalmailgroup.com/sites/default/files/Annual%20Report%20and%20Accounts%202014-15_0.pdf, excluding elections.

³⁰ [§<].

³¹ Relevant Postal Operator Annual reports.

³² FTI Consulting report - Competitive Constraints on Pricing faced by Royal Mail, September 2015, Appendix 1.

1.12 Independently, Royal Mail conducted analysis to understand the implications of a more aggressive pricing strategy. This showed that **significant price increases would have a negative financial outcome for the business.**

Ofcom has not placed sufficient weight on varying elasticities as a driver of pricing strategy and the power of tipping points.

1.13 Ofcom has used price increases and the relative pricing between transactional and advertising mail as an indication that the threat of increasing e-substitution has a limited impact on Royal Mail's pricing behaviour³³. Royal Mail disagrees with this assessment and conclusion. Royal Mail considers **different letter applications will have different elasticities reflecting different demand conditions**. It is economically rational to price transactional and advertising mail in relation to their respective competitive constraints. Under such a pricing strategy, transactional mail prices would be expected to increase more than advertising mail. The fact that transactional mail Access prices rose by more than RPI – and by relatively more than advertising mail Access prices – is entirely consistent with Royal Mail's view on e-substitution. Mail is constrained by the threat of permanent switching to electronic alternatives in a declining market. Transactional mail has lower substitution risks than advertising mail. In short, **management has acted prudently based on more than the current price elasticity**. Management of business mail e-substitution is an ongoing challenge to overall volumes.

1.14 **Advertising mail is subject to intense competition from other forms of media such as online and TV. This is a major constraint on prices.** For most applications, online display advertising is a substitute for advertising mail. Buyers operate with set marketing budgets that will often cover different media channels. While advertisers tend to vary their mix of channels for each campaign, decreasing the likelihood of permanent switching away from advertising mail, the market is still competitive. Customer spend is often capped by annual budgets, therefore price-induced switching from one channel to another occurs frequently. Considering the intense competition from other forms of media for advertising spend, and the price-sensitivity of our customers, it is appropriate that Royal Mail would increase advertising mail prices at a lower rate than other types of mail.

Given our pricing track record and the competitiveness of the postal market, we do not agree with Ofcom's proposal to retain the two safeguard price caps.

1.15 **Ofcom removed the majority of price controls in 2012**, as they were too static for the rapidly-changing and uncertain market environment of post. **This has proved successful**. Our pricing policy remains prudent, and Royal Mail has made great strides on efficiency, (see Chapter 2). The removal of price controls is consistent with the direction of travel and practice in other regulated sectors where firms' pricing power is limited. For example, in 2014 the CAA removed price controls at Gatwick and Stansted Airports.

1.16 The two Second Class **price caps introduced were not intended as traditional price controls. Instead, they are safeguard caps** to ensure a Universal Service product remains affordable to all consumers. As demonstrated in paragraph 1.1 of this chapter, **our USO products do remain affordable** for all income groups. Our stamp prices remain 13 pence (or 18%) below the European average. As Ofcom has found, customers perceive stamps to represent good value for money. In short, the caps were put in place as a safeguard for a scenario that has not transpired. This is in contrast to other regulated sectors in the UK –

³³ Ofcom, Review of Royal Mail Regulation, 25 May 2016, paragraph 4.88.

including telecoms, rail and airports. FTI Consulting shows that Royal Mail is the only major UK regulated company pricing below the price caps (see Exhibit 1.4).

Exhibit 1.4. Pricing policies across regulated industries³⁴.

Sector	Sub-sectors	Pricing	Comment
 Post		Below cap	Royal Mail is subject to a "safeguard cap" on the price of second class letters and parcels – however, it is currently pricing below the cap
 Telecom	MTRs	At cap	Mobile operators charge at the price cap set by Ofcom for providing call termination services
	LLU	At cap	BT charge at the price cap set by Ofcom for their local loop unbundling services
 Rail		At cap	Network Rail charge at price cap set by the regulator
 Airport	Heathrow	At cap	Heathrow Airport sets tariffs to ensure that its revenue equals the allowable average revenue per passenger set by the CAA – it does not charge less than this, and could recover revenue via a correction factor if it did
	Stansted	N/A	As of April 2014, Stansted Airport is not subject to a price cap, as it is not considered to have substantial market power. However, the CAA will continue to monitor the effects of competition at Stansted using data it collects on traffic, costs, profitability and service quality
 Energy		N/A	Regulated using a revenue cap
 Water		N/A	Regulated using a revenue cap

1.17 **There are powerful market reasons to suppose that Royal Mail's pricing policy will continue to be prudent**, and prices will continue to be affordable. Unlike other regulated industries, Royal Mail does not have any significant degree of pricing power. There is a much diminished case for regulation in the postal sector. The competitive landscape maintains constant, downward pressure on prices. These forces diminish our ability to increase prices, in turn ensuring prices remain affordable. This is demonstrated by price increases since 2012, which have been well below the maximum levels allowed by the caps. The necessary stamp price increases in 2011 and 2012, which brought our price in line with the European average, were required to bring Royal Mail back to profitability.

1.18 Therefore **Ofcom should remove the Second Class safeguard caps**. This is the continuation of its direction of travel to deregulate pricing, in an area where Royal Mail has showed it is responsible. Customers already have sufficient protection through the PSA 2011 and Ofcom's General Universal Service Conditions. Under DUSP Condition 1, Royal Mail is required to provide Universal Service products at affordable prices. Ofcom's current monitoring instruments allow it to identify a problem. It publishes its views on affordability in its Annual Monitoring Report on the postal market. If for any reason a problem were to emerge with pricing in the future, Ofcom would be able to reintroduce caps if required, or investigate whether Royal Mail is complying with its regulatory conditions.

1.19 Retaining the safeguard caps in their current form could also **increase risks to the financial sustainability of the Universal Service**. This safeguard cap is not in keeping with Ofcom's stated principle of only

³⁴ FTI Consulting.

intervening where necessary. The high fixed cost of the USO coupled with declining letter volumes creates upward pressure on unit cost. The cap was only intended to be in place until 2019. If the cap is to be retained, simply rolling it forwards until the end of the next regulatory period without considering the appropriate start point, may reduce our revenue and pricing flexibility to respond if necessary to sustain the USO. Ofcom would need to conduct new analysis to ensure the cap is set at a suitable level, so that both affordability and sustainability criteria are met for the duration of the regulatory period.

Overview of paragraphs referenced in response to Ofcom Fundamental Regulatory Review, questions 1, 3 and 5.

<i>Questions answered in chapter.</i>	<i>Summary responses and references.</i>
<p>Question 1: <i>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) 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.</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> ● Royal Mail agrees with Ofcom's decision not to re-introduce price controls or implement efficiency targets. Royal Mail has a track record of fair and reasonable pricing. Our products and services are excellent value for money. We have significant market driven pricing incentives. ● Price controls are too static for the rapidly changing market environment of post. We are facing intense competition across all sectors. This acts as a constraint on our pricing, negating the need for price controls. As Ofcom acknowledges in the evidence it sets out, Royal Mail has followed a prudent pricing strategy since the current regulatory framework has been in place. We have also made great strides in our efficiency (see Chapter 2). <p>References: paragraph 1.15.</p>
<p>Question 3: <i>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.</i></p>	<p>No:</p> <ul style="list-style-type: none"> ● We welcome and agree with Ofcom's analysis that our letters provide good value for money. ● We do not agree with the regulator's assessment on the extent of competition in the letters sector (parcels is covered in Chapter 3). <ul style="list-style-type: none"> » We face significant competition in letters. » E-substitution is a potent form of competition that constrains our pricing. » Ofcom has not placed sufficient weight on the threat of increased e-substitution or the significant risk posed by tipping points. » The "other factors" Ofcom refer to are marginal in comparison with this threat. <p>References: paragraphs 1.4-1.14.</p>
<p>Question 5: <i>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.</i></p>	<p>No:</p> <ul style="list-style-type: none"> ● Royal Mail does not agree with this proposal – we believe both of the safeguard caps should be removed. Royal Mail is subject to intense competition which diminishes our ability to increase prices and ensures prices remain affordable. Therefore the main purpose of the safeguard caps is already fulfilled by market forces. ● This safeguard cap is not in keeping with Ofcom's stated principle of only intervening where necessary. <p>References: paragraphs 1.15-1.19.</p>

Chapter 2 – Efficiency.

Ofcom questions: 1 and 3.

We welcome Ofcom's recognition of our "*progress on efficiency in recent years*"³⁵ and "*notable modernisation improvements*"³⁶. We have made very significant progress since 2012: modernisation, a return to profitability, privatisation, etc. We have strong and growing market-based incentives to deliver improvements. We welcome Ofcom's decision not to introduce binding efficiency targets.

Our achievements should also be considered in the context of challenging market conditions and the need to continually judge the absorbable rate of change. We started our modernisation later than many international peers. This means we are implementing – often at the same time and in a much shorter timeframe – changes that other major postal operators took years to introduce and embed. This has been enabled by significantly improved industrial relations due to the Agenda for Growth agreement.

We have ambitious plans to deliver efficiency improvements and cost avoidance. But the scale of this task means that the risk of quality decline, loss of business and industrial action are material factors. We do not agree with Ofcom that our efficiency plans are at the: "*lower end of a reasonable range for [efficiency] improvement*"³⁷. The necessary pursuit of efficiency must always be balanced by the impact on our people and regulated quality of service requirements we must deliver.

- **As Ofcom has recognised, we have made significant progress on efficiency in recent years. We have strong market-based incentives to deliver improvements:**
 - » **We have transformed every aspect of our operations, delivering significant efficiency improvements.** We outperformed the UK economy's total factor productivity (TFP) improvements in each year between 2011-12 and 2014-15³⁸.
 - » **Shareholder scrutiny, intense pressure from parcel delivery competitors and rapid e-substitution in letters are major spurs to efficiency.** The absence of other national letters direct delivery networks has no bearing on the efficiency of Royal Mail.
- **We actively review the absorbable rate of change. We seek to strike the appropriate balance between quality, efficiency and industrial stability:**
 - » **We have significantly improved relations with the trade unions. The Agenda for Growth agreement with the CWU is a major step forward.** It is delivering both commercial and operational benefits – no significant industrial disruption and accelerated headcount reductions since 2014³⁹. We do face challenges from time to time as external influences affect the relationships with our unions, such as political, economic and legislative factors.
 - » **We continually judge the absorbable rate of change. Other posts have suffered material revenue declines following industrial action.** The cost of industrial action is particularly high in post. A national strike could account for revenue losses of [£<] in a single year⁴⁰.

³⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.71.

³⁶ Ofcom, Universal postal service returns to financial health, 25 May 2016.

³⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.10.

³⁸ Royal Mail estimate, using RPI, ONS data not available for 2015-16.

³⁹ Headcount reductions in 2014-15 and 2015-16 were greater than 2013-14.

⁴⁰ Royal Mail internal analysis.

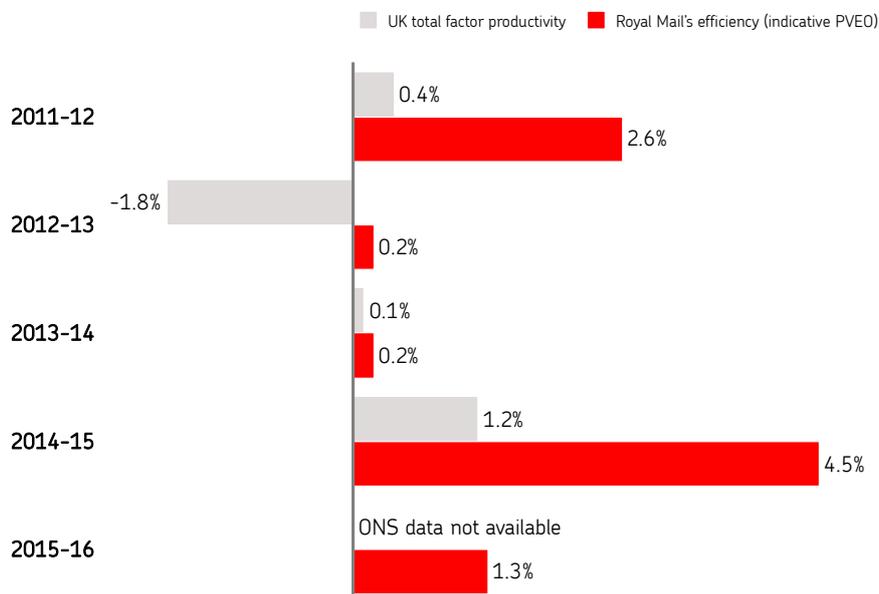
- **We have ambitious and stretching plans to deliver further efficiency improvements.** We have targeted to avoid c.£500 million of annualised costs cumulative over the three financial years to 2017-18⁴¹.
 - » **We note with interest the measures WIK identified. We have already assessed these; we do not believe there are any significant opportunities that we are not pursuing. But we keep this under continuous review.** We consider our options to increase efficiency on an ongoing basis.
 - » **The efficiency gap between our individual delivery offices is small and narrowing.** Delivery office efficiency has increased by 5.8%⁴² since 2010-11. Mail centre efficiency has increased by 8.8% since 2012-13⁴³.
 - » **We actively manage performance to reduce the efficiency gap. In delivery we are implementing the 'One Plan',** a unified set of initiatives to improve delivery office performance.

As Ofcom has recognised, we have made significant progress on efficiency in recent years. We have strong and growing market-based incentives to deliver improvements.

We have transformed every aspect of our operations, delivering significant efficiency improvements.

2.1 Ofcom found that “*Royal Mail has made progress on efficiency in recent years*”⁴⁴, citing our “*notable modernisation improvements*”⁴⁵. We have achieved significant efficiency growth, including 1.3% in 2015-16 building on the 4.5% improvement in 2014-15 (see Exhibit 2.1). **We outperformed the UK economy's total factor productivity (TFP) improvements in each year between 2011-12 and 2014-15**⁴⁶.

Exhibit 2.1: Royal Mail efficiency (indicative PVEO⁴⁷) against UK Total Factor Productivity (TFP)⁴⁸ (%).



⁴¹ Royal Mail plc Annual Report and Financial Statements 2015-16.

⁴² Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 4.

⁴³ Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 4.

⁴⁴ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.71.

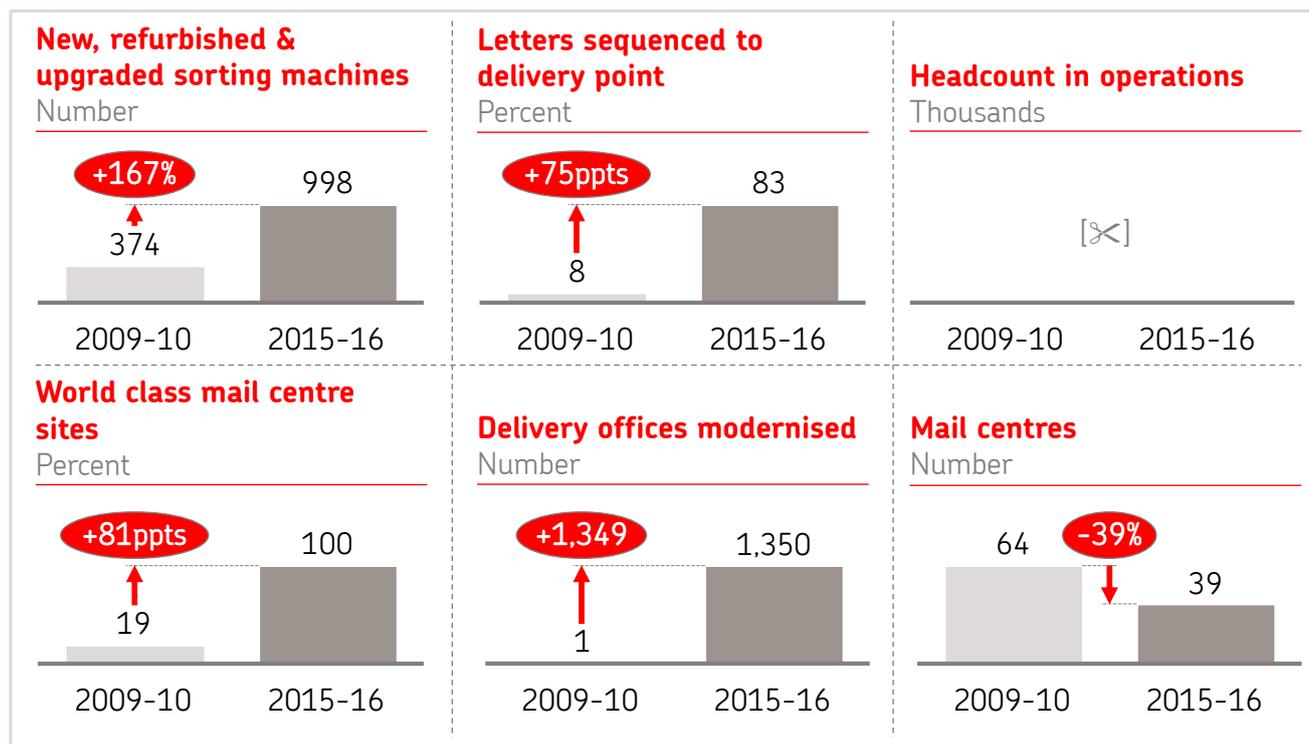
⁴⁵ Ofcom, “*Universal postal service returns to financial health*”, 25 May 2016.

⁴⁶ Royal Mail estimate, using RPI. ONS data not yet available for 2015-16. Further discussion of PVEO methodology is contained in the FTI Consulting annex – efficiency metrics. UK productivity measured as total factor productivity.

⁴⁷ Price Volume Efficiency Other.

⁴⁸ Royal Mail internal analysis; ONS Multi-factor productivity estimates: Experimental estimates to 2014, 6 May 2016.

Exhibit 2.2: Royal Mail key operating metrics⁴⁹



2.2 Since 2009-10 we have achieved significant operational improvements⁵⁰. **We undertook our modernisation programme in a compressed timeframe during a period of significant volume decline and alongside privatisation.** We started later than international peers due to Government funding constraints. Our transformation programme took place against a backdrop of declining letters volumes, increases in the number and size of parcels and an increasingly competitive parcels sector. By contrast, our international peers modernised earlier while mail volumes were growing⁵¹. As WIK acknowledges: *“Royal Mail is implementing a number of major steps at the same time, illustrating the complexity of Royal Mail’s transformation programme. Other postal operators tackled these challenges consecutively rather than simultaneously”*⁵².

Shareholder scrutiny, intense pressure from parcel delivery competitors and rapid e-substitution in letters are major spurs to efficiency.

2.3 **Efficiency is a given at Royal Mail following privatisation.** Market incentives, which Ofcom has recognised, are driving Royal Mail to reduce costs at pace:

- **Shareholder scrutiny:** *“Given that Royal Mail is now a privatised firm, we expect that the increased scrutiny from analysts, investors and shareholders will be a driver for efficiency at Royal Mail”*⁵³.
- **E-substitution:** *“We consider this decline in single piece letter volumes due to e-substitution is likely to persist”*⁵⁴.

⁴⁹ Royal Mail: Operational metrics. Portsmouth Mail Centre closed in April 2016. The number of Mail Centres is now 38.

⁵⁰ Royal Mail has been undergoing a major transformation programme since 2007-08. Improvements shown from 2009-10 for comparative purposes.

⁵¹ See WIK Consult, Review of Postal Operator Efficiency, November 2013 for examples such as Deutsche Post and PostNL.

⁵² WIK Consult, Review of the Projected Costs within Royal Mail’s Business Plan, 31 March 2016.

⁵³ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph A5.113.

⁵⁴ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph A7.31.

- **Intense competition in parcels and joint network:** *"the whole of Royal Mail's delivery network is exposed to competitive pressures from parcels operators which could act as an additional spur on its efficiency"*⁵⁵. Ofcom materially underestimates the potential influence of this factor.

2.4 **Direct delivery competition in letters provided no additional spur to efficiency.** Instead, it posed a threat to the financial sustainability of the Universal Service. Whilst some cost reduction is possible in response to letters volume decline, Royal Mail postmen and women must still walk the same streets, delivering fewer items as they go. Reducing letters volumes therefore has a direct impact on revenues, but only enables very marginal reductions in cost. As a result, efficiency actually decreases, unit costs go up and profit deteriorates quickly. There is no need for the regulatory framework to incentivise efficiency. We therefore welcome Ofcom's decision not to introduce binding efficiency targets as there is no regulatory justification for such an intervention.

We actively review the absorbable rate of change. We seek to strike the appropriate balance between quality, efficiency and industrial stability.

We have significantly improved relations with the trade unions. The Agenda for Growth agreement with the CWU is a major step forward.

2.5 **Better industrial relations have enabled significant innovation and efficiency improvements.** We strongly disagree with Ofcom's finding that aspects of the 2014 Agenda for Growth agreement are *"likely to have further limited Royal Mail's flexibility to respond to volume decline"*⁵⁶. The Agenda for Growth was **a ground-breaking, legally binding agreement to create the industrial stability needed to change the culture of the workforce and every aspect of our large operation.** It has increased our ability to adapt quickly to the changing mix in traffic, the decline in letters and the increase in parcels. More recently, it has enabled us to respond to the significant changes in the parcels sector. They include the increasing size of parcels, increasing service demands from customers and new phenomena such as Black Friday and Cyber Monday. For example, since this agreement, we have:

- **Been able to deliver a better service to our customers**, opening over 200 enquiry offices on Sundays⁵⁷, lengthening customer acceptance times and delivering on Sundays within the M25;
- **Created a more flexible workforce**, hiring more part time employees, and implementing summer resourcing;
- **Delivered a behavioural change programme with the CWU** to improve working relations between local managers and representatives;
- **Agreed an approach to growth and efficiency with the CWU**, which allowed us to conduct an **accelerated voluntary redundancy programme in 2014-15**. We have reduced operations headcount by [3<] since the start of 2014-15 and cut gross core network hours by 2.3% in 2014-15 and 2.0% in 2015-16⁵⁸.
- **Had no national industrial action** with the CWU since 2009 and in excess of 80% fewer local disputes (2015-16 vs. 2013-14). We are not however complacent and recognise that every day we need to

⁵⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.65.

⁵⁶ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.66.

⁵⁷ As of August 2016.

⁵⁸ Royal Mail internal operational metrics.

invest in our relationships to maintain the improving direction, including the management of external influences; and

- **Changed the agreements that traditionally reduce the speed of change in Delivery**, for example, by reducing the walk revision process from 26 weeks to 12 weeks.

Exhibit 2.3: Royal Mail's view on WIK's analysis of the Agenda for Growth agreement.

Royal Mail's perspective:

- **Royal Mail's pay structure is more differentiated than WIK recognises.** Sick pay and pension contributions are significantly lower for the first 12 months of employment. New joiners can only join the defined contribution pension scheme as our defined benefit scheme is closed to new joiners. We have different hourly rates for differing roles within the single negotiating group. Our HGV drivers are paid competitively against the market for HGV drivers. New joiner's remuneration packages are generally lower. There is no single tier rate but a multi-rate platform tailored to business areas and regions.
- **We have sufficient labour flexibility to run our business within our existing agreements.** The national agreement is based "*predominantly on full time employment supported by part time employment*"⁵⁹ but will vary locally depending on the current local mix, needs and employee preferences. This meets our needs. We can – and do – negotiate variances office by office. Whilst we have agreed 30-minute variation within our duty time; in practice delivery offices are more flexible. Our staff expect to work longer hours at peak times. For example, in the run up to Christmas. Our non-contractual overtime rates are broadly the same rate as our basic pay⁶⁰. We are proud to be a good employer providing secure employment at fair compensation.
- **We have not needed compulsory redundancies to run our business or deliver change.** Our commitment is to apply best practice, in line with ACAS principles, to avoid resorting to compulsory redundancy. This commitment does not limit our flexibility. We manage our labour force through natural attrition, voluntary redundancy and transfers to different functions. This allows us to retain and optimise the experience and skills in the business. Our objective is to be a good employer and to successfully manage the change required of our people.

2.6 **We have made good progress in recent wage negotiations.** We agreed a 1.6% base salary increase with the CWU for 2016-17. We negotiated a 1.6% increase for junior and middle managers from September 2015 with Unite, followed by a 1.3% increase from September 2016. This compares to recent average UK wage inflation in excess of 2%⁶¹. Recent wage deals in other unionised industries have been higher than this. TfL agreed to a 2% pay increase in 2015-16⁶², British Airways offered its cabin crew a 2% pay increase in 2016⁶³. Scot-Rail train drivers received an increase of 2.3% in 2016⁶⁴.

We continually judge the absorbable rate of change. Other posts have suffered material revenue declines following industrial action.

2.7 **Royal Mail's relationship with our trade unions has historically been difficult.** There was a history of significant industrial action every 2-3 years with major national strikes in 2007 and 2009. Royal Mail

⁵⁹ Agenda for Growth, January 2014, paragraph 2.7.5 – currently, the agreed national ratio is for 75% full time and 25% part time.

⁶⁰ Royal Mail: Employment terms and conditions.

⁶¹ ONS, Index of Labour Costs per Hour (ILCH): Quarter 1 (Jan to Mar) 2016 (experimental), 17 June 2016, "Wage costs per hour worked increased by 2.6% in the first quarter of 2016 on the same quarter in the previous year".

⁶² TSSA, London Underground update on Pay & Night Tube referendum, and Service Control dispute, 23 March 2016.

⁶³ The Sunday Times, BA puts three-year deal on table to keep crew sweet, 29 May 2016.

⁶⁴ The Scotsman, ScotRail train drivers win 4.6% pay rise, 21 March 2016.

accounted for c.60% of all UK strike days in 2007⁶⁵ and c.60% in 2009⁶⁶. Our workforce is highly unionised—c.84% of operational staff are members of the CWU⁶⁷. This compares to union membership rates of 24.7% (all UK employees) and 13.9% (all UK private sector employees)⁶⁸. Unions with high membership and a significant ability to affect operations have historically used industrial action. Given this background and strong challenge to change, the business has maintained a strong, balanced approach to improving efficiency and ensuring change happens.

- 2.8 **The cost of industrial action is particularly high in post.** The networked nature of our operations makes Royal Mail vulnerable to rolling strikes. Our operation can be 'stopped', even when only a part of it does not operate. Unions can limit lost earnings for each employee to a few days while disrupting the business for weeks. Moreover, we may not be able to win back parcel customers lost during strikes. **Consequently, a national strike would cause significant revenue damage.** The financial impact of a strike today would be much more material than in 2009. This is due to increased competition in the parcels sector. Industrial action, if it followed a similar pattern to the 2009 strike, could account for revenue losses of [X] in a single year and a further [X] p.a. in subsequent years⁶⁹. Deutsche Post estimated that a strike in Q2 2015 impacted c.10% of its post and parcels volumes, leading to an **EBIT reduction of €100 million**⁷⁰. **The recent uncertainty caused by potential industrial action from the Canadian Union of Postal Workers has led to a significant loss of business for Canada Post. This is even without a single strike day taking place.** Canada Post⁷¹ stated on 8th July that "*Parcel volumes from our major e-commerce customers have declined by more than 80 per cent. Yesterday alone, the amount of mail deposited across our network was down more than 80 per cent compared with the same day last year*".
- 2.9 **We are pushing at the limits of what our staff can deliver. In March 2016, Unite balloted for industrial action due to pay and condition concerns.** Following the ballot, Unite undertook work to rule and an overtime ban during May. This action was escalated. Unite issued Royal Mail with a notice that they would be taking strike action between 31 May and 1 June. The proposed strike was called off on 27 May when Unite agreed to further discussions. Following difficult negotiations, a settlement was reached in June. We continually judge the absorbable rate of change. **If we drive change too hard through major operational or pay related initiatives, this could trigger declines in quality of service below the regulatory minimum, loss of business or industrial action.** As we illustrate in our severe but plausible downside scenario (see Chapter 9), this could lead to a material profit reduction.

We have ambitious and stretching plans to deliver further efficiency improvements.

- 2.10 **We disagree with Ofcom's view that our efficiency initiatives are "at the lower end of a reasonable range for improvement"**⁷². Ofcom has not stated what it considers the reasonable range to be. By contrast, we believe our efficiency plans are challenging and ambitious. We have already reviewed the measures identified by WIK and ruled them out for a range of reasons (see Exhibit 2.5). **As Ofcom has recognised, our "future plans are more ambitious than [our] past achievements"**⁷³. **We have**

⁶⁵ Royal Mail's Application to the Postal Services Commission for relief from the impact of Industrial Action on achievement of Condition 4 Scheduled Standards and Standardised Measures (Formula Year t = 2 (2007-08)); ONS.

⁶⁶ Royal Mail Application to Postcomm for relief from the Impact of Industrial Action upon the Achievement of Condition 4 Service Standards (2009-10 Formula Year t = 4); ONS.

⁶⁷ Royal Mail estimate.

⁶⁸ Department for Business, Trade Union Membership 2015, Innovation & Skills, May 2016.

⁶⁹ Royal Mail Group, Mail volume and revenue trends and Business Plan 2016 projections, June 2016.

⁷⁰ Deutsche Post DHL Group: Further important steps taken in line with Strategy 2020.

⁷¹ Canada Post agrees to 30-day extension followed by binding arbitration, 8 July 2016.

⁷² Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.10.

⁷³ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.10.

targeted to avoid c.£500 million of annualised cost cumulative over the three financial years to 2017-18. So far, we have avoided c.£180 million of costs in 2015-16⁷⁴. This programme is delivering both significant people and non-people cost savings. These are on top of the significant reduction in non-people costs already achieved over the previous three financial years⁷⁵. We have over 70 scoped and resourced cost avoidance initiatives in place⁷⁶. Key initiatives include delivery revisions, national road and air network reviews, as well as a focus on fuel, maintenance, and fleet costs. We have also **moved to a collection on delivery model** in some areas. By the end of 2016-17, c.42,000 post boxes that receive fewer than 50 items per day will be operating in this manner⁷⁷.

2.11 Ofcom stated that “**Royal Mail should be capable of achieving the efficiency targets set out in its 2015 Business Plan at a minimum [...] without any adverse impact on its quality of service performance**”⁷⁸. We must weigh the benefits of cost control and efficiency improvement against the risks of damaging service quality and customer experience, or hurting employee relations and causing costly strike action. We are committed to delivering a high quality of service while seeking to become ever more efficient. In doing so, we actively review the absorbable rate of change and the appropriate balance between quality and efficiency.

2.12 Alongside our cost control programme, [§]. Our core focus is to remain the pre-eminent delivery network in the UK, capable of sustaining and delivering the Universal Service in a profitable way. We will invest in the core business, focusing on defending the value of letters and competing for more parcel contracts. We will continue our journey towards lower costs and greater efficiency. **In addition, we are negotiating on major reforms to the Royal Mail Pension Plan with our unions.** We committed to keep the Plan open to accruals until March 2018. Current financial market conditions, however, suggest this will not be affordable beyond 2018. The ongoing actuarial valuation suggests that the cost of the current defined benefit plan could increase from c.£400 million⁷⁹ to c.£900 million⁸⁰. We will consult with members once we have developed a proposal.

We note with interest the measures WIK identified. We had already assessed these; we do not believe there are any significant opportunities that we are not pursuing. But we keep this under continuous review.

2.13 **We consider all options to increase efficiency on an ongoing basis.** We have a rigorous process to prioritise investments. We hold in-depth reviews with functional directors to ensure that our cash is invested wisely with optimised return. WIK's report outlines a number of operational practices that have been implemented by other postal operators. Some of these we are currently trialling. Others, we have consciously decided not to pursue as we do not believe them to be right for Royal Mail at this time.

⁷⁴ Royal Mail plc Annual Report and Financial Statements 2015-16.

⁷⁵ Royal Mail plc Annual Report and Financial Statements 2014-15, UKPIL non-people costs compared with UKPIL non-people costs for 2011-12 as reported in Royal Mail plc Prospectus.

⁷⁶ Royal Mail plc Annual Report and Financial Statements 2015-16.

⁷⁷ Royal Mail Group Corporate Responsibility Report 2015-16.

⁷⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.76.

⁷⁹ Royal Mail plc Annual Report and Financial Statements 2015-16.

⁸⁰ Preliminary findings of the RMPP Actuarial Valuation as at 31 March 2015, yet to be completed and agreed.

Exhibit 2.4: Royal Mail position on operational processes cited by WIK.

<i>WIK operational process.</i>	<i>Royal Mail position.</i>
<p>Increase walk sequencing <i>Royal Mail could further increase the proportion of walk sequenced letters.</i></p>	<p>Investing We continually seek to maximise the level of walk sequencing. It now stands at 83%. We are investing in new software to increase address read rates. This will increase sequencing by up to 2%.</p> <p>However, we are concerned that the comparison of sequencing rates in WIK's report is not necessarily reported on a like-for-like basis⁸¹. The definition of walk sequenced mail varies between postal operators. Some sequence mail to the 'stop' into where there are a number of residential mail boxes. This is broadly equivalent to sorting to the postcode level. They then sort mail to the individual address at the 'stop'. Royal Mail's walk sequencing rates are based on mail that is sequenced to the delivery point. If we calculated our walk sequence rates as sorting mail to postcode level, this would increase the walk sequencing rate level to [X]. Furthermore, Royal Mail's sequencing rate calculation considers sequenced letters as the proportion of total letters. It is unclear whether other operators exclude any letters from the total when calculating sequencing rates. For example, operators may exclude letters in areas they do not intend to sequence from the total. In short, our position may be understated on a like-for-like basis with international peers.</p>
<p>Parcels automation <i>Royal Mail could further promote parcel automation in mail centres and introduce more appropriate equipment to facilitate parcel sorting in delivery offices.</i></p>	<p>Investing We are investing in parcels automation to reduce handling costs. We are migrating from purely manual handling to mixed handling for some products and sites. We are currently trialling a parcels sorting machine in Swindon. We have plans to roll out to further sites in the next two years. We are also investigating simple conveyor methods for handling large parcels cost effectively. These are becoming an increasingly important part of our mix.</p> <p>We do not believe, however, that full parcel automation is the optimal or most cost efficient solution. Space constraints currently limit the number of mail centres in which parcel sortation machines can be installed. Automation also caps capacity and may limit our ability to respond to demand peaks. International and domestic peers have experienced problems when migrating to full parcels automation. UK Mail issued a series of profit warnings in 2015, citing "a greater than anticipated proportion of current parcels volumes is incompatible with UK Mail's new automated sortation equipment, resulting in additional operating costs"⁸².</p>

⁸¹ WIK states that Royal Mail walk sequences c.82% of letters vs. over 90% at international peers.

⁸² UK Mail, Trading statement, 7th August 2015.

<i>WIK operational process.</i>	<i>Royal Mail position.</i>
<p>Automation of unaddressed items <i>Royal Mail could increase automation of unaddressed items.</i></p>	<p>[X] We regularly review all options to improve the operational cost base. [X]</p>
<p>Reduction of indoor activities <i>Royal Mail could continue reducing the time spent on indoor activities and allocate resources accordingly.</i></p>	<p>[X] We regularly review all options to improve the operational cost base We have significantly changed how we handle indoor activities in recent years. This has increased the proportion of time spent on outdoor activities from [X] to c.60%. [X] We do not believe that WIK's comparison of time spent on indoor activities is necessarily representative of the potential cost savings. WIK states that some international peers spend c.80% of time on outdoor delivery compared to c.60% in the UK. We believe that much of the difference is due to international peers merging mail outdoors. This simply moves cost from indoor to outdoor. It does not necessarily represent a net cost saving.</p>
<p>Multiple bundle delivery <i>Royal Mail could reconsider bundling addressed and unaddressed items.</i></p>	<p>[X] We regularly review all options to improve the operational cost base. [X]</p>
<p>Centralise letter sequencing <i>Royal Mail could centralise more of its letter sequencing machines in mail centres or mail processing units (MPUs), and use delivery offices as "pick-up points".</i></p>	<p>Implementing where beneficial Sequencing machines were deployed at existing sites which had sufficient space and made commercial sense. They are in the appropriate location within the network to serve multiple delivery offices and meet quality of service targets. [X]</p>
<p>Peak and off-peak delivery days <i>Royal Mail could consider implementing peak and off-peak delivery days.</i></p>	<p>Currently not commercially viable We have operational flexibility in the form of shorter days on Tuesday. It is our lightest traffic volume day. We allocate less duty time to the walk on Tuesdays. There are longer duty times on Thursdays and Fridays. Our analysis suggests that implementing peak and off-peak delivery days is currently not commercially viable in the UK. The opportunity is smaller in the UK than other countries due to the larger amount of first class, access mail and parcels which we are required to deliver the next day. Cost savings are dependent on reducing the average weekly call rate. This is achieved by reducing the call rate on lighter days more than it increases on heavier days. The opportunity to exploit this difference is driven by the proportion of non-priority mail.</p>

<i>WIK operational process.</i>	<i>Royal Mail position.</i>
<p>Separation of indoor and outdoor tasks</p> <p><i>Royal Mail could consider assigning indoor and outdoor delivery activities to different employees.</i></p>	<p>Currently not commercially viable</p> <p>We recognise the separation of indoor and outdoor tasks allows for indoor improvements and the use of remote start locations. This could reduce the fixed cost of getting to and from each walk. However, potential cost savings may be offset by cost increases elsewhere. Delivery spans would need to increase in order to maintain full-time duties, potentially resulting in later last letter delivery times and fatigue issues.</p> <p>With manual preparation, there was traditionally a high degree of local knowledge required in order to perform the indoor preparation. This is best acquired by the person who performs the outdoor delivery task. Our duties have been based upon the same person performing the preparation for their own delivery.</p> <p>There are some delivery routes where the indoor preparation and outdoor delivery is undertaken by different people. We will continue to explore these opportunities when they arise.</p> <p>[X] Over the past number of years, we have been deploying new delivery methods - itself a fundamental operational change - and continue to optimise to maximise its benefits. We have been moving to a collection on delivery model where appropriate. As with all alternative operational models, we will continue to consider whether deploying indoor and outdoor separation in the future is commercially viable.</p>
<p>Franchising road transport</p> <p><i>Royal Mail could consider franchising road transport.</i></p>	<p>Currently not commercially viable</p> <p>Royal Mail undertakes limited levels of road franchising in order to maintain flexibility in our network.</p> <p>We believe that keeping our logistics and fleet in house is the most cost efficient strategy and meet quality of service obligations. For example, new driver technology has been installed in approximately 13,000 small, high-mileage vans. The new technology promotes better driving behaviour, keeping them safe and reducing fuel usage and maintenance costs.</p> <p>We are conducting a pilot offering third parties access to our vehicle maintenance services.</p>

The efficiency gap between our individual delivery offices is small and narrowing.

2.14 **Deloitte's econometric analysis shows that efficiency in delivery offices and mail centres has significantly increased. The efficiency gap is small and narrowing.** Delivery office efficiency has increased by 5.8% since 2010-11. Deloitte estimates the efficiency gap to the frontier at 3.2-6.1%⁸³. Mail

⁸³ Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 4.

centre efficiency has increased by 8.8%⁸⁴ since 2012-13. This is despite a period of unprecedented structural change. Deloitte estimates the mail centre efficiency gap to the frontier at 4.8-9.5%⁸⁵.

2.15 **We have a number of specific issues with Ofcom's interpretation of the analysis that it commissioned from Deloitte. We question:**

- **The regulator's view that the results are towards the lower end of the efficiency range.** We recognise there is dispersion in performance between delivery offices – a common phenomenon in industrial companies with multiple sites. We believe these results demonstrate that Royal Mail has made very material efficiency improvements. The efficiency gap is low relative to many other industries. For example, the ORR estimated the efficiency gap for Network Rail (to the upper quartile) at 13-24%⁸⁶.
- **The regulator's use of the upper decile to estimate the efficiency gap.** Regulatory practice elsewhere suggests using the upper quartile rather than the upper decile as the efficiency frontier. For example, Ofwat, Ofgem and ORR all use variations of the upper quartile as the efficiency frontier⁸⁷. These are the results that Deloitte highlights in its executive summary. Yet, Ofcom chose to use a different measure.
- **In instances where regulators have used the decile as a benchmark, they have also included an additional adjustment factor.** For example, Postcomm in its 2005 analysis applied a 20% adjustment where the decile was used as the benchmark.
- **The regulator's view that we can achieve full gap closure.** This is unrealistic, as other regulators have recognised. Previous price control determinations by Ofwat and ORR assumed that only 60% of the efficiency gap should be closed over a price control period, rather than the entire gap.
- **The regulator's view that “Royal Mail could achieve efficiency improvements in its delivery operations in terms of hours of up to 2.5% per annum over the next three years”**⁸⁸. This assumes that, over the next five years, Royal Mail could achieve full gap closure to the upper decile (9.8%) and the maximum estimation for frontier shift (1.6%)⁸⁹. These are highly stretching assumptions for each parameter, not in line with regulatory precedent elsewhere. Using the upper quartile rather than the upper decile as the efficiency frontier, as other regulators have done, the range of annual efficiency improvements over the next three years is 1.0-1.6% (see Exhibit 2.5).

⁸⁴ Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 4.

⁸⁵ Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 4.

⁸⁶ ORR, PR13 Efficiency Benchmarking of Network Rail using LICB, August 2013, paragraph 4.32.

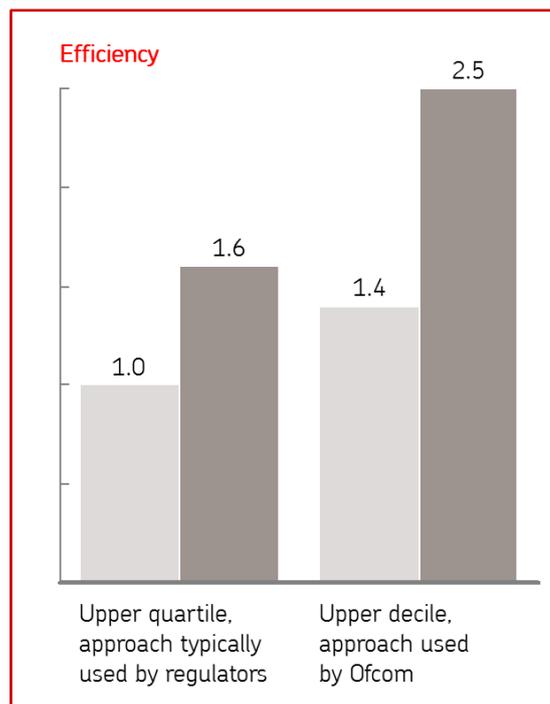
⁸⁷ FTI Consulting, The efficiency of Royal Mail's Delivery Office network, October 2015.

⁸⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.59.

⁸⁹ Deloitte assumes that all frontier shift is a result of modernisation. We have achieved 4.0-5.8% frontier shift up to 2014-15. Deloitte's model assumes a 2-year lag to achieve modernisation, based on which it estimates we have realised 78% of the benefit from modernisation, leaving 22% remaining. Using the higher estimate for frontier shift of 5.8%, Deloitte calculates a frontier shift of 1.6% [(100/78)*5.8%=7.4%; 7.4%-5.8%=1.6%].

Exhibit 2.5: Deloitte econometric benchmarking – Scope for delivery office efficiency gains⁹⁰.

	Total efficiency gains				Catch-up	Frontier shift
	Upper quartile, %		Upper decile, %			
	High	Low	High	Low		
2015-16	1.5	2.3	1.9	3.2	✓	✓
2016-17	0.8	1.3	1.2	2.2	✓	✓
2017-18	0.7	1.1	1.1	2.1	✓	✓
2018-19	0.6	1.0	1.0	2.0	✓	
2019-20	0.6	1.0	1.0	2.0	✓	
Total	4.2	6.7	6.2	11.5		
Avg. 2015-16 to 2017-18	1.0	1.6	1.4	2.5		



We actively manage performance to reduce the efficiency gap between delivery offices. This includes implementing the 'One Plan'.

2.16 In January 2016, **we launched the 'One Plan'**. It is one of the main enablers of our 2-3% productivity improvement target, which we believe is challenging. The 'One Plan' integrates five previously independent initiatives to improve delivery office performance:

- **Resourcing to workload:** Training Delivery Office Managers (DOMs) to plan staffing levels. This covers workload forecasts, planned annual leave and staff availability one, two and 13 weeks ahead.
- **Tailored units:** Tailored support and intervention for the lowest productivity offices. These offices typically have a legacy of strong union activism and resistance to change.
- **Daily, weekly, monthly:** Support for DOMs, providing revised ways of working to align allocation, process and timing for completing tasks.
- **World class mail:** Royal Mail's approach to engagement and culture change – a rigorous approach to identifying improvement opportunities and managing their implementation.
- **Operations Standards initiatives:** Review and management of compliance with Royal Mail's standard ways of working, addressing non-standard or sub-optimal working practices to deliver productivity improvements.

Exhibit 2.6: Case study: Successful 'One Plan' improvements to delivery offices.



⁹⁰ Deloitte, Econometric benchmarking in the UK postal sector, 24 May 2016, page 31.

Overview of paragraphs referenced in response to Ofcom's Fundamental Regulatory Review, questions 1 and 3.

Questions answered in chapter.	Summary responses and references.
<p>Question 1: <i>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 efficiency targets? Please state your reasons and provide evidence to support your view.</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> ● We agree with Ofcom that there is no need for efficiency targets. Shareholder scrutiny, intense competitive pressure in parcels and rapid e-substitution in letters are already major spurs to efficiency. Moreover, as 67% of costs in Royal Mail are people cost, only a certain amount of operational and efficiency change can be absorbed in any period. To press too hard beyond this level causes service quality failures, industrial conflict and commercial losses. <p>References: paragraphs 2.3 – 2.4.</p>
<p>Question 3: <i>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.</i></p>	<p>No:</p> <ul style="list-style-type: none"> ● We do not agree with Ofcom that our plans are “<i>at the lower end of a reasonable range for [efficiency] improvement</i>”. <ul style="list-style-type: none"> » We have transformed our operations in recent years, delivering significant efficiency improvement. » The Agenda for Growth has created industrial stability, delivering commercial and operational benefits. » Econometric analysis shows the efficiency gap in delivery office and mail centres is small and the gap is narrowing. » We have considered all options to increase efficiency and will continue to improve on this. We have detailed where we have adopted a different approach to other operators. » Ofcom has stated that our Business Plan is stretching and more ambitious than past achievements. » We continually judge the absorbable rate of change. We are going as far and as fast as we can. <p>References: paragraphs 2.1 – 2.16.</p>

Chapter 3 – The UK parcels sector.

Ofcom question 3.

Royal Mail welcomes Ofcom's acknowledgment that the UK has one of the most competitive parcels markets in the world. There are a number of major players in the sector. Substantial investment in new facilities by industry participants has generated c.20% annualised spare capacity. This has placed (and continues to place) downward pressure on prices. Competition will intensify. There are a range of highly disruptive business models, e.g., the expansion of Amazon Logistics and carrier management systems.

Royal Mail does not believe, however, that Ofcom has recognised the significant degree to which competition has grown, including the profound changes in the parcel sector in recent years. Royal Mail does not agree with Ofcom's continued use of the 2010 Postcomm segmentation, or its overreliance on market share estimates. A comprehensive assessment of competition should take into account developments such as countervailing buyer power, e.g., Amazon, and the alternatives (myHermes, Collect+) to the Post Office. This has changed the sector substantially since Postcomm's 2010 report.

Royal Mail notes that Ofcom is not proposing to extend the mandated Access regime to parcels. The regulator, however, remains open to requests to extend Access, subject to sufficient evidence. Mandated Access for parcels to our delivery network is unwarranted and unnecessary. Effective competition exists – there are many alternative providers to Royal Mail. Competition is already strong and delivers benefits to consumers. Parcel mandation would undermine the financial sustainability of the Universal Service, given the critical centrality of parcels revenues. Ofcom itself has previously acknowledged that small changes in parcels volumes could significantly affect Royal Mail's future EBIT margins.

- **Royal Mail agrees with Ofcom's statements that: "the UK has one of the most competitive parcels markets in the world"** ⁹¹ and: "there has been increased competition and innovation in the parcels sector"⁹².
- **Royal Mail disagrees with Ofcom's segmentation of the parcels sector.** Ofcom has not updated its approach to segmentation since Postcomm's 2010 review. The distinctions between these segments have become blurred. Carriers have developed a range of business models that do not correspond with the Postcomm approach. Traditional B2B players – closer to Postcomm's Express segment – have moved into B2C, closer to Postcomm's deferred service. There is significant supply-side substitutability across segments in this sector. A parcel delivery network is capable of carrying items of multiple sizes and weights.
- **Royal Mail disagrees with Ofcom's reliance on market share data to assess the level of competition in 'Bulk lightweight' and 'Single Piece'.** It should move to a more comprehensive assessment including buyer power, low barriers to entry/expansion, and the role of marketplaces and price comparison websites.
- **Ofcom has not recognised the full intensity of competition across the whole parcel sector.** Carriers are investing to become more competitive and win customers. Customers are benefitting. They are demanding, and getting, more from their carriers.
- **The high levels of competition are having a significant impact on Royal Mail's revenues.** Since 2013, Royal Mail's parcel prices changed by an average annual rate of 0.5% below RPI⁹³. For two years in

⁹¹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.2.

⁹² Ofcom, Universal postal service returns to health, 25 May 2016, <http://media.ofcom.org.uk/news/2016/royal-mail-review>.

⁹³ CAGR figure. Internal Royal Mail calculations using Tariff 2016 model and volumes from 2015-16 Financial reporting.

a row, parcel revenues have not offset the decline in letters revenues. Between 2013-14 and 2015-16, the revenues generated by Royal Mail's consumer and SME parcels declined by [redacted]⁹⁴.

The UK parcels sector is highly competitive. There is no need for additional regulatory intervention by Ofcom to incentivise competition.

3.1 Royal Mail agrees with Ofcom's statement that *"the UK has one of the most competitive parcels markets in the world"*⁹⁵. We face **active and intensifying competition from multiple operators**, DHL, DPD, FedEx, Hermes, etc. Due to this intense competition, Royal Mail's parcels revenue growth is not sufficient to offset letters revenue decline. Addressed letter volumes have declined by 17% from 2011-12 to 2015-16⁹⁶. Total letters revenues have fallen 2.5% over the same period⁹⁷. After the price rises in 2013, Royal Mail's average parcel prices have fallen by c.0.5% p.a. in real terms. For consumer parcel prices, the average price decreased by c.1.8% p.a. in real terms. Contract prices have decreased on average by c.0.1% p.a. in real terms⁹⁸. Between 2014-15 and 2015-16, there was a [redacted] in Royal Mail's consumer and SME parcel portfolio, and revenues [redacted]⁹⁹. For two years in a row, UKPIL parcel revenue increases have not offset the decline in letters revenue.

Exhibit 3.1: Key Developments.

- **Operators, such as DPD, FedEx and UPS – once focussed primarily on B2B – are now increasingly targeting B2C.** Operators like Hermes and Yodel – initially focused on B2C – are targeting C2C.
- **Amazon Logistics has expanded. It is now estimated to deliver [redacted] items a year in the UK. Amazon is leveraging its broad customer base – consumers and SME marketplace sellers – to bundle retailing and fulfilment services for consumers and SMEs.** Amazon is a significant player.
- **Carrier management systems and online consolidators are well established.** Carrier management systems like MetaPack help retailers manage the shipping process. They do so through an online platform that integrates a wide range of postal providers and carriers. Parcel Monkey, Parcel2Go, and other online resellers offer virtual distribution solutions for consumers and SMEs, using their buyer power to negotiate rates with carriers, often on a case by case basis.
- **Marketplaces.** Royal Mail estimates that over [redacted] B2C items shipped for delivery in the UK are sold on marketplaces. eBay has enabled marketplace sellers to buy postage through its own online channel. This diverts parcels that would have previously gone to Royal Mail.
- **Traditional retailers,** Sainsbury's for example, are significantly scaling up their in-house collection and delivery offerings. Sainsbury's is currently completing its £1.4 billion acquisition of Argos. This will extend Argos's consumer delivery and collection proposition, including FastTrack same-day delivery, to Sainsbury's stores.

⁹⁴ [redacted].

⁹⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.2.

⁹⁶ Royal Mail plc Annual Report and Financial Statements 2015-16 UKPIL Addressed Letter volume of 12,563 million compared with 2011-12 UKPIL Addressed Letter volume from Royal Mail plc Prospectus of 15,147 million.

⁹⁷ Royal Mail plc Annual Report and Financial Statements 2015-16 UKPIL Letter Revenue of £4,470 million compared with 2011-12 UKPIL Letter Revenue from Royal Mail plc Prospectus of £4,585 million.

⁹⁸ All price increase figures are CAGRs. Internal Royal Mail calculations using Tariff 2016 model and volumes from 2015-16 Financial reporting.

⁹⁹ [redacted].

- 3.2 Royal Mail notes that Ofcom is not proposing to extend the mandated Access regime to parcels. We also note, however, the regulator's statement that it is open to considering requests to expand Access, subject to sufficient evidence. **We believe that mandated Access for parcels to Royal Mail's delivery network is unwarranted given the levels of competition.** The intense competition in the parcels sector has occurred without mandated Access to Royal Mail's delivery network. An Access regime would undermine the financial sustainability of the Universal Service. Parcels revenues – both USO and non USO – are vital to the financial sustainability of the Universal Service. Analysis we have shared with Ofcom highlights the critical centrality of parcels revenue to the financial sustainability of the Universal Service. Parcel revenue growth is not compensating for the decline in letters revenues. This is hardly the backdrop against which to extend Access provision into parcels. Ofcom has acknowledged that the level of uncertainty in the parcels sector is growing. It has noted that small changes in parcel volumes could significantly affect Royal Mail's future EBIT margins¹⁰⁰. Given the level of uncertainty, mandating Access for parcels would significantly impede Royal Mail's ability to sustain and grow the parcels revenue needed to offset the structural decline in letters. It would also undermine our ability to compete in bulk parcels to offset the decline in consumer and SME revenues outlined above.
- 3.3 It should also be noted that there are few – if any – analogies between competition in parcels in 2016, and letters in 2004, when mandatory Access was introduced in that sector. **Access to Royal Mail's delivery network is not essential for achieving effective competition in the parcels sector.** Royal Mail faces vigorous competition from numerous well-established and growing rivals with their own end-to-end networks. Hermes and Royal Mail both already compete to offer injection services, allowing operators to access their networks on commercial terms. The fact that an Access parcel product is not mandated does not preclude Royal Mail offering Access to its delivery network where it is viable to do so on a commercial basis. [X]
- 3.4 **Mandating Access is likely to have adverse effects on customers through reducing operators' incentives to invest, develop their end-to-end networks, and offer new services.** It would also reduce Royal Mail's incentive to invest and develop its parcel services. Competitors may reduce their investment plans, as Access provides an alternative to delivery via their own networks. This reduction in the incentives to invest is likely to harm consumers in the long-term. Moreover, imposing such a regime would remove valuable revenues needed to ensure the financial sustainability of the Universal Service.

Royal Mail disagrees with Ofcom's analysis of parcel competition.

- 3.5 **Ofcom's approach to segmentation has not been updated since Postcomm's 2010 review.** It places too much emphasis on unreliable share estimates to assess the level of competition in 'Bulk lightweight' parcels and 'Single Piece' parcels. **Market shares alone are not a reliable guide to the level of competition.** A comprehensive assessment of **the competitive constraints that Royal Mail faces should look beyond market share.** It should encompass the intense and growing competition, customer buyer power, and low barriers to entry and expansion.
- 3.6 **The 2010 Postcomm segmentation (see below) does not accurately reflect the development of competition.**
- Express is defined as time guaranteed, either same day or next day. Deferred is defined as non-time guaranteed, both next day and later than next day¹⁰¹.

¹⁰⁰ Ofcom, Review of end-to-end competition in the postal sector, 2 December 2014, paragraph 3.107.

¹⁰¹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, footnotes 328 and 329.

- Bulk is defined as: “one where a volume related discount could be applied (even if it is not for a specific parcel consignment), or where the price is determined by a negotiated contract”¹⁰².
- Heavy are items weighing more than 2kg, while light are those below 2kg¹⁰³.

3.7 The market reality, however, is that the distinctions between the segments are increasingly blurred. **Parcel carriers have developed a range of business models which do not fit neatly into the Postcomm segments.** For example:

- The Collect+ parcel service offers customers a discount if they purchase multiple parcels¹⁰⁴. Consequently, this could be classified as a ‘bulk’ service, rather than a ‘Single Piece’ service¹⁰⁵. Similarly, the DHL and UPS services both offer discounts and could be classified as ‘bulk’¹⁰⁶.
- ipostparcels.com, which individuals can use to send ‘Single Piece’ parcels, offers volume discounts¹⁰⁷. Since discounts are available, it is not clear whether volumes purchased through ipostparcels.com should be classified as ‘bulk’ or ‘Single Piece’. myParceldelivery.com, which individuals can use to send ‘Single Piece’ parcels, also offers volume discounts¹⁰⁸.
- DPD has moved from a focus on B2B deliveries – closer to the Express segment – to expanding into B2C. This is closer to a Deferred service. DPD Predict service gives customers a one hour delivery window, which may not occur on the same or next day. This service has characteristics of both Express and Deferred services¹⁰⁹.

3.8 **The regulator’s use of 2kg to segment ‘bulk’ services is artificial.** Ofcom's report does not contain the comprehensive analysis required to demonstrate that competitive conditions differ substantially between ‘bulk’ customers posting items with an average weight above and below 2kg¹¹⁰. [8<]. **There is significant supply-side substitutability across segments.** A parcel delivery network is capable of carrying items of multiple sizes, as well as multiple services. For example, we believe Amazon Logistics delivers services which Ofcom's segmentation would class as Express, ‘Bulk lightweight’ and ‘Bulk heavy’ services through the same network. Parcel operators can switch capacity easily in response to demand changes. The Express/Deferred and weight segmentation does not adequately reflect the competitive constraints imposed by supply-side substitution.

Royal Mail does not agree with Ofcom's use of share estimates to determine the level of competition.

3.9 Ofcom estimates volume and value shares for ‘Bulk lightweight’ and ‘Single Piece’ parcels. It uses these estimates to underpin its findings on the level of competition in these segments¹¹¹. **Ofcom's finding that**

¹⁰² Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.42.

¹⁰³ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.6.

¹⁰⁴ Collect+ Important service changes. <https://www.collectplus.co.uk/news/important-service-changes-we-are-introducing>.

¹⁰⁵ Ofcom discusses the Collect+ service in the ‘Single Piece’ section, for example Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.26.

¹⁰⁶ Discount obtained when sending multiple parcels using the DHLitNow service. This service does not provide a guaranteed time of delivery as standard, so would not be classed as Express. The DHL Dropoff service does not appear to offer discounts. <http://parcel.dhl.co.uk/>. – UPS offers. Customers must register to obtain the discount. UPS Standard does not offer a time guaranteed service, so would not be classed as Express. <https://www.upstoday.com/content/offers/>.

¹⁰⁷ ipostparcels.com delivery rates. <http://www.ipostparcels.com/parcel-delivery/parcel-delivery-rates>.

¹⁰⁸ Myparceldelivery.com business account. <http://www.myparceldelivery.com/hub/useful-stuff/features/business-account/>.

¹⁰⁹ DPD Predict and Follow My Parcel services. http://www.dpd.co.uk/content/products_services/predict_fmp.jsp.

¹¹⁰ For example, in its 2016 Business Connectivity Market Review, Ofcom carried out detailed and extensive analysis of whether there was a chain of substitution across the Alternative Interface market (i.e. Ethernet services up to and including 1 Gigabit/second) and the Multiple Interface market (i.e. Ethernet services above 1 Gigabit/second and DWM services at any bandwidth), concluding that there was a chain of substitution across all bandwidths, reducing the number of product markets from two to one.

¹¹¹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraphs A8.39 and A8.64.

Royal Mail has higher shares in some segments says little about the competitive constraints we face.

3.10 **Royal Mail also has concerns regarding Ofcom's use of parcel weight data¹¹².** Royal Mail's weight categorisation of domestic commercial parcels is based on the average weight of each customer mailing – rather than the weight of individual items¹¹³. It is also unclear from the unredacted version whether Ofcom has excluded Large Letters from its share estimates¹¹⁴. A comprehensive, forward looking, assessment of competition should not focus on share estimates. Instead, it should encompass customer buyer power, the intensive competition, and the low barriers to entry and expansion. This would be consistent with the European Commission's Guidance, which states:

*"Market shares provide a useful first indication for the Commission of the market structure and of the relative importance of the various undertakings active on the market. However, the Commission will interpret market shares in the light of the relevant market conditions, and in particular of the dynamics of the market and of the extent to which products are differentiated"*¹¹⁵.

In 'Bulk lightweight' parcels, customer buyer power, highly active competition, and low barriers to entry and expansion create considerable competitive intensity.

Customers are leveraging their buyer power.

3.11 Customer buyer power is stronger when the buyer has the ability to sponsor new entry, or enter the supplier's market through vertical integration¹¹⁶. **Amazon's entry into parcels delivery is a prime example of buyer power.** In its 2010 Decision document, Postcomm said: *"There is no significant buyer power [...] Developing an end-to-end business model would entail very substantial sunk costs and is therefore unlikely to represent a significant competitive threat"*¹¹⁷. In contrast to Postcomm's prediction, Amazon has built its own extensive delivery network which now operates in most parts of the UK within a very short period of time.

3.12 **There are reports that Amazon is influencing marketplace shippers on carrier selection¹¹⁸. Argos is another retailer that has expanded and improved its delivery service.** Argos invested heavily to develop its new Fast Track Delivery service, which it has reported has grown by 79%¹¹⁹. **As noted by Ofcom, if Click and Collect continues to develop, this may result in final mile delivery increasingly**

¹¹² Royal Mail – Response to Section 55, Schedule 8 Requirement to Furnish Information: Parcels Revenues and Volumes, 7 December 2015, page 3.

¹¹³ This reflects how bespoke parcels contracts are typically priced. If a contract customer posts 1,000 parcels with an average weight of 1.5kg, all 1,000 parcels will be reported against the weight step that encompasses 1.5kg (1-2kg). Some parcels, however, may weigh less than 1.5kg, say 900g, others may weigh more, say 2.8kg.

¹¹⁴ For example, in paragraph A8.18 Ofcom quotes Royal Mail estimates which include Large Letter volumes. Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.18.

¹¹⁵ European Commission, Communication from the Commission – Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings, February 2009, paragraph 13. [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009XC0224\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009XC0224(01)&from=EN).

¹¹⁶ Competition Commission and Office of Fair Trading, Merger Assessment Guidelines, paragraph 5.9.3, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284449/OFT1254.pdf.

¹¹⁷ Postcomm, Laying the foundations for a sustainable postal service. Annex 1, Analysis of Markets, paragraph 5.60, <http://webarchive.nationalarchives.gov.uk/20111027102050/http://www.psc.gov.uk/documents/1158.pdf>.

¹¹⁸ Tamebay blog. Use of Amazon Logistics to become mandatory for Amazon retailers. 9 December 2015. <http://tamebay.com/2015/12/use-of-amazon-logistics-to-become-mandatory-for-amazon-retailers.html>.

¹¹⁹ "There was a strong take up of the Fast Track Delivery offer, such that total one-man home delivery grew 79% for these months versus the prior year". Home Retail Group plc, Full Year Results, 27 April 2016, page 7, https://www.homeretailgroup.com/media/298270/home_retail_group_full-year_2015-16.pdf.

being bypassed¹²⁰. This is consistent with Verdict research showing that the most important reason for customers using Click and Collect was to avoid delivery costs¹²¹. Examples of retailers investing in Click and Collect include John Lewis¹²².

3.13 **Carrier management systems empower retailers by facilitating switching.** Platforms such as MetaPack and GFS integrate the major players and postal providers and other smaller carriers and consolidators. The single point of IT integration enables shippers to switch carriers easily. In 2013, MetaPack supported the delivery of 130 million parcels. This number is growing rapidly¹²³. Many other software companies have entered this segment. GFS customers shipped over 10 million parcels last year¹²⁴. Royal Mail estimates that as of 2015-16, at least [X] of Parcelforce Worldwide's contract customer revenue was derived from customers using carrier management systems.

Barriers to entry and expansion are low. There has been a significant increase in overall capacity.

3.14 Many firms active in other sectors have the logistics experience and assets to enter parcel delivery. They include supermarkets (Asda, Ocado, Sainsbury's); taxi operators (Addison Lee, Uber); and transport firms (Eddie Stobart). Entry and expansion are facilitated by:

- low sunk costs – many of the assets, including buildings and vehicles, have alternative uses or could already be used by the entrant to provide other services, e.g., Uber vehicles;
- carrier management systems – these facilitate multi-sourcing by customers, so niche players can target specific traffic and expand quickly;
- subcontracting – many of the elements of this pipeline can be subcontracted, e.g., to an existing parcels operator; and
- technological advancements – the use of smartphones as PDAs (“bring your own device”) has reduced IT barriers.

3.15 Amazon Logistics is the most substantial new entrant in the sector. Amazon has built its own distribution network. It is expanding its scale and scope rapidly. Royal Mail estimates that Amazon's in-house delivery capacity is equivalent to around [X] of total UK domestic parcel volumes. It is expected to grow further. Amazon's expansion has had a substantial impact on Royal Mail¹²⁵. More broadly, Royal Mail does not believe that Ofcom has fully taken into account the impact of the capacity expansion by new and traditional players¹²⁶. **Royal Mail estimates that its competitors have added a total net annual capacity of approximately 280 million items since September 2012.** This continued investment has led to annualised spare capacity of c.20%. It means continuing downward pressure on prices.

[X]¹²⁷

¹²⁰ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.48.

¹²¹ Verdict, E-Retail in the UK, September 2015, page 107.

¹²² John Lewis Collect+ shops. <http://www.johnlewis.com/customer-services/information-about-delivery-methods-and-charges/collect-plus>.

¹²³ Post and Parcel directory. MetaPack profile. <http://postandparcel.info/31256/directory/metapack/>.

¹²⁴ Just Shout Delivery Management <http://www.justshoutgfs.com/>.

¹²⁵ [X].

¹²⁶ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.49.

¹²⁷ [X].

Royal Mail faces strong competition from rivals with competitive advantages. In 'Bulk lightweight' parcels, competition is working well.

3.16 Royal Mail's investment in its delivery network – including the use of High Capacity Trolleys – allows it to deliver more parcels at the same time as letters. This maximises the efficiencies from joint delivery, enabling Royal Mail to benefit from economies of scale and scope in foot delivery parcels¹²⁸. **Royal Mail's competitors' business models, however, provide competitive advantages over Royal Mail's labour models.** Many of them use owner-drivers or "lifestyle couriers". They are paid on a piece rate (i.e., per item delivered). They also have to provide their own vehicles, and pay for fuel and uniforms from their remuneration. Royal Mail's cost base reflects the need to deliver the Universal Service and the legacy of a highly unionised environment. Accordingly, for example, Royal Mail estimates that it has hourly labour costs which are [X] higher than Hermes¹²⁹.

3.17 Customers are benefitting from Royal Mail's investment in parcels and that of our competitors.

- Hermes has announced an £18 million investment in 20,000 handheld scanners to support Hermes ETA. This service will launch a two hour delivery slot on all services (delivery and returns collections) by the end of 2016¹³⁰.
- Yodel has launched a two hour delivery window service¹³¹. It has invested £20 million to develop a new website, purchase equipment and vehicles, and improve training¹³².
- DPD's 'Predict' and 'Follow my Parcel' technology enables customers to receive a one hour time window, to track the parcel on a map, and to change the delivery time and location¹³³. DPD's Precise service will allow customers to choose their one hour delivery slot¹³⁴.

3.18 Customers are very price sensitive. They shop around for the best deal. Some customers, including those posting low weight items, have moved from Royal Mail to other carriers:

- [X]

3.19 As Ofcom acknowledges, **Royal Mail is responding to the competition, and investing to improve our services**¹³⁵. Royal Mail is undertaking a major investment in its parcels business, including rolling out of delivery scanning on standard parcels¹³⁶. **Customers are benefitting from the investment.**

- [X]

3.20 **Despite Royal Mail's major investment, we cannot match some of the prices offered by our competitors for the reasons set out above, e.g., legacy labour model, and the cost of the USO.** For example, Ofcom found that Royal Mail lost volume share between 2009 and 2013¹³⁷. In the same period,

¹²⁸ Parcels Annex, paragraph 1.11.

¹²⁹ [X].

¹³⁰ Hermes launches new ETA service for retailers. <https://www.hermesworld.com/en/our-services/distribution/uk-distribution/services/estimated-time-of-arrival.html>.

¹³¹ Yodel services. <http://www.yodel.co.uk/yodel-services/>.

¹³² Financial Times, 22 November 2015, UK parcel delivery sector modernises to meet rise in online shopping. <https://next.ft.com/content/bb5576e4-8f72-11e5-a549-b89a1dfede9b>.

¹³³ Transport Intelligence, Global Express and Small Parcels 2015, page 32.

¹³⁴ Motor transport blog, 7 January 2016, DPD Precise to allow customers to pick own delivery slot. <http://motortransport.co.uk/blog/2016/01/07/dpd-precise-to-allow-customers-to-pick-their-own-delivery-slot/>.

¹³⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraphs A8.50 and A8.51.

¹³⁶ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.19.

¹³⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.19.

Hermes' share increased by 75%¹³⁸. In this very competitive sector, Royal Mail must fight to gain and keep customers.

- [§<]

3.21 These examples illustrate that the sector is very dynamic and that competition is working well. Customers switch to different providers in response to price and quality differences.

In 'Single Piece' parcels, competition is being driven by low barriers to entry and expansion, and price comparison websites.

The low barriers to entry and expansion mean competitors are expanding rapidly.

3.22 **The roll-out of Pick Up and Drop Off (PUDO) networks requires little investment.** They typically rely on agreeing terms with existing retail outlets. DPD signed a deal with Halfords to expand its DPD PickUp service to a further 460 stores. This followed earlier deals with Rowlands and Numark pharmacies¹³⁹. myHermes has recently signed a deal to offer its services through the Duddle network¹⁴⁰, and has added 450 sites through adding Co-op stores to its network¹⁴¹. There has been a significant expansion in the number of alternatives to the Post Office¹⁴². This expansion is consistent with Ofcom's research showing 12% of adults expect to send more parcels in the future, compared to 7% expecting to send fewer¹⁴³. In November 2015, [§<] of the UK population was within 5km of a Collect+ access point and [§<] was within 5km of a myHermes access point¹⁴⁴. In many cases, these competitor access points (e.g., newsagents) have [§<]. As Ofcom noted, Royal Mail has responded to this competition¹⁴⁵, and that:

*"competition, even where it is largely limited to urban areas, will tend to constrain Royal Mail's prices, and since Royal Mail is obliged to offer a geographically uniform price this has the potential to benefit all consumers"*¹⁴⁶.

Customers are aware of alternatives, using marketplaces and price comparison websites to obtain better prices.

3.23 Ofcom recognises there is growing awareness of alternative carriers. But it considers competition *"has begun to emerge"* in this area¹⁴⁷. Ofcom notes that its Postal Tracker survey results (2015) found that 90% of customers who had posted a parcel in the last month had used Royal Mail, while only 8% had used Hermes. These statistics, however, understate the degree of competition from Hermes. Customers who sold more than 11+ parcels in the last month – 26% of the sample, and likely to be more than 26% of

¹³⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.19.

¹³⁹ Postal Technology, 31 March 2016, Halfords joins DPD parcel network in the UK, <http://www.postaltechnologyinternational.com/news.php?NewsID=67757>.

¹⁴⁰ Daily Telegraph, 14 June 2016, Duddle and Hermes agree tie up to rival Post Office service, <http://www.telegraph.co.uk/business/2016/06/14/duddle-and-hermes-agree-tie-up-to-rival-post-office-service>.

¹⁴¹ Logistics Manager, 15 March 2016, Hermes Click and Collect for Co-Op stores, <http://www.logisticsmanager.com/hermes-click-and-collect-for-co-op-stores>.

¹⁴² Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.26.

¹⁴³ Ofcom, The Communications Market Report, page 238.

¹⁴⁴ Royal Mail analysis.

¹⁴⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph 8.27. For further evidence on this see Royal Mail, Parcels Appendix, 18 September 2015.

¹⁴⁶ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph 8.36.

¹⁴⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, paragraph A8.39.

volumes – were significantly more likely to use Hermes (14%)¹⁴⁸. Similarly, the data shows that 24% of customers who spent over £20.00 had used a carrier other than Royal Mail or Parcelforce¹⁴⁹. **Royal Mail's survey data also shows a high awareness of alternatives among consumers who are regular marketplace sellers (Exhibit 3.2).** This shows this is particularly true of the heavy sellers. They represent [redacted] of the volumes sold in this sample¹⁵⁰.

[redacted]¹⁵¹.

3.24 **Customers use marketplaces to obtain better deals.** eBay has been developing solutions to allow marketplace sellers to buy postage through eBay's own online channel. This is effectively an eBay controlled reseller service. This diverts parcels that would have previously gone to Royal Mail. eBay is using its buyer power to obtain lower prices from parcels providers. The eBay postage estimator shows eBay customers can obtain discounts of 44% on Parcelforce prices and discounts on Collect+ too¹⁵². [redacted].

[redacted]¹⁵³.

3.25 **The growing use of price comparison websites has increased competition.** Online platforms display comparative pricing and service level information across a range of carriers. They enable home collection, and allow consumers to pay postage and print labels from home. Consumers have a much wider choice than in the past, and are able to select a carrier based on lowest cost. We understand that some of these websites also agree specific contracts with parcel operators, acting as an aggregator, and pass on lower prices to customers. [redacted].

[redacted]¹⁵⁴.

Rivals have lower prices than Royal Mail and carry volumes at all weights.

3.26 Ofcom's analysis shows that myHermes and ipostparcels have lower prices than Royal Mail for nearly all later than next day services¹⁵⁵. These services offer tracking, which Royal Mail's standard service does not. **Royal Mail's competitors are carrying volumes at all weights.** Exhibit 3.5, based on a survey of consumers who are regular online sellers sending domestic items, shows that [redacted] of the customers using myHermes in the last month were typically sending items weighing between 250g and 500g¹⁵⁶. [redacted]

3.27 There is already meaningful competition in 'Single Piece' parcels, and competition is intensifying. The evidence shows the substantial growth of competitors' PUDO networks, and the increasing disruption of traditional carrier relationships by marketplaces such as eBay and price comparison websites. Competition is working well, and customers are benefitting in 'Single Piece' and across all segments of the parcels sector.

[redacted]¹⁵⁷.

¹⁴⁸ Ofcom, Residential consumer postal tracker, Table 16, page 100, http://stakeholders.ofcom.org.uk/binaries/research/statistics/2016Feb-Apr/Residential_Postal_Tracker_2015_data_tables_tbp.pdf. Significance refers to the difference between those sending 11+ parcels and those sending i) 1-4 and ii) 5-10.

¹⁴⁹ Ofcom, Residential consumer postal tracker, Table 16, page 103, http://stakeholders.ofcom.org.uk/binaries/research/statistics/2016Feb-Apr/Residential_Postal_Tracker_2015_data_tables_tbp.pdf.

¹⁵⁰ Ipsos Mori, Marketplace Seller Report, April/May 2016.

¹⁵¹ [redacted].

¹⁵² eBay postage estimator. Discount of 44% obtained when sending a Large Letter weighing 500g with Parcelforce 24 service. <http://postageestimator.ebay.co.uk>.

¹⁵³ [redacted]

¹⁵⁴ [redacted]

¹⁵⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, Annex 8, Figure A8.8.

¹⁵⁶ [redacted].

¹⁵⁷ [redacted].

Overview of paragraphs referenced in response to Ofcom's Fundamental Regulatory Review, question 3.

Question answered in Chapter.	Summary response and references.
<p>Question 3: <i>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.</i></p>	<p>No:</p> <ul style="list-style-type: none"> • Royal Mail agrees with Ofcom's acknowledgement that the UK has one of the most competitive parcels markets in the world. • We disagree with Ofcom's segmentation of the parcels sector and its reliance on market shares to assess the level of competition. We disagree with Ofcom's findings on the levels of competition in 'Bulk lightweight' and 'Single Piece' parcels. • We note that Ofcom is not proposing to extend the mandated regime to parcels. We also note, however, Ofcom's statement that it is open to considering requests to extend Access, subject to sufficient evidence. We believe mandated Access for parcels to our delivery network is unwarranted. Parcel mandation would actually undermine the financial sustainability of the Universal Service by removing valuable revenues needed to fund it. The intense competition in the parcels sector has occurred without a mandated parcel Access regime. Royal Mail's delivery network is not essential for achieving effective competition in the parcel sector as there are many suitable alternative providers to Royal Mail. <p>References: paragraphs 3.1-3.27.</p>

Chapter 4 – Cross-subsidy and cost allocation.

Ofcom does not formally ask a question in its consultation about this issue. On page 65 of its consultation, it sets out its position. This chapter sets out our response.

We are surprised that Ofcom is planning to undertake a review of cost allocation. We closely follow the extensive framework and detailed methodology that the regulator put in place some years ago. The review will create unnecessary uncertainty for a prolonged period of time. This is a significant new regulatory burden which is not justified.

Ofcom sets out potential concerns about cross-subsidisation¹⁵⁸ and a “risk of Royal Mail unfairly leveraging”¹⁵⁹ our letter position into the parcels sector. These potential concerns are unfounded. The parcels sector is highly competitive (see Chapter 3). Royal Mail rigorously ensures that our pricing is fully compliant with competition law.

- Our regulatory costing and monitoring framework is set out in the USP Accounting Conditions (USPAC) and the Regulatory Accounting Guidelines (RAG) which Ofcom formulated. **We closely follow the regulator's change control framework. We share the proposed modifications with Ofcom.**
- **A cost allocation review will create unnecessary uncertainty for a prolonged period of time.** There has already been a sustained period of uncertainty following the 16 different reviews Ofcom has conducted since 2012.
- Ofcom's Consultation Document is not clear on what approach it is considering to test for cross-subsidies. Ofcom refers specifically to the attribution of fixed and common costs, a central feature of a Fully Allocated Costing (FAC) model. FTI Consulting¹⁶⁰ notes that **the appropriate cost standards are incremental costs and standalone costs (SAC)**. A review of our Fully Allocated Costing system will not address this issue. Rather, Ofcom should actively engage with us on our long run average incremental cost (LRAIC) model.

There is no need for Ofcom to undertake a review of Royal Mail's cost allocations.

Royal Mail operates within a highly developed and comprehensive cost allocation framework. That framework was set out by Ofcom. It is a significant burden and includes extensive monitoring requirements.

4.1 **The USPAC and RAG have detailed obligations, rules, timetable and formats. They provide Ofcom with detailed insight into our operations and our cost base.** There is a rigorous governance process, including external audit:

- The current regulatory financial reporting framework was set out in 2012, and updated in 2014. **Our costing manual was created in line with the USPAC and RAG.**
- The framework is set and controlled by Ofcom. We **refine and improve our methodology to ensure it reflects operational reality**. The RAG¹⁶¹ obliges us to review our methodology each year – which we do – to make sure it reflects operational reality.

¹⁵⁸ Ofcom, Press Release – 25 May 2016 <http://media.ofcom.org.uk/news/2016/royal-mail-review/>.

¹⁵⁹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, heading above paragraph 5.33.

¹⁶⁰ FTI Consulting, Testing for Cross-Subsidisation, August 2016.

¹⁶¹ Ofcom RAG paragraph 8.13, 8.31, and 8.40.

- We **document and share with Ofcom changes to our methodology** on a quarterly basis. We do so using Ofcom's prescribed change control approach. We provide this information prior to these changes being implemented, in line with the USPAC requirements. **Our compliance is checked by our regulatory auditors on an annual basis.**
- In advance of the formal notification of changes, we **pro-actively take Ofcom through major changes in methodology**. For example, in April 2014, we explained to Ofcom our new cost attribution basis for outdoor delivery methods.

4.2 Ofcom has full and detailed visibility of our costs. **We provide annual, quarterly and monthly reports to meet Ofcom's monitoring requirements:**

- **Annually**, we produce Product Profitability Schedules (PPS), results by Financial Reporting Entity (FRE) (groupings of PPS), and by Reported Business. These are audited by our independent regulatory auditors.
- **Quarterly**, we provide Ofcom with the PPS and FRE results on an unaudited basis. We also update the costing manual, accounting methodology manual, and associated technical appendices. We provide a separate report to Ofcom that outlines the impact and rationale for changes to the costing system.
- **Monthly**, we provide Ofcom with our management accounts, detailed schedules on our revenue, volume, and operational cost metrics. These reports provide Ofcom with a comprehensive insight into our costing and pricing activities.

We suggest a more proportionate approach would be for us to share with Ofcom our planned cost system methodology changes for 2016-17 and address any specific issues. A cost allocation review is an unnecessary regulatory burden. It will create substantial uncertainty for a prolonged period of time.

4.3 As our network continues to develop to meet changing customer requirements, our costing system needs to evolve. We refine our cost allocation on an ongoing basis to ensure it continues to reflect operational reality, a requirement set by Ofcom for our costing methodology.

4.4 **Rather than another review focused solely on Royal Mail, we and Ofcom should work more closely together on costing changes within the existing framework.** We propose:

- **To review methodological issues with the regulator.** Ofcom specifically refers to the outdoor delivery changes. Given Ofcom's close involvement in our methodologies - setting the original framework and reviewing changes - it is not necessary to review all methodologies. Instead, we should focus on those areas where Ofcom has specific concerns.
- **To present our work plan for future methodology changes for 2016-17 to the regulator.** This will give Ofcom a forward view of our planned changes. We are happy to discuss these changes in more detail.
- Ofcom says that it intends to build a cost model. **But it already has a cost model.** Every quarter, we supply detailed information ('technical appendices') to Ofcom. We also provide an annual download of our system "*reference data*" for Ofcom. Should Ofcom wish to consider cost modelling in the context of cross-subsidy, it should continue to engage with us on our LRAIC model. We have shared this model with Ofcom, including reports from external consultants covering the principles and the mechanics of the model. It is a principle of good regulation that there should only be intervention where necessary.

4.5 **We believe the proposed review has already the potential to create unnecessary uncertainty for a prolonged period of time.** There has been a sustained period of uncertainty following the 16 different

reviews Ofcom has recently conducted since 2012. **Undertaking a cost allocation review is a detailed, time-consuming, and costly process. Ofcom's review of BT's cost attributions took a significant amount of time.** In May 2014, Ofcom stated that it would establish Regulatory Accounting Guidelines for BT, and review BT's methodologies against these new rules¹⁶². In June 2015, Ofcom concluded the first review¹⁶³ and published a detailed consultation including a lengthy report from its consultants¹⁶⁴. This was followed up by a second consultation¹⁶⁵ in November 2015 which informed Ofcom's conclusions within the Business Connectivity Market Review statement issued in April 2016¹⁶⁶.

Royal Mail disagrees with the premise underpinning Ofcom's stated concerns about cross-subsidies. Our pricing is fully compliant with competition law.

- 4.6 Ofcom's consultation document is not clear on what approach it is considering to use to test for cross-subsidies. Ofcom refers specifically to the attribution of fixed and common costs¹⁶⁷, a central feature of a FAC model. As FTI Consulting points out¹⁶⁸, the economic literature considers the use of FAC (or Fully Distributed Cost) inappropriate as part of a test for cross-subsidies. This is due to the arbitrary methods used to allocate common costs, and the lack of a direct relationship between FAC and marginal cost. On economic efficiency grounds, there is no basis for FAC pricing. **It is particularly inappropriate when a large proportion of the costs are fixed and common, which they are for Royal Mail. FTI Consulting concludes that the correct cost standards to assess cross-subsidy are incremental cost (IC) and standalone cost (SAC).** This is supported by economic literature.
- 4.7 Many academic papers have considered the appropriate test for cross-subsidy. Heald (1996) outlines a test for cross-subsidisation¹⁶⁹. In particular, **an output is the source of cross-subsidy if the price is greater than the SAC and is the recipient of cross-subsidy if the price of the output is less than the IC.** Further, no cross-subsidy exists when the price of the output is greater than or equal to the IC and less than or equal to the SAC (see Exhibit 4.1).

¹⁶² See introduction at <http://stakeholders.ofcom.org.uk/consultations/cost-attribution-review/>.

¹⁶³ Ofcom, Review of BT's Cost Attribution Methodologies, 12 June 2015.

¹⁶⁴ Cartesian, BT Cost Attribution Review, 8 June 2015.

¹⁶⁵ Ofcom, Review of BT's cost attribution methodologies Second consultation, 13 November 2015.

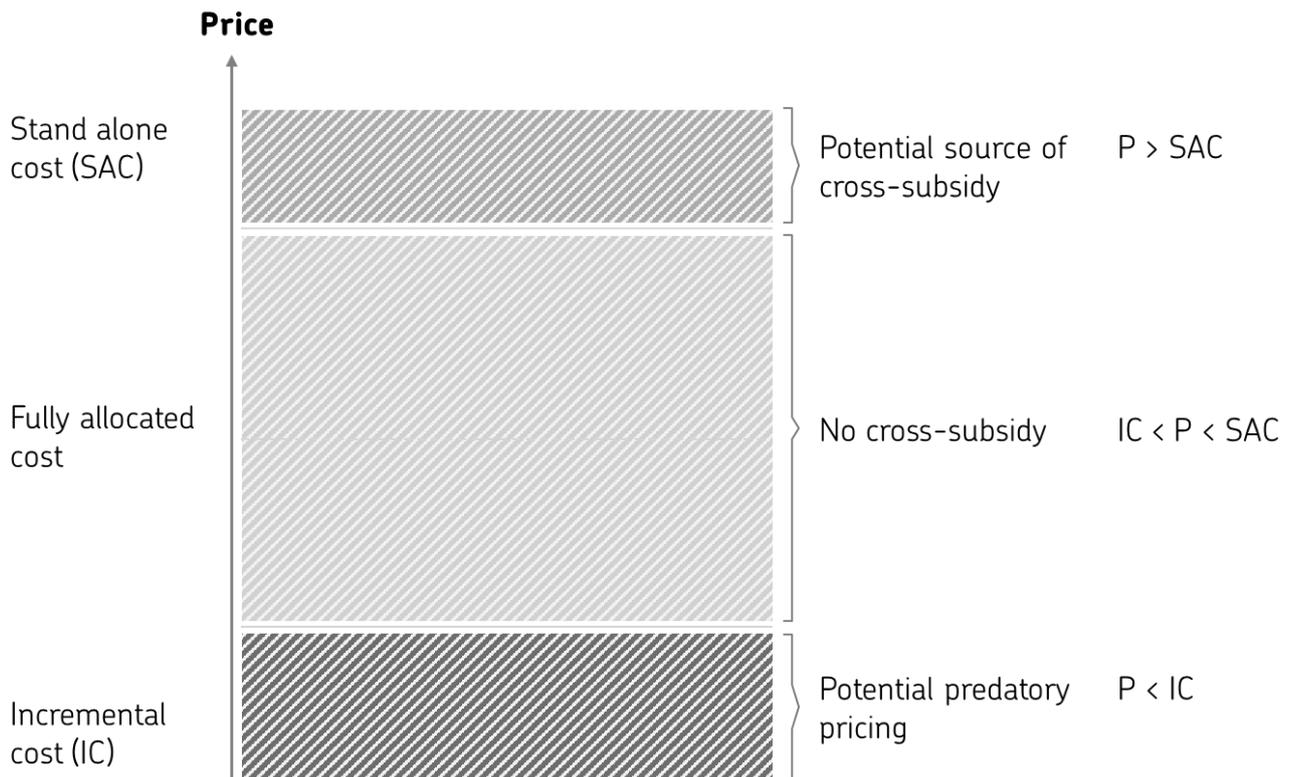
¹⁶⁶ Ofcom, Business Connectivity Market Review, 28 April 2016, paragraphs 2.28 to 2.32.

¹⁶⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.34.

¹⁶⁸ FTI Consulting, Testing for Cross-Subsidisation, August 2016.

¹⁶⁹ Heald (1996), Contrasting approaches to the 'problem' of cross-subsidy, page 59.

Exhibit 4.1 Testing prices for potential cross-subsidy¹⁷⁰



4.8 Should Ofcom be concerned that Royal Mail is pricing in such a way as to harm competition then the approach to test for this should be consistent with a predatory pricing test used in competition law. That is, to test prices against incremental cost. **Royal Mail already has a LRAIC model and tests can already be undertaken without requiring a cost allocation review or Ofcom building another cost model.** Instead, Royal Mail encourages Ofcom to continue engaging with Royal Mail's LRAIC model. A relevant example of the application of cross-subsidisation test to the postal sector is the decision on the 1994 complaint by UPS as to whether Deutsche Post AG (DPAG) was selling its parcel delivery services below cost. In this case, the European Court set out a standard for measuring those "cross-subsidies" between a "monopoly" service and competitive activities that result in predatory prices in the latter. The standard adopted for the test was based on LRIC.

4.9 In certain circumstances, regulators may want to encourage entry to the market by keeping the level of prices in that market above the incumbent's incremental cost. This is simply not appropriate for the UK parcels sector. **Competition across parcels is strong and growing, providing clear benefits for consumers** (see Chapter 3). This vigorous competition has developed without any regulatory intervention. Competition is the most effective regulator.

Our pricing is fully compliant with competition law.

4.10 Ofcom says it is concerned that "Royal Mail has the potential to cross-subsidise its parcels business through its letters business"¹⁷¹. It also refers to the risk of Royal Mail "unfairly leveraging its position in the letter sector into parcels"¹⁷². **Royal Mail strongly disagrees with Ofcom that there is a potential concern. We rigorously ensure that our pricing for all postal services is fully compliant with competition law.**

¹⁷⁰ This diagram is illustrative only.

¹⁷¹ Ofcom, Press Release - 25 May 2016 <http://media.ofcom.org.uk/news/2016/royal-mail-review/>.

¹⁷² Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, heading above paragraph 5.33.

There is no evidence that Royal Mail's pricing is harming competition, or that it will do so in the future. **Competition in the parcels sector is strong and growing.** Consumers are benefiting from lower prices, better quality and innovation). **Ofcom¹⁷³ has recognised that it has not received any evidence to support the allegation of unfair pricing.** Ofcom's rationale for the cost allocation review seems to be based on one very brief comment by one competitor¹⁷⁴.

There are no Ofcom questions on cross-subsidy or cost allocation. The following is an overview of our response to these issues, including references.

<i>Additional proposals answered in Chapter 4.</i>	<i>Summary response and references.</i>
<p>Ofcom's proposal to review cost allocations between parcels and letters and to build a costing model. (Paragraph 5.36).</p>	<ul style="list-style-type: none"> • There is no need for such a review. We comply with the USPAC and with the RAG. We are subject to an extensive monitoring regime which the regulator put in place. Such a review will create unnecessary uncertainty. • Ofcom and Royal Mail should work together more closely within the existing framework. We will review specific methodological issues with the regulator. We will present our plans for future methodology changes to Ofcom. • This is a significant new regulatory burden which is not justified. <p>References: paragraphs 4.1 to 4.5.</p>
<p>Ofcom's Consultation Document is not clear on the approach to use to assess potential cross-subsidy between letters and parcels. Ofcom refers specifically to the attribution of fixed and common costs, a central feature of a FAC model. (Paragraph 5.34).</p>	<ul style="list-style-type: none"> • These cross-subsidisation concerns are unfounded. • Competition across parcels is strong and growing providing clear benefits for consumers (see Chapter 3). This vigorous competition has developed without any regulatory intervention. There is no need for regulatory intervention. • FAC is not the correct costing standard for testing for cross-subsidies. It is particularly inappropriate when a large proportion of the costs are fixed and common. They are for Royal Mail. The correct costing standards to assess cross-subsidy are incremental cost (IC) and standalone cost (SAC). This is supported by economic literature. • Should Ofcom wish to consider cost modelling in the context of cross-subsidy, it should continue to engage with us on our long run average incremental cost (LRAIC) model. <p>References: paragraphs: 4.6 – 4.10.</p>

¹⁷³ Ofcom only refers to possible unfair pricing in lightweight bulk parcels, see Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.35.

¹⁷⁴ Hermes' response to Ofcom's July 2015 Discussion Document, Page 1.

Chapter 5 – Access.

Ofcom question 6 and other Access proposals.

Royal Mail welcomes competition in the UK letters and parcels sectors (see Chapter 1 and 3). In letters, the UK Access market is, by some distance, the biggest in Europe. Access operators now handle c.59% of addressed inland letters, and over 70% of addressed mail posted by large businesses, which is one of the most profitable segments of a declining market. The market is working well. Royal Mail works collaboratively with Access operators. Our price increases have been fair, reasonable, and cost reflective.

Mandated letters Access was originally intended to incentivise competition. It resulted in the loss of significant revenue to support the Universal Service. The highly developed nature of letters' competition in the UK – in other EU markets, no more than 11%¹⁷⁵ of letters are sent through Access – means that there should be no extension of mandation in letters. There is, however, a need to review and clarify the 'Large Letter' definition. It has remained unchanged since it was introduced in 2006.

Royal Mail will work closely with Ofcom in relation to its Access proposal on notification periods. But we have concerns about Ofcom's proposed change to USPA 7. We disagree with Ofcom's proposal to halve the timeframe to process applications for new Access services. It is neither appropriate, warranted, nor technically viable – as it is required to be under PSA 2011. Royal Mail does not agree with Ofcom introducing its Access Pricing Review (APR) proposals in substance, or in the form of revised guidance. This intervention is disproportionate and unnecessary. The use of guidance raises issues of procedural fairness and administrative law.

- **Royal Mail agrees in principle with Ofcom's proposal about notification periods.** We take our contractual and regulatory obligations very seriously. Our use of shorter notice periods in our Access schedules is in accordance with the Access contract and USPA 7. We welcome Ofcom's position to continue allowing shorter notification periods to be used when all parties are in agreement to implement changes. We believe, however, that the proposed changes to USPA 7 do not reflect Ofcom's intention, and effectively prevent Royal Mail and Access operators from agreeing to shorter notification periods. We have therefore suggested amendments to the wording.
- **We disagree with Ofcom's proposal to significantly reduce the timeframe to process applications for new Access services.** It is neither warranted nor achievable. Ofcom has not presented any evidence that the current 13 week timeline does not meet the requirements of users. The example Ofcom cites to substantiate its proposal – relating to the Scottish Independence Referendum – is inappropriate. Ofcom has also not demonstrated that a six week period is technically viable. It is required to do so by Section 38 (8)(a) of PSA 2011.
- **Royal Mail has major concerns with Ofcom's proposal in relation to the Access Pricing Review. In substance, Ofcom is seeking to introduce the main principles underpinning its 2014 Access Pricing Review proposals in the form of guidance.** These proposals are a materially retrogressive change from the 2012 framework. Their proposed application now – despite the absence of direct delivery competition in letters – would restrict our commercial freedom in the future in an unnecessary and disproportionate fashion. There is also the important issue of the regulator's proposed use of "guidance" to implement its proposals. This approach raises a number of issues of procedural fairness and administrative law. A decision to impose these principles as guidance would breach these important duties and safeguards.

¹⁷⁵ ERGP 2014 Report on E2E Competition and Access in EU Postal Markets

Downstream Access competition is working well. There should be no extension to Letter Access mandation.

- 5.1 **We welcome Ofcom's view that it is appropriate for Royal Mail to have commercial flexibility¹⁷⁶.** This flexibility is key to ensuring the USO is financially sustainable. The UK Access market is the biggest in the EU. Access operators now handle around 59% of inland addressed letter volumes. They benefit from a highly developed legal and regulatory framework. **We also welcome Ofcom's finding that there is no evidence that Royal Mail is acting in an unduly discriminatory manner.** As Ofcom notes, the existing regulation (USPA 5) safeguards against non-equivalent practices. Royal Mail takes compliance with all of our regulatory conditions, including USPA 5, very seriously. We fully comply with our conditions.
- 5.2 Ofcom notes in its consultation that: *"While Royal Mail may have the ability and incentive to increase prices and profitability at the expense of efficiency savings, it has not done so under the current regulatory framework..."¹⁷⁷.* Royal Mail exercises commercial judgement in setting prices (see Chapter 1). This judgement is used to try and help maintain a large base of letter volumes to sustain the Universal Service. Royal Mail also considers factors outside the scope of measured price elasticities. For example, we consider other media channels as an important constraint. **Royal Mail has made only moderate price rises since the introduction of the regulatory framework.**
- 5.3 Ofcom states that it has not received sufficient information from stakeholders to progress an assessment of any request for additional forms of Access mandation. Ofcom also notes that this requires a sufficient degree of evidence. **We believe that there should be no extension to the current letters Access mandation.** The UK already has – by some distance – the most developed letters Access market in Europe. In other EU Access markets, no more than 11% of letters are handled by Access operators¹⁷⁸. The mandated provision of letters Access was originally intended to incentivise competition. Due to the structure of the headroom price control, which was in place under the previous regulatory framework, Royal Mail was prevented from competing to retain traffic in its upstream network. Royal Mail lost a significant proportion of its upstream market share. This resulted in the loss of significant revenue that was used to support the high fixed cost of the Universal Service. Under the previous regulatory regime, UKPIL was losing £120m¹⁷⁹ by 2010-11. The highly developed nature of letters competition in the UK means there is no need for more regulatory intervention to incentivise competition in letters (see Chapter 3 regarding mandation in the parcels sector).

It is in Royal Mail's best interest to work with Access operators.

- 5.4 **Royal Mail is committed to working with the Access operators. It is in our best interest to do so.** E-substitution is the biggest threat to the whole industry. We are working as an industry to address this threat (see Exhibit 5.1 for an example). We actively consult with Access operators when seeking to make material changes. The Access contracts are already supervised by Ofcom. We welcome Ofcom's positive comments on our Access consultation process¹⁸⁰.

¹⁷⁶ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.45.

¹⁷⁷ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 4.102.

¹⁷⁸ ERGP 2014 Report on E2E Competition and Access in EU Postal Markets.

¹⁷⁹ Operating cost after transformation costs.

¹⁸⁰ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 4.102: *"In our view there is evidence that Royal Mail has undertaken a genuine consultation process with its customers. For example, in January 2015 Royal Mail consulted on changing or removing certain contractual features including a number of procedural protections, such as the suspension clause. Subsequently, some of these proposals were altered or dropped with Royal Mail citing strong customer feedback in relation to the proposed changes. We would expect that Royal Mail will continue to proceed in this consultative way."*

- 5.5 **The Large Letter definition has not been reviewed since it was introduced in 2006. It was, along with other aspects of the previous regulatory framework, directly transposed into the current framework in 2012.** We are currently reviewing the appropriateness of the current Large Letter definition, given developments in the industry since the definition was introduced, to see if the current dimensions remain appropriate. We have held initial discussions with our customers on this matter.

Exhibit 5.1: Case Study – Incentivising Advertising.

- Royal Mail has worked closely with the Wholesale Incentive Group (WIG) to create initiatives to stimulate mail volume growth.
- The Group Incentive Scheme is the first initiative developed by this group. Its objective is to incentivise advertisers to increase their use of mail by offering postage credits when they send incremental volume over and above their existing rate of growth. These postage credits can then be redeemed against future mailings.
- Royal Mail worked with WIG members to define the scope and scale of this scheme. This included development of the terms and conditions, and the minimum volume threshold (250,000 items).
- In addition, Royal Mail invests in market research to defend and expand mail usage. We do so to ensure that mail continues to be seen as topical and valuable. This research is shared with Access operators, although they do not make any financial contribution towards it. Examples include the *'Private Life of Mail'*¹⁸¹ series of research about the advantages of using mail over other channels, from which the whole industry has benefited.

Royal Mail agrees in principle with Ofcom's proposal about notification periods.

- 5.6 Ofcom's consultation sets out concerns that Royal Mail's optional schedules enable us to make material changes more quickly than the minimum notification requirements provided for by the Access contract and USPA 7. **The use of schedules provides a number of advantages to Access customers (see Exhibit 5.2). Royal Mail has not used schedules to the detriment of our customers** and continues to act in accordance with the Access contract and USPA 7. The 30-day notice period aligns with the notice period applicable to product specification changes. This has existed since the first Access contract in 2004. Accordingly, this notice period serves as a simple means of aligning the schedules with clause 13.3.3 of the Access Letters Contract. Moreover, our relationship with Access customers is a supervised one. Any proposals on changes can be challenged by our Access customers. In theory, any proposed change can be referred to Ofcom for review. If Ofcom chooses to open an investigation, the proposed change is suspended pending the outcome of Ofcom's review.
- 5.7 **Our understanding is that USPA 7 – as drafted in 2012 – enables us to include shorter notice periods if we have agreement from the Access operator. This understanding was confirmed by Ofcom**¹⁸². Since Access operators elect to add a new schedule to their contract when they sign up to the new product, Royal Mail considers that it has complied with its regulatory and contractual requirements. **The new schedules were introduced following prior discussions with Access operators on the proposed terms.** For example, we ran early adopter trials with the industry for Mailmark® and Digital Stamp to establish the terms that would work best for users, operators, and Royal Mail.

¹⁸¹ <http://mailmen.co.uk/campaigns/the-private-life-of-mail>.

¹⁸² Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.50.

Exhibit 5.2: How we use the schedules and act on feedback.

Use of Schedules:

- Since the launch of the Access Letters Contract in 2013, Royal Mail has initiated and introduced three new Access products¹⁸³: Business Mail Large Letters; Royal Mail Mailmark®; and Digital Stamp. We introduced the terms and conditions for each of these new products by setting them out in a schedule. This is separate from the general terms and conditions of the Access Letters Contract.
- This approach is **more convenient for Access operators as all the key information they need is in a single document**. It gives Access customers the flexibility to choose whether they wish to add the new product terms to their existing contract, and it enables them to start using the new product when they are ready to do so. They can also share this with their posting customers.
- If we did not include the key product terms within the schedule, product specific changes would require us to change the Access User Guide. Changes would then be applicable to all contract holders, not just those who had taken the optional schedule. It would also be less easy to navigate. **Our approach leads to a better customer experience.**

Acting on feedback:

We act on the feedback of the Access operators, contrary to the claim of one operator¹⁸⁴. For example, we have:

- amended the proposed surcharges under the Mailmark® Adjustment Framework, (i) prior to the introduction of any surcharges; and (ii) one year after launch following informal customer feedback on potential worst case scenarios;
- modified the 30-day minimum notice period which applies to changes to the Mailmark® schedule. We did so in order to exclude from that notice period any changes to which the longer notice period in clause 13.2.3 would apply, e.g. changes to Access Charges; and
- increased the notice period for changes to the list of Permitted Items in the Business Mail Large Letter schedule to a minimum of 90 days.

5.8 We have not used the schedules to reduce the notice period to the detriment of our customers. We have at all times complied with the requirements of USPA 7. **We welcome Ofcom's proposal to allow shorter notification periods to be used when all parties are in agreement to implement changes**¹⁸⁵. We believe, however, that the proposed changes to USPA 7.3(c) and USPA 4(c) do not reflect Ofcom's intention. The wording should be amended to make clear that Royal Mail and Access operators can agree to shorter notice periods where it is **mutually beneficial** to do so. Any changes to USPA 7 should not inadvertently prohibit the shorter notice periods that have always been in place such as for changes to product specifications. **Royal Mail has therefore suggested amendments to the wording of USPA 7 in Appendix 5.1.**

¹⁸³ Defined as 'services' in the Access Contract.

¹⁸⁴ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.55: "no option but to accept [the schedules] in order to be able to use or offer the new services and so maintain their market position."

¹⁸⁵ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.64.

5.9 For the avoidance of doubt, the notification periods in all of the documents that make up the Access contract should remain unchanged. The only exception to this is that Royal Mail and Access operators may agree to shorten any notice period to implement specific changes more quickly. For example, where this approach is mutually beneficial to both Royal Mail and Access operators.

We disagree with Ofcom's proposal to significantly reduce the timeframe to process applications for new Access services.

5.10 **Ofcom is proposing to amend USPA 4.1 (c) to halve the period within which Royal Mail must process requests for new Access services** – from 13 to six weeks – where an equivalent retail service exists. This proposal is neither warranted, nor achievable. Ofcom has not presented any evidence that the current 13-week timeline does not meet the requirements of users. It has also not demonstrated that a six-week period is technically viable – as it is required to do by Section 38 (8)(a) of PSA 2011.

5.11 **The only example Ofcom cites to justify this proposal – relating to the Scottish Independence Referendum¹⁸⁶ – is inappropriate. In that case, the formal New Service Development process never commenced.** [X] approached Royal Mail Wholesale regarding an equivalent product to the retail 'Poll Sort' service. Royal Mail highlighted that the retail 'Poll Sort' service was, in fact, an Inward Mail Centre (IMC) service. We suggested that [X] either use the Access 1400 service, or the retail Poll Sort service. **Creating an equivalent Access service was unwarranted. It would have been exactly the same as the retail service. It would also have been substantially similar to an existing Access service.**

5.12 **Royal Mail actively works with Access users to develop, and introduce, new services.** We have made several new services and initiatives available, including Access Catalogues, Mailmark®, Digital Stamp, and the Group Incentive Scheme. We worked with the industry to introduce these services and initiatives as quickly as possible. The Access Catalogue trial, however, still took around five months from concept to business case approval, and the Group Incentive Scheme around six months. This is despite both having retail equivalents and limited IT complexity. We do not believe that a significant amount of time can be saved from the process, even where an equivalent retail service is available. Royal Mail Wholesale uses completely separate IT systems from our Retail business. The Wholesale team does not have a detailed technical knowledge of Retail products.

5.13 USPA 4.1 currently requires Royal Mail to publish a: *“reasonable statement of process”,* including *“the reasonable time-scales in which such requests will be handled”*. Royal Mail introduced the current 13 week timetable in 2012. We consulted widely with the industry at this time. The 13 week timetable is the same length as the three month timeframe provided for under Condition 9 of the previous Postcomm regulatory framework¹⁸⁷. **The current 13 week timeframe is very challenging to achieve. It is only achievable if there are preliminary discussions with the customer before the application is received, and the request requires limited IT development.** The difficulty of meeting the current timetable is exacerbated if several applications are received at the same time, or if additional applications are received whilst processing another. As each request can be different – and the complexity can vary significantly – flexibility is required. In Exhibit 5.3, we set out our process for processing new Access requests and the typical timeframes involved. Following some recent applications, we will work with the industry on changes as appropriate.

¹⁸⁶ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.76.

¹⁸⁷ Postcomm – Royal Mail Licence, http://www.royalmailgroup.com/sites/default/files/Royal_Mail_Licence_25%20May__2006.pdf.

Exhibit 5.3: The current process and timetable.

I) Draft the product specification [one week minimum].

- A product specification needs to be drawn up to ensure that the requested service is in line with the operator's expectations. We engage with the customer to discuss and document their requirements. This takes a minimum of one week from the point where the customer has fully defined their requirements. There needs to be meaningful and detailed preliminary discussions, particularly if the request is an extensive one.
- The product specification needs to be produced at the start of the process. This determines subsequent activities, including the IT solution, and operational specification. This step is critical, regardless of whether a Retail equivalent product exists or not. There will usually be differences between a Wholesale and Retail product design reflecting, for example, dual service providers, and separate Retail and Wholesale IT systems.

II) Draft operational specification [one week - concurrently with III].

- The customer's requirements need to be aligned with our operation and other stakeholders, e.g., Access operations (DSACC). It should be possible to transpose some elements of the operational specification where an equivalent Retail service exists. There will, however, usually be key differences in relation to revenue protection, the point of handover, customer interfaces, etc. Where an equivalent Retail service already exists, and existing Access service specifications can be followed, the time taken to complete this activity can be reduced. But where new processes need to be designed for an Access equivalent of a Retail service, or it is a complex application, this will not be the case. The timescale assumes stakeholders are available to assist at short notice.

III) Draft main terms [one week - concurrently with II].

- The main product terms can begin to be drafted once the product specification is determined. Where an equivalent retail service and similar Access service exists, the time taken can be reduced.

IV) Analysing the systems requirements, including impact assessment, and obtaining IT development cost [six to eight weeks minimum].

- We use a variety of IT suppliers to get the best possible value. Our Wholesale business runs separate IT systems from Royal Mail Retail to comply with USPA 5. We may have to engage with multiple IT suppliers to develop a solution. It is usually not possible to transpose existing solutions from the Retail business due to the separation of our IT infrastructure. If the request is for a Retail equivalent service, this will require wider engagement with internal IT solutions architects and external suppliers.
- This is a complex element of the process. IT needs to review the operational specification and agree high-level requirements. The time required to produce a conceptual design depends on the complexity of the solution and the number of stakeholders. For instance, a recent request for 'Confirmation of Delivery' (COD) means that new interfaces will have to be developed to facilitate live data transfer between Operations, Wholesale, and the Access operators.
- High-level requirements are then made available to each of the relevant IT suppliers. They assess the cost and time required to implement the changes. This process may involve further discussion and modification of the requirements and estimates. Each request can be different, and often requires input from one or more IT suppliers. The timeframe will depend on the complexity of the request and the specific suppliers required. If, for example, a request requires the development of new system interfaces to enable digital connectivity, then a request will take longer to process. Wherever possible, we work to minimise these timeframes.

V) Analysing the operational impact [up to three weeks].

- An operational impact assessment is vital, even if an equivalent Retail service exists. Wholesale volumes are likely to be significantly different from Retail volumes. We need to ensure:
 - » our operation has the capacity to handle the volume and it does not have an adverse impact on operational efficiency; and
 - » the new service does not have a material adverse impact on USO quality of service.

VI) Developing the product costing [one to two weeks].

- The operational specification is used to develop the service costing. Where this is the equivalent Retail service, we expect to be able to use Retail downstream costs as a basis for the costing. If there are complexities relating to the Wholesale specific arrangements, e.g. handover or data requirements, then additional specialist resource could be required. This could potentially delay completion of this activity.

VII) Assessing likely volume and setting prices [one to three weeks minimum].

- We need to consider:
 - » the IT system costs (from step IV);
 - » one off implementation costs (incurred in carrying out steps I, II, III);
 - » expected operational costs (from step VI); and
 - » expected volume / demand (step VII).
- Demand analysis needs to be carried out using market data. This needs to encompass the requesting operator and all other operators. If we do not have adequate market data - which is often the case as Royal Mail Wholesale is dis-intermediated from the originating customer - it is more challenging to determine likely product demand. For instance, in the case of the Access Catalogue Product, we had to set up a 6 week sampling exercise to obtain data on Access catalogue volumes. This aspect of the timetable is not reduced by the existence of an equivalent retail product.

VIII) Business Concurrence [two weeks minimum].

- Business authority is required for the main terms and prices, and a business case must be in place. It is important that senior stakeholders validate the analysis undertaken by the Wholesale team. To put this into context, Wholesale had [X] advertising letters and large letters in 2015-16, Retail had just [X]. In short, these are clearly material decisions.

Royal Mail has major concerns with Ofcom's proposal in relation to the Access Pricing Review and does not agree with Ofcom introducing these proposals, either in substance, or in the form of the proposed guidance.

5.14 Ofcom states that it has decided not to implement the changes to the USPA Access Condition it had previously been proposing in its 2014 Access Pricing Review (APR). It notes that these proposals are no longer relevant, given the limited prospect of significant end-to-end competition in the declining letters market¹⁸⁸. Royal Mail welcomes this decision. These proposals are a materially retrogressive change from the 2012 framework. Their proposed application now - despite the absence of direct delivery letters competition - would restrict our commercial freedom in the future in an unnecessary and disproportionate

¹⁸⁸ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.32.

fashion. Notwithstanding Ofcom's stated position, **we believe that Ofcom is seeking to introduce the main principles underpinning the APR in the form of guidance.** Appendix 5.2 includes a detailed comparison of the 2012 framework, the APR proposals, and Ofcom's 2016 guidance proposal set out in the consultation document. Royal Mail has sought confirmation on this point from Ofcom. Ofcom has confirmed to Royal Mail that, in its view, it is elaborating on the 2012 guidance, but is not proposing to make any change to the regulatory conditions. This approach raises a number of issues of procedural fairness and administrative law. A decision to impose these principles as guidance would breach these important duties and safeguards. **Royal Mail is very concerned by this position. The proposed changes do not satisfy Ofcom's overriding duty under s.29(1) of the Postal Services Act 2011.** Exhibit 5.4 outlines why the substantive principles proposed in the consultation are inappropriate.

Ofcom's position raises procedural fairness issues.

- 5.15 Ofcom's position raises a number of issues of procedural fairness. Ofcom is bound by the duties of good administration, and principles of administrative law. Royal Mail considers that a decision to impose these new principles as guidance in Ofcom's statement would breach many of these important duties and safeguards. **Ofcom has not provided sufficient justification to support its proposal to introduce the new principles.** In addition, Ofcom seeks to justify its principle that any changes should be cost justified on the basis that this would: *"minimise the potential for manipulation to disadvantage end-to-end letters competitors"*. This justification can clearly no longer apply when there are no end-to-end letters competitors. As Ofcom itself recognises, the return of direct delivery competition in the structurally declining letters market appears unlikely for the foreseeable future¹⁸⁹. **As Ofcom is effectively seeking to implement the APR principles, it is incumbent upon it to respond to the representations made in that 2014 consultation.** In the Fundamental Regulatory Review, Ofcom seeks to argue that: *"Given that we are not proposing to implement the 2014 proposals, we have not set out our assessment of the comments we received from stakeholders about the details of these proposals"*¹⁹⁰. Ofcom, however, is proposing to depart from its 2012 statement, and introduce the substance of its APR proposals. It is, therefore, required to carry out a full consultation and assessment of these proposals. This includes undertaking and publishing its assessment of the 2014 proposals.
- 5.16 **It is unclear on what basis Ofcom has determined it is appropriate to introduce these principles as 'guidance'. In fact, in 2014, it concluded that it would be necessary to amend the regulatory conditions in order to introduce substantially similar proposals.** The 2016 principles place significantly greater restrictions on Royal Mail's pricing flexibility than the 2012 Statement. In the APR, Ofcom considered that proposals of this type require changes to the regulatory conditions. Ofcom does not explain why it now considers it is appropriate to implement these proposals in the form of guidance. The current proposals do not meet the requirements specified in PSA 2011 for the introduction or modification of a regulatory condition. Ofcom would not be able credibly to establish that these proposals are objectively justifiable, proportionate, or indeed transparent,¹⁹¹ when the concerns that they were originally intended to address (i.e. the protection of end-to-end letter entry) are *"no longer relevant"*. As these proposals do not meet the threshold to be implemented in the form of regulatory conditions either, it is clearly inappropriate to introduce them by categorising them as 'guidance'.

¹⁸⁹ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 4.85.

¹⁹⁰ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.32.

¹⁹¹ Required by Schedule 6, paragraph 1 of PSA 2011.

Exhibit 5.4: Summary of underlying issues with Ofcom's proposed pricing principles.

Prevention of price differentials between price plans.

- Ofcom proposes that: "*all national (or sub-national) access prices should equal the weighted average of zonal access prices*"¹⁹². This would limit Royal Mail's ability to use price as a mechanism to incentivise user behaviour. This could harm Royal Mail's ability to improve efficiency through innovative price driven incentives, such as specific price plans for customers that provide volume forecasts to Royal Mail.

Requirement for the ratio of zonal prices to be broadly equivalent to the ratio of zonal costs on a Fully Allocated Cost basis.

- Royal Mail would be restricted to setting prices with broadly the same mark-up in each zone. This would provide entrants with an artificial source of competitive advantage. This could lead to inefficient entry from an economic efficiency perspective.
- As we have explained¹⁹³, this proposal amounts to a de facto Fully Allocated Cost (FAC) floor on Royal Mail's Access prices (or at least the expectation that Royal Mail would set prices in all zones, and nationally, at - or close to - FAC levels). Technically, Ofcom's proposals would allow Royal Mail to price below FAC in a particular zone. But, crucially, under the proposals, this may require decreasing prices across all zones to broadly maintain the zonal FAC ratio. There would also need to be a corresponding reduction in the national price. This would pose severe challenges from a cost recovery perspective. This proposal would materially restrict Royal Mail's ability to compete on the most important factor - price - to try to maintain volumes and revenues to support the high fixed costs of the Universal Service network.
- FAC does not provide the right economic signals for entry. It is widely acknowledged that, in the case of a multi-product firm with significant joint and common costs, setting all prices at FAC would not be economically rational or efficient¹⁹⁴.

Creation of perverse efficiency incentives.

- Royal Mail would be incentivised to re-focus its efficiency programme to geographic areas where competition is likely to develop, so that it could reduce its prices in those areas in response to competition. This would create an opportunity cost of foregone efficiency improvements in other areas which may have generated larger cost savings. This would lead to an inefficient allocation of resources devoted to drive efficiency improvements in areas where Royal Mail faces competition.
- The effect of this intervention runs counter to the principles of 'Better Regulation'¹⁹⁵. It unduly restricts the ability of the Universal Service Provider to maintain the revenue pools available from the market to sustain the Universal Service. Ofcom has a statutory duty under section 7 of the Communications Act 2003 to carry out an Impact Assessment in relation to proposals which are "important". In this, Ofcom must identify and, where possible, quantify the costs, benefits, and associated risks, including any unintended consequences of regulatory intervention. In particular, given its duty under section 29 of PSA 2011, to secure the provision of the Universal Service, Ofcom must assess the likely impact of its proposals on the USO. It has not done so.

¹⁹² Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 6.33.

¹⁹³ Royal Mail, Access Pricing Review: Proposed Amendments to the Regulatory Framework. Response to Ofcom's December 2014 Consultation. 24 February 2015.

¹⁹⁴ Oxera, Annex to APR Response, paragraph 2.22.

¹⁹⁵ Better Regulation Framework Manual: Practical Guidance for UK Government Officials (March 2015)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf

Overview of paragraphs referenced in response to Ofcom's Fundamental Regulatory Review, question 6.

Questions answered in Chapter.	Summary response and references.
<p>Question 6: <i>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?</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> • Royal Mail agrees - in principle - with Ofcom's proposal about notification periods. We welcome Ofcom's proposal to allow shorter notification periods to be used when all parties are in agreement to implement changes. • We believe, however, that the proposed change to USPA 7 does not reflect Ofcom's intention, and, effectively prevents Royal Mail and Access operators from agreeing to shorter notification periods. We have included a proposed amendment to USPA 7. For the avoidance of doubt, the notification periods in all of the documents that make up the Access contract should remain unchanged. <p>References: Chapter 5 summary, paragraphs 5.6-5.9, exhibit 5.2 and Appendix 5.1A.</p>

There are no questions on either Ofcom's proposal to reduce the time frame to process applications for new Access services, or its proposal to introduce several of the main principles behind its 2014 Access Pricing Review as guidance. The following is an overview of references in response:

Additional proposals responded to in Chapter 5.	Summary response and references.
<p>Ofcom's proposal to significantly reduce the timeframe Royal Mail has to process applications for new Access services.</p>	<ul style="list-style-type: none"> • We disagree with Ofcom's proposal amend USPA 4.1 (c) to significantly reduce the timeframe to process applications for new Access services. It is neither warranted nor achievable. Ofcom has not presented any evidence that the current 13-week timeline does not meet the requirements of users. Ofcom has also not demonstrated that a six-week period is technically viable. It is required to do by Section 38 (8) of PSA 2011. <p>References: See Chapter 5 summary, paragraphs 5.10-5.13, and exhibit 5.3.</p>
<p>Ofcom's proposal to introduce the main principles behind its 2014 Access Pricing Review as guidance.</p>	<ul style="list-style-type: none"> • Royal Mail has major concerns about proposals in relation to the Access Pricing Review. In substance, Ofcom is seeking to introduce the main principles underpinning its 2014 Access Pricing Review proposals in the form of guidance. The use of guidance raises issues of procedural fairness and administrative law. These proposals are a materially retrogressive change from the 2012 framework. Their proposed application now – despite the absence of direct delivery competition in the letters segment – would restrict our commercial freedom in the future in an unnecessary and disproportionate fashion. <p>References: Chapter 5 summary, paragraphs 5.14-5.16, exhibit 5.4, and Appendix 5.2.</p>

Appendix 5.1 – Royal Mail's proposed amendments to the revised USPA 7 condition.

USPA 7.3 (c) For the avoidance of doubt, unless a shorter period has been agreed between the Universal Service provider and a D+2 Access Operator prior to or after the adoption of this USP Access Condition 7.3(c), any term or condition of the Standard Terms and Conditions which purports to provide for general agreement between the Universal Service provider and the D+2 Access Operators to a shorter period for prior notice of any future amendments to its charges shall not be deemed to constitute an agreement to a notice period shorter than ten weeks before the amendment is due to take effect for the purposes of USPA 7.3(a).

USPA 7.4(c) For the avoidance of doubt, unless a shorter period has been agreed between the Universal Service provider and a D+2 Access Operator prior to or after the adoption of this USP Access Condition 7.4(c), any term or condition of the Standard Terms and Conditions which purports to provide for general agreement between the Universal Service provider and the D+2 Access Operators to a shorter period for prior publication of any future amendments to a term or condition of those Standard Terms and Conditions shall not be deemed to constitute an agreement to a notice period shorter than ten weeks before the amendment is due to take effect for the purposes of USPA 7.4(a) or USPA 7.4(b)(iii).

Appendix 5.2 - Comparison of key paragraphs from Ofcom Review of the Regulation of Royal Mail (25 May 2016) - emphasis added.

Paragraph 6.12: 2012 Principles	Paragraph 6.22: APR Proposals	Paragraph 6.33: Ofcom's 2016 Proposals	Comparison:
<ul style="list-style-type: none"> take into account the alignment of zonal prices with Royal Mail's costs. Furthermore, in moving geographic areas (e.g. postcode sectors, postcode areas) between zones, Royal Mail should take into account the alignment of prices and costs. Zonal costs should be derived in accordance with Royal Mail's Regulatory Financial Reporting obligations; 	<ul style="list-style-type: none"> A rule requiring that, for every service, the ratio of zonal charges equal the ratio of zonal costs (on a fully allocated (FAC) basis); 	<ul style="list-style-type: none"> a) Alignment of zonal prices with costs – i.e. that the ratio of zonal prices should be broadly equivalent to the ratio of zonal costs on a FAC basis. We do not consider it is appropriate that Royal Mail recovers its fixed costs differentially depending on the type of area that recipients live in. Royal Mail should take into account the alignment of prices and costs when changing geographic areas (such as postcode sectors or SSCs). For the avoidance of doubt this should be done on the basis of FAC costs and zonal costs should be derived in accordance with Royal Mail's Regulatory Financial Reporting obligations. 	<ul style="list-style-type: none"> Part A of Paragraph 6.33 draws on the APR principle of preventing Royal Mail from earning different margins in each zone (set out in paragraph 6.22). It requires that this be done on a Fully Allocated Cost (FAC) basis. <i>Royal Mail's Regulatory Financial Reporting obligations have never required this.</i> Earning different margins in different zones is a rational competitive response. It relates to the accepted economic principle of 'Ramsey Pricing' which maximises total welfare. Preventing this will limit Royal Mail's commercial freedom, should either: <ul style="list-style-type: none"> » entry re-occur on a zonal basis; or » there be a need to change the zonal tilt as the market develops.
-	<ul style="list-style-type: none"> A zonally priced service must be offered for every access service available priced on a national basis; 	-	<ul style="list-style-type: none"> Neither included in 2012 principles, nor in Ofcom's 2016 proposed guidance.
<ul style="list-style-type: none"> seek to ensure that the weighted average of zonal access prices is broadly comparable to the national 	<ul style="list-style-type: none"> The weighted average of the zonal prices for each service must be equal to 	<ul style="list-style-type: none"> b) All national (or sub-national) Access prices should equal the weighted average of zonal Access prices – this would mean that there is no price disadvantage for 	<ul style="list-style-type: none"> Part B of Paragraph 6.33 draws on the APR principle of ensuring that the national plan must equal the weighted average of zonal

Paragraph 6.12: 2012 Principles	Paragraph 6.22: APR Proposals	Paragraph 6.33: Ofcom's 2016 Proposals	Comparison:
<i>access price:</i>	<i>any national charge:</i>	<i>Access users on the zonal price plans compared to any national (or sub-national) price plan.</i>	prices (set out in paragraph 6.22). <ul style="list-style-type: none"> This goes beyond the 2012 framework which required plans to be 'broadly comparable'.
-	<ul style="list-style-type: none"> Access prices must be national or zonal (thereby prohibiting sub-national price plans); 		<ul style="list-style-type: none"> Neither included in 2012 principles, nor in Ofcom's 2016 proposed guidance.
<ul style="list-style-type: none"> take into account the frequency of implementing changes to the terms of zonal access (including moving geographic areas between zones and revising the zonal structure) as well as the transactional costs for access users (and customers) of implementing the changes. Regard should be given to minimising such transactional costs for access users. 	<ul style="list-style-type: none"> The relevant zones would be specified in the condition (including rules on how geographic areas should be allocated to the different zones) and therefore the zonal structure could not be amended by Royal Mail (although it could propose new zones to Ofcom). 	<ul style="list-style-type: none"> c) Stability and cost justification for changes to the zonal structure – we also consider that there should be a reasonable level of stability in relation to zonal structures (i.e. the number and make-up of zones) and/or how geographic areas are allocated to zones. Any changes should be cost justified to minimise the potential for manipulation to disadvantage end-to-end competitors. Royal Mail should consider how it can minimise the transaction costs for users if cost justified changes are made. 	<ul style="list-style-type: none"> Part C of Paragraph 6.33 draws on the APR principle of cost justification for changes to the zone structure, similarly to Part A. This is an unnecessary restriction on Royal Mail's commercial freedom. Requiring changes to be cost justified on a FAC basis (Part A), is unnecessarily, and unjustifiably, restrictive. We firmly believe that the 2012 principle still offers the necessary certainty for Access users as it requires for regard to be given to minimising transaction costs and the frequency of changes.

Chapter 6 – USO for the 21st Century.

Ofcom question 4.

Royal Mail is the proud provider of the Universal Service. We are committed to the Government's overarching policy objective of delivering a high-quality Universal Service without Government subsidy. The postal Universal Service is vital to UK economic growth. The current scope of the USO should not be reduced. It meets the needs of businesses and consumers. It optimises the revenues available to fund it.

The postal market and user needs are evolving. For the Universal Service to stay contemporary and relevant, it needs to be in tune with market developments. Conversely, opting not to update the USO will remove, over time, new or existing revenue pools essential to support a financially sustainable Universal Service. A market funded Universal Service needs to be contemporary and market facing.

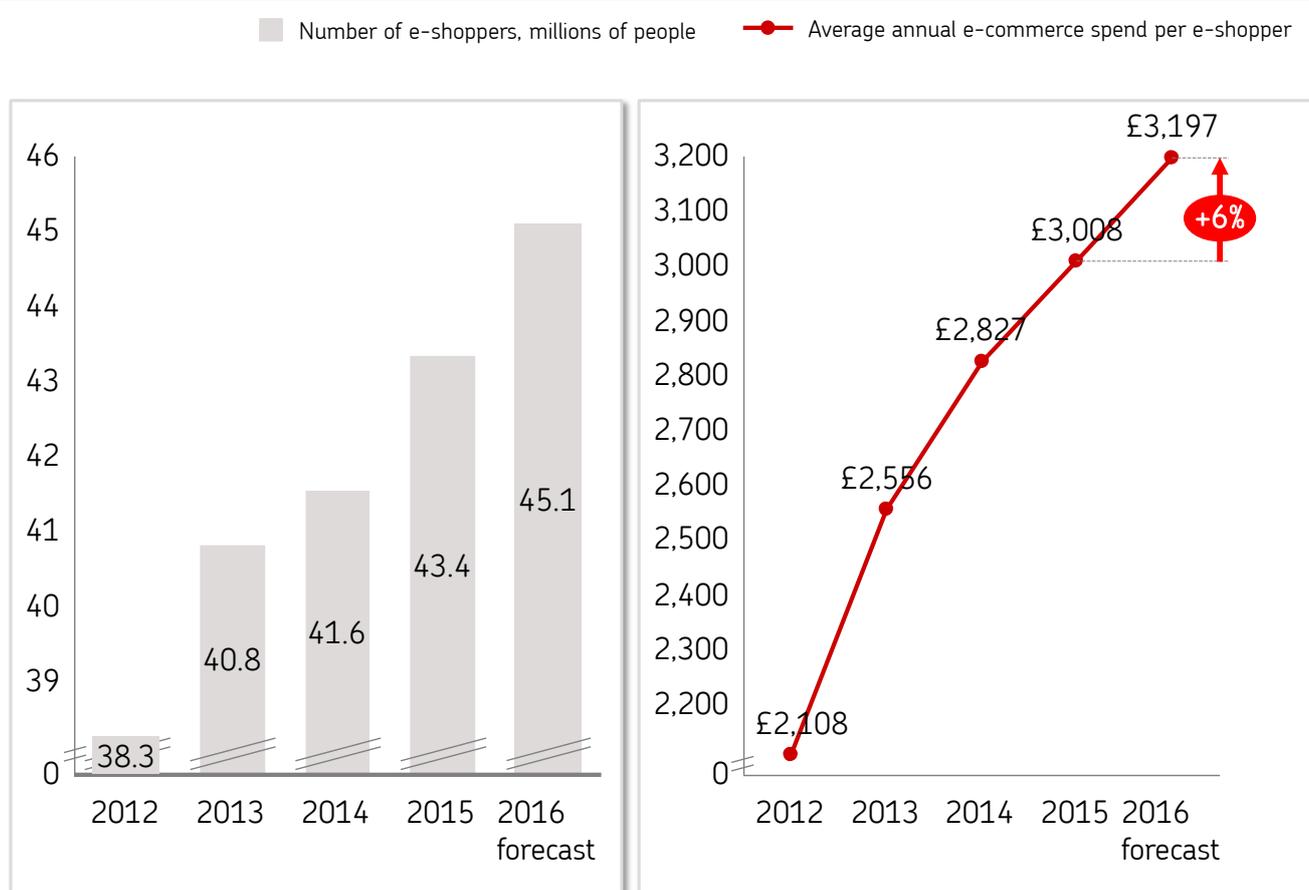
Ofcom is not proposing to reduce the scope of the USO. But it has said it will conduct a User Needs Review within the next five years. Any such review should start from the premise that revenue pools need to be sustained to fund the USO. It should not exclusively focus on the potential cost savings generated by specification reductions. More immediately, Ofcom should actively support the Universal Service by removing historic regulation, which restricts Royal Mail's ability to compete for new or existing revenue pools, e.g., the prohibition of end-to-end tracking of standard parcels in the USO.

- Royal Mail is committed to the Government's overarching policy objective of delivering a high-quality Universal Service without Government subsidy. **The highly specified Universal Service is vital to UK economic growth.** It is integral both to the digital economy and the Government's broadband strategy.
- **The current scope of the USO should not be reduced. It meets the needs of businesses and consumers. It optimises the revenues available to fund it.** Customers want and expect faster and more frequent parcel delivery. There is market demand for fast delivery of important letter communications. The USO specification, including First Class, is well configured to meet these needs.
- The Universal Service operates in a changing and dynamic market. The way consumers and SMEs use letters mail is changing. Parcels – driven by e-commerce – are becoming ever more important. **For the Universal Service to remain relevant, it must be able to react quickly to changing user needs.** The current USO is underpinned by a set of prescriptive regulatory conditions, preventing it from remaining relevant.
- **A market funded Universal Service needs to be contemporary and market facing.** By contrast, Ofcom appears to have adopted a more minimalist view of the USO. For example, in the 2013 User Needs Review, Ofcom only considered the potential cost savings from scope reductions; it did not consider the revenue impacts. If the Universal Service is to remain financially sustainable, Ofcom should enable it to evolve and compete for new and existing revenue pools. The focus of future regulatory actions must start from an assessment of the impact on the revenues that support the USO.
- **Ofcom should focus on enabling the Universal Service to evolve:**
 - » **Ofcom should consider, in the User Needs Review, the critical centrality of letters and parcels revenue to the Universal Service, trends in the parcels sector, the continued importance of letters, and the recognition that reductions in specification may lead to asymmetric risk.**
 - » Ofcom should **remove certain restrictive regulation, like the prohibition of end-to-end tracking of standard parcels in the USO.**

The highly specified Universal Service is vital to UK economic growth.

6.1 Royal Mail is committed to the Government's overarching policy objective - delivering a high-quality Universal Service without public subsidy. **The highly specified Universal Service is vital to UK economic growth and key to the digital economy.** The digital economy currently represents 31% of UK GDP and is forecast to grow to 33% of UK GDP by 2020¹⁹⁶. **E-commerce is a significant proportion of the digital economy.** In 2014, e-commerce contributed £199 billion to the UK economy¹⁹⁷. As Ofcom observed, the UK had the highest per capita spend on e-commerce in 2014. The average e-commerce spend per e-shopper is forecast to increase by 6% from 2015 to 2016 (see Exhibit 6.1 below)¹⁹⁸. **Royal Mail is in a strong position to facilitate this e-commerce growth.** This is due to the comprehensive Universal Service and high customer satisfaction ratings. As Ofcom recognises: *"general satisfaction with postal services is very high and improving among both residential consumers (89% satisfied or very satisfied in 2015) and SMEs (77% satisfied or very satisfied with Royal Mail)"*¹⁹⁹.

Exhibit 6.1: Average e-commerce spend/e-shopper, £, millions of e-shoppers.



¹⁹⁶ Digital Economy as defined by Accenture Strategy - includes digital skills, digital technologies and digital accelerators: https://www.accenture.com/t00010101T000000__w_/gb-en/_acnmedia/PDF-4/Accenture-Strategy-Digital-Disruption-Growth-Multiplier.pdf#zoom=50

¹⁹⁷ Using the website sales statistic of ONS: sales over a website or "app" irrespective of the payment method.

¹⁹⁸ Using data from United Kingdom B2C E-commerce Report 2016 (E-Commerce Foundation) - 2016 forecast for number of e-shoppers is indicative only. It is calculated by applying the average growth rate of the previous three years to the 2015 figure. Exchange rate conversion (1€ = £0.84). E-commerce defined as all B2C online transactions (excluding: returns, C2C, B2B, online gambling and gaming, cars and other motor vehicles, houses and real estate, utilities (e.g., water, heating and electricity), mortgages, loans, credit cards and overdrafts, savings accounts, funds, stocks & shares and bonds).

¹⁹⁹ Ofcom, Review of the Regulation of Royal Mail. 25 May 2016, paragraph 4.9.

6.2 **A healthy e-commerce market requires a highly specified postal service.** The majority (89%²⁰⁰) of physical e-commerce value (e.g., not media downloads or services) requires delivery to the consumer's door. It is estimated that around [X] e-commerce parcels were sent in the UK in 2014²⁰¹. Royal Mail's Universal Service network handles a significant proportion of this, six days a week, wherever consumers are based in the UK. As Triangle Management found (see Exhibit 6.2) Royal Mail offers unmatched depth of coverage, value for money, and convenience for both consumers and SMEs. The Universal Service offers the strongest²⁰² combination of service benefits e.g., insurance coverage, compensation, confirmation, and transit times – at competitive prices.

The current scope of the USO should not be reduced. It meets the needs of businesses and consumers. It optimises the revenues available to fund the Universal Service.

6.3 Ofcom is not reviewing the scope of the USO in this regulatory review. **Nevertheless, Royal Mail does not wish to see a reduction in the current scope.** The current specification meets the needs of businesses and consumers. It optimises the revenues available to fund the Universal Service. Customers want and expect faster and more frequent parcel delivery. There is market demand for fast delivery of important letters communications. Ofcom recently found that *“a majority of adults say that they would feel cut off from society if they couldn't send or receive post”*²⁰³. **The current USO specification is well configured to meet these needs.** Its key elements include: First Class, overnight six days a week delivery, and VAT-exempt uniform prices. For the Universal Service to remain relevant, it must, at a minimum, retain these features. **Without the USO or with specification reductions, there would be significant gaps in market provision.** This is illustrated by Triangle Management's comparison of USO parcel services and their equivalent from 12 competitive providers²⁰⁴. **Other national postal administrations** have indicated that they **remain committed to their current USO specifications.** Thomas Baldry, Senior Vice President of Deutsche Post, DHL, stated that, for Deutsche Post, the USO: *“instead of a burden... [it] is really an asset to go to so many households daily”*²⁰⁵.

²⁰⁰ 2015 estimate from Verdict data (excludes products acquired through a service contract/subscription service, tickets & events, travel sales and financial services) – e-commerce up to 30kgs excluding Click & Collect and PUDO.

²⁰¹ Royal Mail estimate – B2C large letters and parcels up to 30kg.

²⁰² Royal Mail offers at least one more service benefit than the best priced competitor within each weight category. For the same combination of service benefits, alternative providers offer higher price points than Royal Mail.

²⁰³ Ofcom. The Communications Market 2016. 4 August 2016.

²⁰⁴ UKMail; Hermes; Yodel; Doddle; Interlink; TNT; UPS; DHL; DPD; DX; InPost; UKMail eBay Drop-off.

²⁰⁵ Post and Parcel, 10 June 2015, <http://postandparcel.info/65563/news/universal-service-remains-important-but-needs-updating-argue-european-postal-chiefs/>.

Exhibit 6.2: Triangle Management Insights (2015) – the depth of coverage of the USO compared to the broader market.

Value for money:

- Royal Mail **provides compensation for all standard services**. Only two alternative providers offer compensation – as standard and without charge – across their entire product offering.
- Royal Mail's Special Delivery product offers the **highest standard insurance (£500)**. The next closest competitor offers £100.
- Saturday delivery is increasingly important for e-commerce. **Only one alternative provider offers Saturday delivery at no extra charge.**

Depth of coverage:

- Royal Mail provides **universal coverage**. Only two alternative providers offer all their products everywhere, including rural areas. Four parcel operators do not offer services at all to remote areas.
- Only Royal Mail **delivers to all parts of the country to the same service standards** with a geographically uniform tariff. Alternative providers offer services at a slower delivery speed – often incurring surcharges. Seven out of the nine alternative providers that deliver to remote areas surcharge, with the average being £11 (range £1-£57).

Convenience:

- While there has been a significant expansion in the number of alternatives to the Post Office, Royal Mail still offers a **denser network of access points** ([X] of the access network) for shipping, returns, and collections than alternative providers (CollectPlus at [X], and MyHermes at [X])²⁰⁶.
- [X] of addresses are within 1km of a Royal Mail parcel access point. For comparison, the operator with the next closest coverage – [X] – has [X] of addresses within 1km of one of its parcel shops²⁰⁷.

The Universal Service operates in a dynamic market and must be able to react quickly to changing user needs. A market funded USO needs to be contemporary and market facing.

6.4 **Parcels are becoming ever more important.** Royal Mail is transitioning from a letters company that delivers parcels, to a parcels company that delivers letters. Since 2013, e-substitution of letters has continued and competition in parcels has increased (see Chapter 3). Ofcom lists eight operators in the UK – excluding Royal Mail and Parcelforce – that offer consumer and SME single piece parcel services²⁰⁸. These operators have no regulatory requirements to provide certain services, deliver everywhere, or meet quality and affordability requirements. They can choose where and when they deliver, what kind of parcels they will handle and what service specification they provide. Many do not cover the high cost to serve areas. If they do, they apply a surcharge or reduced service specification²⁰⁹. **For the Universal Service to remain relevant, it must be able to react quickly to changing user needs and the competition.** The PSA 2011 set out the requirements for the Universal Service on a characteristics basis. The PSA 2011's objective was to allow the USO to evolve over time – remaining relevant and contemporary. As Article 5 of the Postal Services Directive states, the Universal Service should: *“evolve in response to the technical,*

²⁰⁶ [X].

²⁰⁷ [X].

²⁰⁸ Yodel, DHL, DPD, DX, Hermes, InPost, UK Mail, and UPS.

²⁰⁹ Triangle Management research for Royal Mail: Alternative competitive provision offers services at a slower delivery speed, and 7 out of the 9 alternative providers that deliver to remote areas surcharge.

*economic, and social environment and to the needs of users”*²¹⁰. The current regulations do not provide this flexibility. In 2012, the existing USO specification was transposed into the new framework. Ofcom did so to ensure the Universal Service could not be changed ahead of its User Needs Review – subsequently concluded in 2013. This approach now, however, is **in danger of restricting the Universal Service’s ability to remain up to date. Decisions – or non-decisions – that prevent the Universal Service from changing could have a significant impact.** The USO needs to be in tune with market developments. Only if it is able to do so, will the Universal Service be able to compete for the existing, and new, revenue pools available and necessary to sustain it²¹¹.

- 6.5 **Ofcom appears to have adopted a more minimalist view of the USO.** This was reflected in its 2013 User Needs Review. In that review, Ofcom only considered potential cost savings from reducing the scope of the USO. It did not consider the revenue impact of those changes. Ofcom also did not look at options to update the USO or expand it. Its recent decision to keep the tracking prohibition on USO products, other than Special Delivery, is another illustration of this philosophy. It appears that only in the specific circumstances when: (a) there is a demonstrable need; and (b) the rest of the market cannot meet that need, would Ofcom consider removing the tracking prohibition in the USO. A focus on sustaining the revenue pools needed to fund the USO should be a key part of the regulators approach but this does not currently appear to be part of its framework.
- 6.6 **Royal Mail believes that Ofcom needs a new way of thinking about the Universal Service.** Royal Mail operates in a fragile ecosystem with limited room for manoeuvre. There are significant risks to the financial sustainability of the USO. If USO products are not allowed to evolve over time – as user expectations develop – consumers will increasingly turn to the competition. This volume and revenue loss would significantly impact Royal Mail due to its high, fixed cost structure, especially in the short-to-medium term. A loss of demand has a greater and immediate impact on revenues than it has on costs. A relatively low loss of market share could have a material impact on revenue. Royal Mail could not respond to falling volumes by increasing prices because of the likelihood of accelerating e-substitution or switching to other parcel providers. In addition to this market constraint, the PSA 2011 requires that Universal Services are “affordable”²¹². **Consequently, Royal Mail would have very few options available to maintain USO revenue pools.** Furthermore, since it is unlikely that competitors would cover all areas of the country, with all service attributes of the USO, we would still need to maintain a Universal Service for parcels but with diminished products and revenues. **Ofcom should therefore focus on enabling the Universal Service to evolve.**

Ofcom should focus on enabling the Universal Service to evolve.

In the upcoming User Needs Review, the critical centrality of letters and parcels revenue to the Universal Service needs to be a key feature.

- 6.7 **The critical centrality of parcels and letters revenues to the Universal Service should be a key feature of any User Needs Review.** So too should trends in the parcels sector, the continued importance of letters, and the recognition that specification changes may lead to asymmetric risk. The review should include as a central feature the impact of specification changes on the financial sustainability of the Universal Service. **Recognition that alternative revenue pools will not be available should be an important**

²¹⁰ Postal Services Directive, Article 5.

²¹¹ In citing the promotion of competition, for example, stating that allowing tracked parcels in the USO could “*risk damaging growing but relatively recent competition in single piece parcels*”, Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.8.

²¹² Postal Services Act, 2000, Part 1 Section 4(1)b.

component too. The alternative to revenue pools, i.e., a Government subsidy or a compensation fund, both undesirable public policy outcomes, are limited and very modest when applied in other countries (see Chapter 9). Ofcom should consider to what extent the market would provide value for money services to a similar level of provision of the USO. **Ofcom should also adopt a similar approach to the USO as it does in broadband,** i.e., focusing on what will remain attractive to consumers. In broadband, for example, Ofcom is taking the average broadband usage of a normal person rather than the minimum usage. Ofcom has also explicitly acknowledged the need for the **broadband USO to evolve as users' needs expand.** Ofcom needs to build the same flexibility into the regulatory conditions that underpin the postal USO.

Ofcom should remove certain restrictive regulation now, like the prohibition of end-to-end tracking of standard parcels in the USO.

- 6.8 **Ofcom is proposing not to amend the Postal Services Order and DUSP to allow tracking for standard First and Second Class single piece parcels.** Ofcom concludes that there: *“does not [...] seem to be an urgent need to review user needs in relation to the tracking of parcels”*²¹³. Ofcom also says that: *“the majority of single piece parcels are untracked”*²¹⁴. **The fact that USO products are untracked is not an indication that customers do not need tracked services.** As Ofcom is aware, the majority of single piece parcels are delivered through the Universal Service where there is a prohibition on tracking. In short, the regulatory prohibition – rather than customer need – means the majority of parcels are untracked.
- 6.9 Ofcom states that it: *“would only change the Universal Service Order to include tracked parcels as a standard feature, if we had **evidence to suggest that user's needs have changed**”*²¹⁵. Since 2012, we have seen an increase in competition in single piece parcels (see Chapter 3). Ofcom lists eight operators (excluding Royal Mail and Parcelforce) that offer consumer and SME single piece parcel services²¹⁶. All of these operators offer tracked services. All are in direct competition with the Universal Service. **More consumers will come to expect the facility to track their parcels.** With no tracking in the USO, Royal Mail's offer will become less attractive to consumers, and retailers who purchase parcel delivery services on their behalf. Its ability to compete to retain its revenue pools will diminish. At the same time, Ofcom states that: *“it is important that consumers are able to benefit from innovative developments such as tracking”*²¹⁷. But, Ofcom has decided not to allow consumers using the Universal Service to benefit from this. Instead, Ofcom is going to *“monitor user needs”*²¹⁸. The time it will take for Ofcom to monitor the market and complete the regulatory process to make a change – could take years. This could have an impact on the attractiveness of Royal Mail investing in options that will enhance USO services.
- 6.10 As a further reason for maintaining the prohibition on tracking, Ofcom states that: *“there is a risk that allowing Royal Mail to offer tracking in the Universal Service could give it an advantage over its competitors since Universal Service products are currently exempt from VAT. Royal Mail would therefore benefit from a price advantage for tracked parcels which could harm competition in the parcels market”*²¹⁹. USO products are VAT-exempt because they are in the public interest and must be provided as part of a policy obligation. **All European posts have the same exemption for USO services.** Any ‘**advantage**’ that is gained from the **VAT position** on USO services, is **outweighed by the large network and high fixed costs** of being the

²¹³ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.12.

²¹⁴ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016 paragraph 5.11.

²¹⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.10.

²¹⁶ Yodel, DHL, DPD, DX, Hermes, InPost, UK Mail, and UPS.

²¹⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.12.

²¹⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.14.

²¹⁹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016 paragraph 1.21.

DUSP. Our competitors are not required by law to deliver the same specification as the USO – neither do they have the legacy labour model of Royal Mail.

- 6.11 Ofcom also argues that *“there is nothing preventing Royal Mail from **offering tracked First and Second Class parcels outside of the universal service**”* ²²⁰. While it is true that Royal Mail could develop a non-USO standard consumer tracked service, it **would not make commercial sense to do so**. For a tracked non-USO product to be attractive – as it does not have enhanced compensation and/or guaranteed delivery – it would have to be priced in a similar way as our standard USO service. It would then, however, undermine the revenues of USO products.
- 6.12 Visibility of their items is becoming important for consumers. We are looking to produce a confirmation of delivery scan for USO parcels, to help respond to that need. Royal Mail is making a major investment expanding and automating our parcel network. We want to continue, over time, to be able to respond to changing customer needs, including possibly introducing end to end tracking on USO standard parcels. Clearly, if that option became available within the USO, it would take us some time to introduce and apply across our product set. This would be a large and complex task given the number of USO parcels we handle. It would also encompass many aspects of our day to day delivery activities. It is a complex task to join up the operations and IT aspects of tracking. So, it would take us time to develop our product set. **Removing the restrictive regulations regarding tracking in the USO would be a key first step in a process that would enable us to offer tracking to Universal Service customers.**

²²⁰ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.13.

Overview of paragraphs referenced in response to Ofcom Fundamental Regulatory Review, questions 4.

<i>Questions answered in Chapter.</i>	<i>Summary responses and references.</i>
<p>Question 4: <i>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.</i></p>	<p>No:</p> <ul style="list-style-type: none"> • Ofcom should remove the restrictive regulation that prevents end-to-end tracking of standard parcels in the USO. Royal Mail believes that Ofcom needs a new way of thinking about the Universal Service. Royal Mail operates in a fragile ecosystem with limited room for manoeuvre. There are significant risks to the financial sustainability of the USO. If USO products are not allowed to evolve over time - as user expectations develop - consumers will increasingly turn to the competition. We want to continue, over time, to be able to respond to changing customer needs, including possibly introducing tracking. Clearly, if that option became available within the USO, it would take us some time to introduce and apply across our product set. • Opting not to update the USO will remove, over time, new or existing revenue pools. This will make it more difficult to fund the Universal Service. A market funded Universal Service needs to be contemporary and market facing. Furthermore, we do not agree with Ofcom's proposal not to allow tracking because USO products are VAT exempt²²¹. USO products are VAT-exempt because they are in the public interest. All European posts have the same exemption for USO services. Any 'advantage' that is gained from the VAT position on USO services, is outweighed by the large network and high fixed costs of being the DUSP. • While it is true that Royal Mail could develop a non-USO standard consumer tracked service, it would not make commercial sense to do so. For a tracked non-USO product to be attractive - as it does not have enhanced compensation and/or guaranteed delivery - it would have to be priced in a similar way as our standard USO service. It would then, however, undermine the revenues of USO products. <p>References: paragraphs 6.7, 6.8 to 6.12.</p>

²²¹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016 paragraph 1.21.

Chapter 7 – Appropriate regulatory consumer protections in parcels.

Ofcom questions 7, 9, 12 and 13.

E-commerce relies on a parcels sector with a good delivery experience. Consumer research²²² shows that quality of service across the parcels industry needs to improve. This is particularly important as end recipients typically do not choose the parcel delivery company when purchasing online. In most cases, the e-retailer makes that choice for them.

Royal Mail adheres to a highly developed set of regulatory standards for the delivery of parcels and provides redress in the event that something goes wrong²²³. Other major parcels operators either have little or no regulatory consumer protection standards applied to them. Ofcom's proposals do not address the quality of service issues, or the need for a minimum set of consumer protection standards for all major parcels operators.

Ofcom appears to assume that competition in itself will provide sufficient consumer protection. This position does not take into account lessons learnt from other regulated network industries, like telecoms. In that sector, Ofcom has implemented a range of consumer protection standards, and is currently consulting on increasing them.

- **There are issues with quality of service in the parcels sector. This may impede the growth of e-commerce.** 40% of consumers say that delivery concerns are a barrier to them shopping more online²²⁴. In 2015, MetaPack found that 43% of consumers have had a negative delivery experience²²⁵. Over 80% of consumers and small businesses believe it is important, or very important, for all parcel operators to have consistent mail integrity standards²²⁶.
- **The development of the parcels sector has outpaced consumer protection regulation. Most operators are subject to little or no consumer protection standards.** For example, major new players, such as Amazon Logistics, are not recognised as postal operators, and so are not subject to any regulatory consumer protections at all. Established postal operators (other than Royal Mail) are only required to provide consumers with a basic complaints process. Royal Mail, by contrast, as the Designated Universal Service Provider (DUSP), adheres to 32 consumer protection requirements relating to parcels. Higher standards generate better outcomes for the consumer. In parcels, the ratio of mail integrity complaints is 80% lower for Royal Mail than that of the weighted average of its peers²²⁷.
- **Appropriate consumer protection standards have been introduced in other regulated markets.** In telecoms – where consumer protections are already more extensive than post – Ofcom is currently consulting to strengthen them further²²⁸. In the airlines industry, rising competition in the mid-1990s

²²² MetaPack, Delivering consumer choice: 2015 State of e-Commerce Delivery. Survey of consumers from UK, US, France, Germany, Spain and the Netherlands.

²²³ Royal Mail is required to adhere to the Mail Integrity Code of Practice which includes the security of relevant mail, as well as Consumer Protection Conditions, including CP 3.3, requiring a comprehensive consumer complaints and redress scheme. Royal Mail is also the only UK postal operator required to meet regulatory Quality of Service targets.

²²⁴ IMRG Consumer Home Delivery Review, 2016.

²²⁵ MetaPack, Delivering consumer choice: 2015 State of e-Commerce Delivery. Survey of consumers from UK, US, France, Germany, Spain and the Netherlands.

²²⁶ Illuminas, delivery experience report July 2016, commissioned by Royal Mail and surveying over 3,366 consumers and businesses.

²²⁷ Royal Mail's internal reports for complaints data compared to the average of 6 peers in the parcels sector with market shares greater than 4% (as per Ofcom's Fundamental Regulatory Review).

²²⁸ Ofcom automatic compensation, call for input, 10 June 2016 <http://stakeholders.ofcom.org.uk/consultations/automatic-compensation/>.

invoked an era of cheap air travel. But concerns about the absence of consumer protections led the European Commission to intervene in 2005²²⁹.

- **Ofcom should apply a minimum set of regulatory consumer protection standards to all major parcels operators to protect the safety and security of consumers' parcels:**
 - » **Ofcom should broaden the proposed definition of “Relevant Postal Operator”** to include all major players, including Amazon Logistics and Argos²³⁰.
 - » **Ofcom should extend the mail integrity and complaints handling process requirements to all ‘Relevant Postal Operators’.** Ofcom should also undertake periodic reviews to ensure high quality complaints processes are being applied.
 - » **Ofcom should extend the requirements to provide a redress process and ADR scheme, and appropriate financial compensation (in the event that something goes wrong), to all UK parcel operators providing ‘Single Piece’ type parcel services²³¹.** These requirements should cover all ‘Relevant Postal Operators’ to the extent that they offer ‘Single Piece’ type parcel services.

There are issues with quality of service in the parcels sector. This may impede the growth of e-commerce.

7.1 **E-commerce is an increasingly important sector for the UK.** As discussed in Chapter 6, the digital economy is important to the UK. It now represents 31% of UK GDP²³² and is continuing to grow rapidly with a 12% CAGR²³³. High quality delivery services are vital to support the digital economy and meet the Government’s stated objective to: *“ensure that the UK has the right infrastructure to meet the needs of business and consumers and enable the UK to remain a leading digital nation”*²³⁴. Nearly 90% of physical e-commerce value requires postal home delivery²³⁵; the parcels segment now accounts for 63% of the postal market²³⁶ (see Chapter 3).

7.2 **Quality of service in the wider parcel industry needs to improve to ensure consumer confidence.** Ofcom states: *“consumers and businesses are satisfied with the postal market”*²³⁷. There is evidence to suggest, however, that this is not always the case, particularly in the parcels sector. In 2015, MetaPack found that 43% of consumers have had a negative delivery experience²³⁸. Citizens Advice found that 82% of consumers had experienced an issue in the last two years²³⁹. These issues negatively impact ecommerce

²²⁹ Regulation (261/2004) – supported by the European Court of Justice (ECJ) Judgement on 23 October 2012.

²³⁰ Through its partnerships with eBay and UK Mail.

²³¹ “Single Piece” as defined in Annex 4 – CP3.1.2.(o).

²³² Digital Economy as defined by Accenture Strategy – includes digital skills, digital technologies and digital accelerators, https://www.accenture.com/t00010101T000000__w_/gb-en/_acnmedia/PDF-4/Accenture-Strategy-Digital-Disruption-Growth-Multiplier.pdf#zoom=50.

²³³ B2C e-commerce includes: all online transactions between businesses and consumers using desktop computers, laptops, tablets, smartphones, point-of-sales and smart-wearables, but excludes returns. Online purchases excluded: C2C and B2B, Online gambling and gaming, Cars and other motor vehicles, Houses and real estate, Utilities (e.g., water, heating and electricity), Mortgages, loans, credit cards and overdrafts, Savings accounts, funds, stocks & shares and bonds.

²³⁴ Government response to the Ofcom Strategic Review of Digital Communications and Business Connectivity Market reviews. 30 March 2016.

²³⁵ 2015 estimate from Verdict data (excludes product acquired through a service contract/subscription service, tickets & events, travel sales and financial services) – e-commerce up to 30kgs and excludes Click & Collect and PUDDO. Exact figure is 89%.

²³⁶ Ofcom, Annual Monitoring Update on the Postal Market, 2014–15. UK letters revenues are £4.2 billion and UK parcels revenues are 7.4 billion.

²³⁷ Ofcom Consumer Experience Report 2015, paragraph 4.5.1.

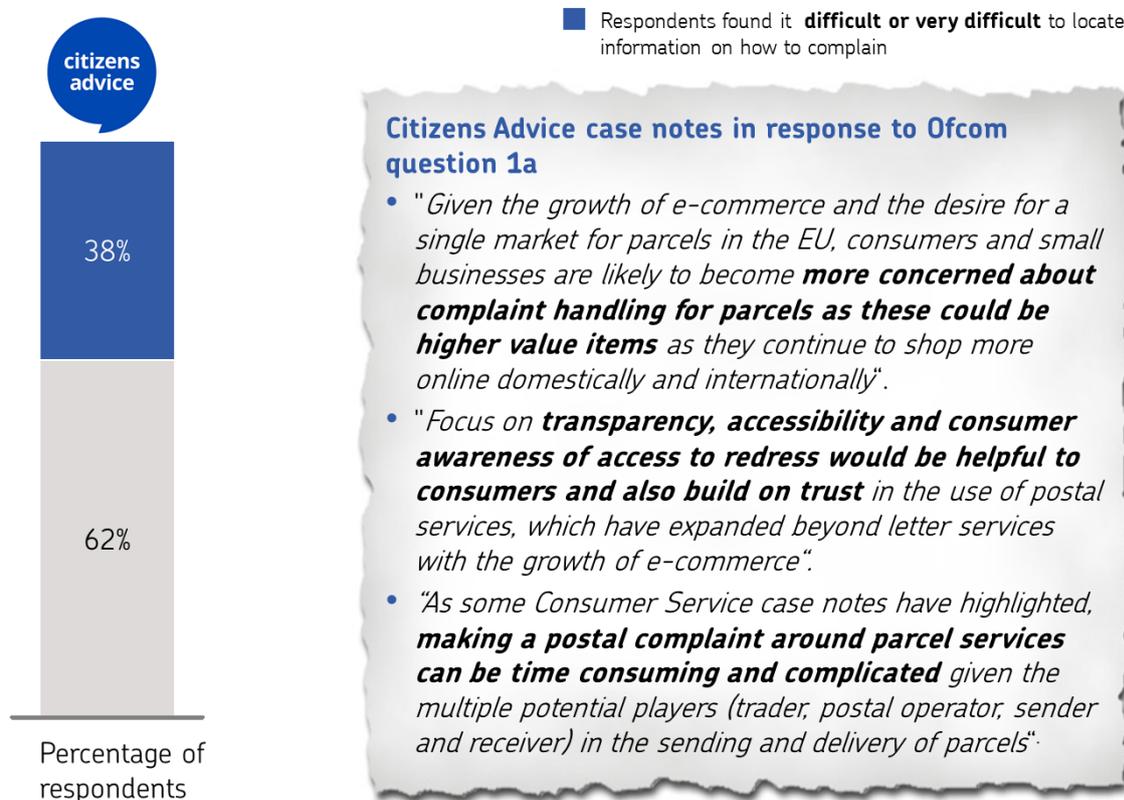
²³⁸ MetaPack Delivering consumer choice: 2015 State of e-Commerce Delivery. Survey of consumers from UK, US, France, Germany, Spain and the Netherlands.

²³⁹ CitA / CCNI Letter to Ofcom, dated 21 April 2015 – response to call for evidence complaints handling (answer 1.a.).

growth. 45% of consumers said they are unlikely to shop with a retailer again, following a poor delivery experience²⁴⁰. 40% of consumers say that delivery concerns are a barrier to them shopping more online²⁴¹. If consumer confidence in e-commerce is to be maintained, these issues must be addressed by Ofcom.

7.3 Poor quality of complaints handling and redress is an issue for consumers. Royal Mail disagrees with Ofcom's statement that it: "found no indication that there were any major issues relating to complaint handling and redress"²⁴². Ofcom has not disclosed the results of any consumer research to support its position. Nine stakeholders responded to Ofcom's open letter on complaint handling and redress²⁴³. Five stakeholders raised concerns, three of which recommended increasing consumer protections on parcel operators²⁴⁴. This included the BBC Licence Fee Unit, Citizens Advice and the Communications Consumer Panel. When consumers have a complaint, Citizens Advice found that 38% of consumers said it was either difficult or very difficult to locate information on how to complain²⁴⁵ (Exhibit 7.1).

Exhibit 7.1: Citizens Advice identifies issues in consumer complaints procedures and access to redress²⁴⁶.



7.4 New research commissioned by Royal Mail has found that consumers value high and consistent levels of mail integrity, complaints handling, and compensation processes (see Exhibit 7.2). 85% of online shoppers consider that knowing their parcel will be protected against loss, damage, or theft is important, or very important. 81% of consumers believe it is important, or very important, for all parcel

²⁴⁰ MetaPack Delivering consumer choice: 2015 State of e-Commerce Delivery. Survey of consumers from UK, US, France, Germany, Spain and the Netherlands.

²⁴¹ IMRG, Consumer Home Delivery Review, 2016.

²⁴² Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 7.80.

²⁴³ Citizens Advice, Citizens Advice Scotland, Consumer Counsel (NI) (joint submission), DX Group, Association of International Courier Express services, BBC's Licence Fee Unit, Communication Consumer Panel, Mail Competition Forum, Whistl, Royal Mail, and an independent submission.

²⁴⁴ BBC Licence fee trust, Citizens Advice, Communications Consumer Panel, Jerry Cox (independent respondent), Royal Mail.

²⁴⁵ CitA / CCNI Letter to Ofcom, dated 21 April 2015 - response to call for evidence complaints handling (answer 1.a.).

²⁴⁶ See Citizens Advice Consumer Service case notes, issue 1 and 2 in Appendix 1 of letter to Ofcom, dated 21 April 2015.

operators to have consistent standards for complaint handling. 78% of consumers believe being able to get compensation from a parcel operator is important, or very important. But for example, Yodel and MyHermes exclude many everyday items from compensation for damage²⁴⁷. In many instances the items excluded are not fragile, such as tickets, SIM cards, and documents. These should be expected to be transported by post without sustaining damage²⁴⁸. Recent press reports demonstrate the growing need to increase regulatory consumer protections in parcels. For example, The Times recently ran a report on poor performance by a specific delivery operator²⁴⁹.

Exhibit 7.2: Illuminas market research report, July 2016²⁵⁰.

Mail Integrity:

- The top cause of complaints for senders and receivers of parcels is loss and damage;
- Over 80% of consumers and small businesses believe it is important or very important for all parcel operators to have consistent mail integrity standards;
- When shopping online, 85% of shoppers consider that knowing their parcel will be protected against loss, damage or theft is important or very important.

Complaints:

- 73% of buyers said they have no choice on who delivers their item when buying online;
- 81% of consumers believe it is important, or very important, for all parcel operators to have a consistent standard for complaint handling;
- 73% of small businesses believe it is important, or very important, to be able to access or use parcel tracking data and information when dealing with a customer complaint.

Compensation:

- 78% of sending consumers and marketplace sellers, and 80% of receiving consumers, believe being able to get compensation from a parcel operator is important, or very important;
- 82% of small businesses believe it is important, or very important, to be able to claim compensation for loss or delay, but over 33% consider it very difficult to make a claim.

The development of the parcels sector has outpaced consumer protection regulation. Most operators are subject to little or no consumer protection standards.

7.5 **Consumer protection regulation has not kept pace with the growth of e-commerce.** Postal operators are not held to the same set of minimum consumer protection standards. Unlike Royal Mail, other large and established operators are only required to provide a basic complaints process. Major new parcels carriers are not required to provide any consumer protections at all (see Exhibit 7.3):

- DUSP: **Royal Mail is currently covered by 32 consumer protection requirements.** Royal Mail provides a simple and cost effective complaints process, a redress scheme, and compensation for all USO parcels services. Royal Mail must publish quarterly complaints data, and comply with Mails Integrity Code of Practice (MICOP) for USO parcels. MICOP requires Royal Mail to minimise the risk of loss, theft,

²⁴⁷ 88 items for Yodel and 45 items for MyHermes

²⁴⁸ Yodel “no compensation items” <https://www.yodeldirect.co.uk/prohibited-items>. MyHermes “excluded items” <https://www.myhermes.co.uk/help/carry-guide.html>

²⁴⁹ The Times, 25th July 2016, “Thousands venting their fury over poor deliveries by Yodel”, page 17.

²⁵⁰ Commissioned by Royal Mail, surveying over 3,366 consumers and businesses.

damage, or interference, particularly in regard to premises, vehicles, and equipment. It also requires Royal Mail to have extensive policies to recruit, train, and discipline staff.

- Other large and established parcels operators: **Operators like DPD, TNT Express, Yodel, and Hermes, are not subject to any consumer protection requirements from Ofcom.** The only exception is the overarching requirement of Article 19 of EU Postal Services Directive, i.e., to provide a basic and cost effective complaints process.
- Major new delivery operators: **Operators such as Amazon Logistics and Argos are not even recognised as postal operators. They are not subject to any regulatory consumer protection requirements.** The only exception is general consumer protection law. This is, broadly speaking, aimed at the goods and services provided at the point of sale, rather than the delivery necessary to fulfil the order. This is not a level playing field.

Exhibit 7.3: There is no, or little, regulatory consumer protection for most parcels operators²⁵¹.

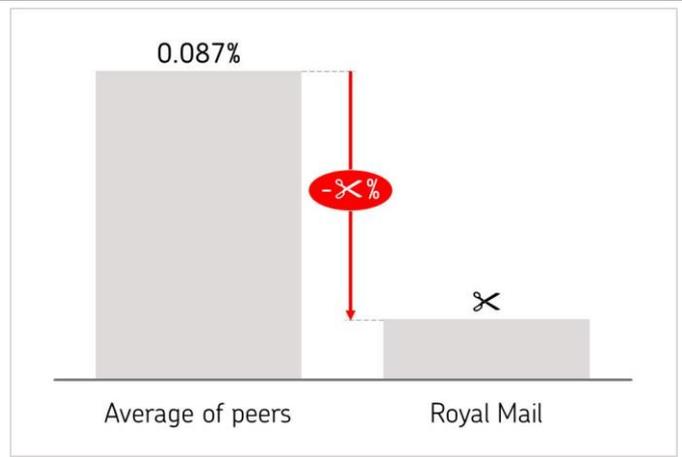
Operator type	Operators ⁴	Total number of requirements ⁶	Mails integrity standards	Publication of complaints data	Complaints process standards	Access to a redress scheme	Provision of compensation
DUSP ¹ (Royal Mail)		32 ⁷	✓ Ofcom sets out a code of practice	✓ Provides quarterly complaints data to Ofcom	✓ Ofcom prescribes detailed complaints process	✓ Notifies consumer of access to Alternative Dispute Resolution scheme	✓ Compensation on USO services. £20 for standard mail. £50 for signed-for mail
Other parcels operators ²		1	✗ No requirement	✗ No requirement	✓ Required to provide a basic and cost effective complaints process	✗ No requirement	✗ No requirement
Major new delivery operators ³		0	✗ No requirement	✗ No requirement	✗ No requirement	✗ No requirement	✗ No requirement

7.6 Royal Mail is proud to meet its mail integrity obligations. We often go above and beyond these minimum standards. For example, Royal Mail conducts criminal record checks on its staff as part of its recruitment policy (see Exhibit 8.3 in Chapter 8). We believe that industry-wide mail integrity requirements

²⁵¹ 1 DUSP: Designated Universal Postal Operator.
 2 Established parcel operators: Defined by Ofcom as Unregulated Postal Operator - these operators are only required to provide a basic and cost effective complaints process under Article 19 of the EU Postal Services Directive.
 3 Regulation and definitions were transposed from the Postcomm regime. They do not recognise major new delivery operators.
 4 Non-exhaustive, except for Royal Mail, which is the only DUSP.
 5 Argos provides 'Single Piece' type parcel services through its partnership with UK Mail, primarily for eBay sellers.
 6 Other than standard EU/UK consumer protections.
 7 Split as 8 in mails integrity, 3 in the publication of complaints, 16 in the complaints process, 1 in redress and 4 in the provision of compensation.

are needed to grow and sustain e-commerce, including processes to protect against the loss, theft, damage, and interference of mail. Consumer groups agree. Citizens Advice, Citizens Advice Scotland, and the Consumer Council for Northern Ireland have all made the case for the Consumer Protection Conditions to be "enhanced and brought closer in line"²⁵². **Royal Mail provides access to an Alternative Dispute Resolution Scheme (ADR). We also pay compensation for loss, damage and delay for USO service.** The current regulation requires us to have these processes in place and we will continue to provide them. But, Royal Mail believes that these same protections should be extended to other parcel operators that provide 'Single Piece' type services. To ensure consumers are protected regardless of the company that delivers their parcel.

Exhibit 7.4: Ofcom has not provided sufficient evidence to support the current lack of consumer protections in the wider parcels sector.

<i>Ofcom's position</i>	<i>Royal Mail's view</i>						
<ul style="list-style-type: none"> Mail integrity complaints are a "very low percentage", at 0.087%²⁵³ of total parcels conveyed²⁵⁴. 	<ul style="list-style-type: none"> Implementing higher mail integrity standards leads to fewer consumer complaints. Although small in percentage terms, 0.087% equates to c.700,000 parcels that are lost, damaged, or interfered with, leading to a customer complaint every year. In contrast, Royal Mail is held to high mail integrity standards. Its mail integrity complaints ratio is [✂]²⁵⁵ - 80% less than the weighted average of its peers. 72% of online shoppers say they trust Royal Mail. This compares to 42% for the nearest competitor²⁵⁶. <p>Exhibit 7.4a: Mail integrity complaints as a percentage of total parcels conveyed; Royal Mail compared to the average of its peers²⁵⁷.</p>  <table border="1"> <caption>Exhibit 7.4a: Mail integrity complaints as a percentage of total parcels conveyed</caption> <thead> <tr> <th>Entity</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Average of peers</td> <td>0.087%</td> </tr> <tr> <td>Royal Mail</td> <td>[✂] (80% less than average)</td> </tr> </tbody> </table>	Entity	Percentage	Average of peers	0.087%	Royal Mail	[✂] (80% less than average)
Entity	Percentage						
Average of peers	0.087%						
Royal Mail	[✂] (80% less than average)						

²⁵² CitA / CCNI Letter to Ofcom, dated 21 April 2015 - response to call for evidence complaints handling (answer 1.a.).

²⁵³ Ofcom consultation, Review of the Regulation of Royal Mail, May 2016, section 7.29. We have assumed that this figure does not include Royal Mail as Ofcom did not request any information from us.

²⁵⁴ We have assumed that all six parcels operators surveyed recognised "items" as parcels.

²⁵⁵ [✂].

²⁵⁶ Delivery Matters, Understanding the needs of the UK's online shoppers in 2015, Royal Mail.

²⁵⁷ Peers are recognised as 6 of the largest parcel operators surveyed by Ofcom. All parcels operators surveyed have a market share of "more than 4%"

<i>Ofcom's position</i>	<i>Royal Mail's view</i>
<ul style="list-style-type: none"> • <i>"The UK has one of the most competitive parcels markets in the world".</i> 	<ul style="list-style-type: none"> • While customers benefit from a competitive market, consumers do not have the ability to switch. Typically, the delivery contract is between the online retailer and the parcels operator. The online retailer may be more focused on negotiating price, rather than ensuring a high quality delivery experience. 73% of consumers say they have no choice on who is delivering their items when buying online²⁵⁸.
<ul style="list-style-type: none"> • <i>"Parcels are often tracked, and therefore there is less risk of an item being lost or stolen".</i> 	<ul style="list-style-type: none"> • Tracking does not preclude a poor delivery experience. The parcel could be delivered late, damaged, or left in an inappropriate place, leading to loss or theft.
<ul style="list-style-type: none"> • <i>"Parcels are often expected by the recipient and, therefore, non-arrival is more likely to be noticed".</i> 	<ul style="list-style-type: none"> • From the consumer's perspective, having the awareness that your parcel is missing is an 'after-the-event' solution. The consumer has already received some element of harm.
<ul style="list-style-type: none"> • <i>"Where the parcel delivery is fulfilling an online order, the receiving consumer is protected by consumer legislation".</i> 	<ul style="list-style-type: none"> • General consumer legislation does not cover non-trader marketplace sellers. Royal Mail estimates that over [X] of all B2C parcels in the UK are generated by marketplace sellers. In such cases – as the consumer is purchasing through a non-trader marketplace seller – they will not be covered by any consumer legislation or any regulatory consumer protection at all. The only exception would be if Royal Mail were the delivery operator.

Appropriate consumer protection standards have been introduced in other regulated network markets.

7.7 **Minimum regulatory consumer protection standards exist in other competitive markets.** Ofcom states that: *"the maintenance of a competitive market for parcels should be the key objective for a regulatory framework for the parcels sector"*²⁵⁹. Royal Mail welcomes parcels competition. It is a highly pronounced feature of the market. Competition by itself, however, does not obviate the need for a minimum set of consumer protections and standards. Other highly competitive industries have introduced protections to meet consumer needs and market failure (See Exhibit 7.5).

²⁵⁸ Commissioned by Royal Mail, surveying over 3,366 consumers and businesses.

²⁵⁹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016.

Exhibit 7.5: Other regulated, network industries have applied uniform regulatory consumer protections.

Case study 1: Telecoms

In telecoms, Ofcom is taking a different approach than it is for postal services.

- Consumers are protected by the provisions in the General Conditions which set **minimum standards applied to all telecoms services**²⁶⁰. These Conditions have expanded over the years. Interventions have covered a range of activities from sales and marketing²⁶¹, to customer complaints²⁶², and additional charges²⁶³. Ofcom has stated: *“We want to make sure that consumers get the best choice and value for money from their communications services and are protected from unfair terms and practices, while allowing competition to thrive”*²⁶⁴.
- Ofcom is currently **consulting to strengthen consumer protection in the telecoms industry** with its ‘Automatic Compensation’ call for inputs. This is a proposal to have an automatic compensation policy for consumers and smaller businesses when things go wrong with their communications services²⁶⁵. These consumer protection rules **would apply to all providers of telecoms**, ensuring a level playing-field and consistent consumer protections for all telecoms customers²⁶⁶.

Exhibit 7.5a: Consumer protections in the telecoms industry compared to postal services.

Operator type		Categories of consumer standards		
		Complaints process standards	Access to a redress scheme	Provision of compensation
 Parcels operators	Royal Mail	✓ Must provide a complaints process ✓ Ofcom prescribes detailed standards	✓ Must be a member of an Alternative Dispute Resolution Scheme	✓ Must offer appropriate compensation for USO services
	Other parcels operators	✓ All providers must provide a simple and cost effective complaints process	✗ No requirement	✗ No requirement
	Major new delivery operators e.g. Amazon Logistics	✗ No requirement	✗ No requirement	✗ No requirement
 Telecoms operators	✓ All providers required to have a Code of Practice outlining how they will deal with customer complaints ✓ Providers must offer ADR	✓ All providers offering services to individuals and small businesses (up to 10 employees) must be members of an ADR Scheme	✓ Ofcom is considering “automatic compensation for residential consumers and smaller businesses” (some of which may buy services targeted at residential consumers)	

²⁶⁰ Ofcom, telecoms general conditions guidelines - <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/general-conditions/general-conditions-guidelines/>.

²⁶¹ Ofcom, sales and marketing of mobile telephony services, 28 May 2015 - http://stakeholders.ofcom.org.uk/binaries/telecoms/ga/General_Condition_23.pdf.

²⁶² Ofcom, telecoms customer code of practice - <http://stakeholders.ofcom.org.uk/telecoms/ga-scheme/general-conditions/customer-code-practice/>.

²⁶³ Ofcom 2013, Price rises in fixed-term contracts, http://stakeholders.ofcom.org.uk/binaries/consultations/gc9/statement/GC9_statement.pdf.

²⁶⁴ Ofcom 2013, Price rises in fixed-term contracts, page 8 - http://stakeholders.ofcom.org.uk/binaries/consultations/gc9/statement/GC9_statement.pdf.

²⁶⁵ Ofcom, Automatic compensation: Call for Input, 10 June 2016.

²⁶⁶ Ofcom, Automatic compensation: Call for Input, 10 June 2016, Rules would apply to all providers of telecom services to consumers and small businesses, paragraph 2.4.

Case study 2: Airlines

In the airlines industry, market liberalisation in the mid-1990s led to cheaper air travel for consumers. Concerns about consumer protections, however, resulted in European Commission intervention in 2005.

- **In the mid-1990s, competition in the airlines industry drove down prices for short haul flights.** This shift in the market was a reaction to the European Commission's launch of the Third Aviation Liberalisation Package in 1992²⁶⁷. This: *"was the culmination of a gradual process of liberalisation of the Community air transport market to which Member States committed themselves in 1986"*²⁶⁸. Market liberalisation brought significant benefits to the consumer. *"Consumers, airlines, airports and employees have all benefited as [liberalisation] has led to more activity, new routes and airports, greater choice, low prices and an increased overall quality of service"*²⁶⁹.
- **However, falling service quality led to the Commission introducing new consumer protections for all airlines.** In 2004, the European Commission raised concerns that: *"despite the growth of air transport, stimulated by the single market, dissatisfaction with service quality is growing"*²⁷⁰. In 2005, it introduced new rules on compensation and assistance to passengers in the event of denied boarding, cancellation or long delay of flights²⁷¹. In 2012, the European Court of Justice ruled that the "Denied Boarding Regulation" must be interpreted as giving passengers the right to compensation for delays of three or more hours²⁷².

Overview of paragraphs referenced in response to Ofcom Fundamental Regulatory Review, questions 7, 9, 12 and 13.

<i>Questions answered in chapter</i>	<i>Summary responses and references</i>
<p>Question 7: <i>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?</i></p>	<p>No:</p> <ul style="list-style-type: none"> • Essential Condition 1 should be applied to all major parcel operators, including major new players in the parcels sector. • Royal Mail is proud to meet its mail integrity obligations. We often go above and beyond these minimum standards. For example, Royal Mail conducts criminal record checks on its staff as part of its recruitment policy. We believe that industry-wide mail integrity requirements are needed to grow and sustain e-commerce, including processes to protect against the loss, theft, damage, and interference of

²⁶⁷ Council Regulation (EEC) No 2407/92 on licensing of air carriers, 23 July 1992, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31992R2407>.

²⁶⁸ 'Aviation: European liberalisation, 1986-2002', House of Commons Library, May 2010.

²⁶⁹ Fitness Check - Internal Aviation Market, 6 June 2013, http://ec.europa.eu/transport/modes/air/internal_market/doc/fitness_check_internal_aviation_market_en_commission_staff_working_document.pdf.

²⁷⁰ Regulation 261/2004 - this is the regulation that came into effect in 2005 that is referred to in the next sentence. It is not additional to it.

²⁷¹ Regulation 1107/2006.

²⁷² European Court of Justice (ECJ) Judgement on 23 October 2012.

<i>Questions answered in chapter</i>	<i>Summary responses and references</i>
	<p>mail.</p> <ul style="list-style-type: none"> E-commerce relies on a parcels sector with a good delivery experience. Consumer research²⁷³ shows that quality of service across the parcels industry needs to improve. Royal Mail adheres to a highly developed set of regulatory standards for both the delivery of parcels, and redress in the event that something goes wrong²⁷⁴. By contrast, other major parcels operators have little or no regulatory consumer protection standards applied to them. Ofcom's proposals do not address the quality of service issues. This may impede the growth of e-commerce. Higher standards generate better outcomes for the consumer. In parcels, the ratio of mails integrity complaints is 80% lower for Royal Mail than that of the weighted average of its peers. Ofcom should put in place minimum set of consumer protection standards for all major parcels operators. <p>References: See Chapter 7 summary, Exhibit 7.4, and paragraphs: 7.2 and 7.5.</p>
<p>Question 9: <i>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?</i></p>	<p>No:</p> <ul style="list-style-type: none"> The regulation should be extended to all major operators. Ofcom should broaden the proposed definition of "Relevant Postal Operator" to include all major players, including Amazon Logistics and Argos²⁷⁵. The development of the parcels sector has outpaced consumer protection regulation. Most operators are subject to little or no consumer protection standards. For example, major new players, such as Amazon Logistics, are not recognised as postal operators, and so are not subject to any regulatory consumer protections at all. Established postal operators (other than Royal Mail) are only required to provide consumers with a basic complaints process. Moreover, no parcel delivery company, established or new (except Royal Mail) is covered by any regulations to ensure the security of parcels they carry. Ofcom's proposed drafting of the mails integrity regulation represents a potentially very significant and unwarranted

²⁷³ MetaPack Delivering consumer choice: 2015 State of e-Commerce Delivery. Survey of consumers from UK, US, France, Germany, Spain and the Netherlands.

²⁷⁴ Royal Mail is required to adhere to the Mail Integrity Code of Practice which includes the security of relevant mail, as well as Consumer Protection Conditions, including CP 3.3 requiring a comprehensive consumer complaints and redress scheme. Royal Mail is also the only UK postal operator required to meet regulatory Quality of Service targets.

²⁷⁵ Through its partnerships with eBay and UK Mail.

<i>Questions answered in chapter</i>	<i>Summary responses and references</i>
	<p>increase in the regulatory burden on Royal Mail. The proposed drafting requires Royal Mail to take “all necessary steps”. This is effectively an unlimited commitment to mails integrity and represents unmanageable and impractical regulation. If Ofcom is to introduce new mails integrity regulations, they must be proportionate and clearly defined to be operable.</p> <ul style="list-style-type: none"> • There is no need to introduce a new mail integrity framework. Current regulation gives operators good guidance as to how they should remain compliant with the mail integrity code. It is clear and transparent about its objectives to minimise exposure to the theft, loss, damage, and interference of mail. There is no evidence of significant consumer harm to require a new mail integrity framework. Ofcom should simply update the current mail integrity code and apply it to every participant. <p>References: See Chapter 7 summary and Exhibit 7.4. See Annex 2 for Royal Mail's proposed Essential Condition 1.</p>
<p>Question 12: <i>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?</i></p>	<p>No:</p> <ul style="list-style-type: none"> • The development of the parcels sector has outpaced consumer protection regulation. Most operators are subject to little or no consumer protection standards. For example, major new players, such as Amazon Logistics and Argos, are not recognised as postal operators, and so are not subject to any regulatory consumer protections at all. There should be a minimum set of standards for all operators, including include major new parcel operators. • Furthermore, requirements for an ADR scheme and compensation should cover all “Relevant Postal Operators” to the extent that they offer ‘Single Piece’ type parcel services. To ensure consumers are protected regardless of the company that delivers their parcel. Consumers by and large do not have the ability to select their preferred delivery company. • Royal Mail provides access to an ADR. We also pay compensation for loss, damage and delay for USO service. The current regulation requires us to have these processes in place and we will continue to provide them. <p>References: See Chapter 7 summary, Exhibit 7.4, and paragraphs 7.3 and 7.4.</p>
<p>Question 13: <i>Do you agree with our proposed</i></p>	<p>No:</p>

<i>Questions answered in chapter</i>	<i>Summary responses and references</i>
<p><i>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?</i></p>	<ul style="list-style-type: none"> • Redress and compensation requirements should be extended to all parcels operators providing 'Single Piece' parcel services. <p>References: See Chapter 7 summary and Exhibit 7.4. See Annex 4 for Royal Mail's proposed Consumer Protection Condition 3</p>

Chapter 8 – Appropriate regulatory consumer protections in letters.

Ofcom questions 7-11 and 14-18.

The regulations for letters consumer protections – introduced in 2006 – are out of date. Ofcom proposes that Royal Mail should remain the only major letters operator with a minimum set of protections, in particular for mail integrity. We do not believe this is the right approach. The protections should apply equally to the key aspects of the postal process – collection, sortation and delivery. This means they should apply to all Access operators and end-to-end operators.

Ofcom is proposing broad and unsubstantiated changes to the mail integrity framework. Key elements of its proposal – “all necessary steps” coupled with “any direction” – are unwarranted. Ofcom seems to take the position that there is a mail integrity issue with untracked letters and that its intervention would apply to letters operators in general. Yet, in reality, Ofcom's proposals would only apply to Royal Mail. Royal Mail takes its mail integrity obligations very seriously. There is no mail integrity issue with untracked letters.

Royal Mail agrees with a number of other proposals Ofcom has put forward. These proposals would benefit consumers e.g., the amendments to the Postal Common Operational Procedures (PCOP)²⁷⁶ and notification periods. Ofcom should, however go further. For example, it should remove the advance notification period for beneficial non-price changes to USO services.

- **Ofcom proposes that Royal Mail continues as the only major letters operator with a minimum set of consumer protection requirements. Instead, we believe that Ofcom should extend letters protections to all major operators. This would be the proportionate intervention.** The proposed regulation excludes many operators, like Access operators, who handle [8<] of all letters volume²⁷⁷ for part of its journey.
- **Ofcom's proposed intervention for mail integrity is too broad and unwarranted. Royal Mail does not believe there is a need to change the regulatory conditions in this way.** The current mail integrity framework is working well. Indeed, Royal Mail goes above and beyond the Code in certain instances. This preventative approach is working well. Ofcom's proposals would result in more – not less – uncertainty and regulatory burden for Royal Mail, without providing any substantial consumer benefit.
 - » **Ofcom's proposed drafting of the mail integrity regulation represents a potentially very significant and unwarranted increase in the regulatory burden on Royal Mail.** The current drafting requires Royal Mail to take “all necessary steps”²⁷⁸. This is effectively an unlimited commitment to mail integrity and represents unmanageable and impractical regulation. If Ofcom is to introduce new mail integrity regulations, they must be proportionate and clearly defined to be operable.
 - » **Ofcom seems to take the position that there is an issue with untracked letters. We believe this is not the case.** Ofcom's press release implies the new regulation is applicable to a number of operators. Yet, Ofcom's proposed intervention would only apply to Royal Mail. It is unwarranted and inappropriate.
- **Royal Mail welcomes a number of Ofcom's proposals. But, the regulator should go further. In addition, we would like to clarify some statements made by Ofcom:**

²⁷⁶ Postal Common Operational Procedures Code of Practice as defined under the Postal Services Act 2011.

²⁷⁷ Royal Mail Full Year 2015-16 results presentation, inland addressed letters. Excludes Access operators, which have end-to-end operations and have to comply with more extensive consumer protections.

²⁷⁸ Ofcom's regulatory principles – <http://www.ofcom.org.uk/about/what-is-ofcom/statutory-duties-and-regulatory-principles/>.

- » **Royal Mail welcomes a number of Ofcom's other proposals.** They include: (i) the removal of PCOP; (ii) the revocation of Consumer Protection 5; (iii) the withdrawal of the advanced notification period for changes to latest delivery time; (iv) the reduction of the advanced notification period to one month for collection times; and (v) the removal of the advance notification period for USO price decreases. But, Ofcom should go further. For example, it should remove the advance notification period for beneficial (or minor) non-price changes to USO services, along with the consultation period.
- » **Royal Mail would like to clarify two statements made by Ofcom.** The regulator states there are no contractual remedies available to consumers under a Scheme for USO parcels. This is not the case. If Royal Mail breaches any of its obligations under the Scheme, consumers can take action and seek redress from Royal Mail. Similarly, Ofcom states that Royal Mail might delay the return of items entering its network. We are concerned that Ofcom has made this statement. Under no circumstances, would Royal Mail ever intentionally delay mail in its possession.

Ofcom proposes that Royal Mail continues as the only major letters operator with a minimum set of consumer protection requirements. Instead, we believe that Ofcom should extend letters protections to all major operators. This would be the proportionate intervention.

8.1 **Under Ofcom's proposals, Royal Mail will continue to be the only major letters operator with a minimum set of regulatory consumer protection standards**²⁷⁹ (Exhibit 8.1). This approach will continue to leave Access operators outside the framework, which will only apply to Royal Mail. The postal system is a linear process involving the collection, sortation, and delivery of mail. Access letters, which enter the Royal Mail network at the inward mail centre, only receive protection from this point onwards (Exhibit 8.2). The regulator states that minimum standards are unnecessary because contractual agreements and competition encourage switching²⁸⁰. Yet, contractual agreements and competition are "after-the-event" solutions. Businesses and consumers could have suffered loss, damage and inconvenience before any potential remedial action is taken. This approach does not reflect Ofcom's own stated goals: "*users should be able to expect their mail to arrive without it being lost, stolen, [damaged] or interfered with, and should therefore in turn, have confidence in using those postal services*"²⁸¹. A minimum set of standards for all major letters operators is a more effective way of maintaining consumer confidence.

²⁷⁹ Ofcom is proposing to only apply regulations to untracked letters and large letters up to 750g (as well as USO parcels), and only to end-to-end delivery operators. This excludes Access operators and closed networks. Royal Mail will therefore be the only major postal operator that has to put in place procedures to protect mail.

²⁸⁰ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016 paragraph 7.21.

²⁸¹ Ofcom, Review of the Regulation of the Royal Mail, 25 May 2016, paragraph 7.20.

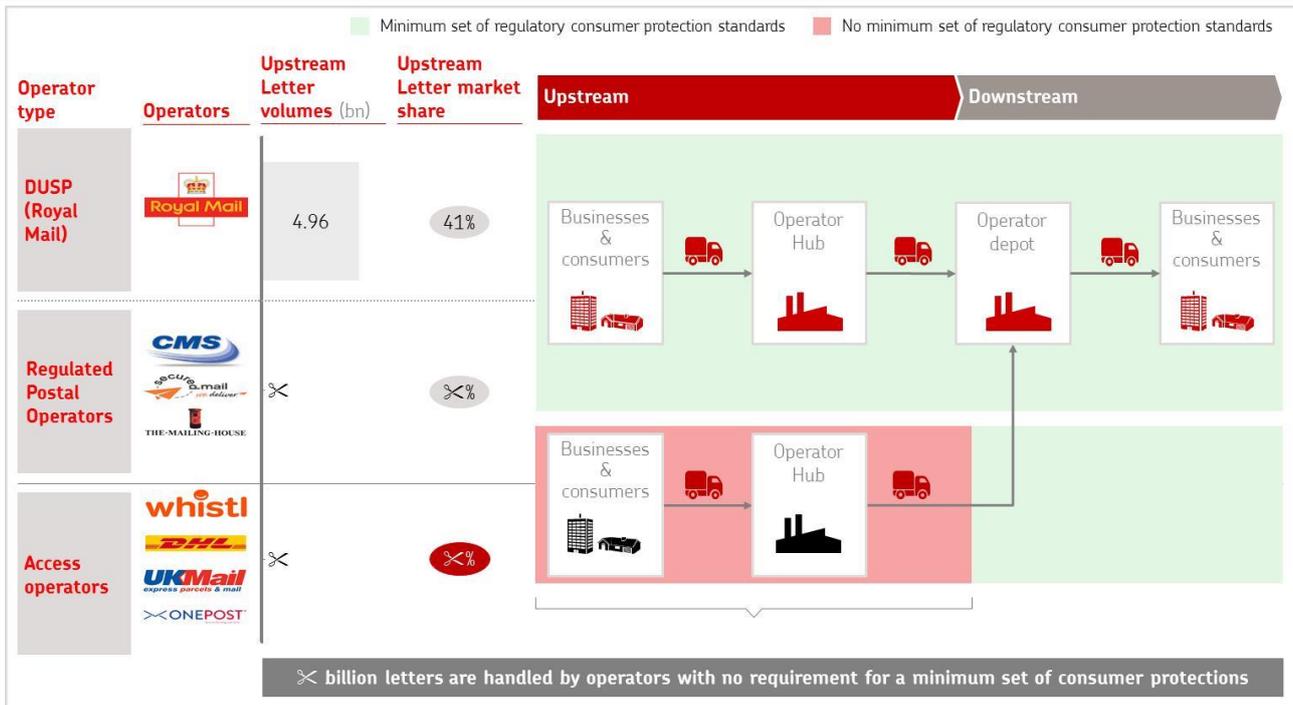
Exhibit 8.1: Access operators have few regulatory consumer protections with which to comply²⁸².

Operator type	Operators ⁴	Upstream Letter volumes (bn) ⁵	Total number of requirements ⁷	Mails integrity standards	Publication of complaints data	Complaints process standards	Access to a redress scheme	Provision of compensation
DUSP ¹ (Royal Mail)		4.96 ⁶	34 ⁸	✓ Ofcom sets out a code of practice	✓ Provides quarterly complaints data to Ofcom	✓ Ofcom prescribes detailed complaints process	✓ Notifies consumer of access to Alternative Dispute Resolution scheme	✓ Compensation USO services. £20 for standard mail. £50 for signed-for mail
Regulated Postal Operators ²	  	✂	30	✓ Ofcom sets out a code of practice	✓ Provides quarterly complaints data to Ofcom	✓ Ofcom prescribes detailed complaints process	✓ Notifies consumer of access to Alternative Dispute Resolution scheme	✗ No requirement
All other letters operators ³	   	✂	1	✗ No requirement	✗ No requirement	✓ Required to provide a basic and cost effective complaints process	✗ No requirement	✗ No requirement

²⁸² Footnotes for Exhibits 8.1 and 8.2

- 1 Designated Universal Postal Operator.
- 2 As defined in the PSA 2011 - regulation and definitions were transposed from the Postcomm regime and are applied only to operators who would have required a licence under that regime. CMS, Secured Mail and The Mailing House Group are the only recognised Regulated Postal Operators by POSTRS. The vast majority of this mail is through Access operations – only a very small proportion, if any, is sortation and therefore caught by Ofcom's requirement for regulation.
- 3 Includes Unregulated Postal Operators and Access operators as defined in the PSA 2011 – these operators are only required to provide a basic and cost effective complaints process under Article 19 of the EU Postal Services Directive.
- 4 Non-exhaustive, except for Royal Mail, which is the only DUSP.
- 5 Inland addressed mail only. Regulated Postal Operators volume of 0.46 billion is Access mail only and does not include closed network delivery mail, which is non-disclosed information and likely to be small.
- 6 Letters that are only handled by Royal Mail, i.e., excludes any letters that are handled by Access operators.
- 7 Other than standard EU/UK consumer protections.
- 8 Split as 8 in mails integrity, 3 in the publication of complaints, 16 in the complaints process, 1 in redress, 1 for payments in relation to the work of the consumer council, 1 for PCOP and 4 in the provision of compensation.

Exhibit 8.2: Access operators, with no regulatory consumer protections, handle [X] billion letters.



Ofcom's proposed intervention for mail integrity is too broad and unwarranted. Royal Mail does not believe there is a need to change the regulatory conditions in this way.

8.2 **Current mail integrity regulation is working well.** Royal Mail rigorously complies with the Code. In fact, we go above and beyond it, e.g., criminal records checks on each new employee as part of our recruitment process. Central to Royal Mail's approach has been the development of a compliance culture throughout the business. The focus on prevention and deterrence is the most effective method to ensure mail integrity incidents are kept to a minimum (Exhibit 8.3).

Exhibit 8.3: Royal Mail is fully committed to very high mail integrity standards.

	Processes and procedures	Objective
Recruitment & training 	<ul style="list-style-type: none"> Carry out 'right to work' checks including: <ul style="list-style-type: none"> Conduct [X] identity and criminal record checks every year Establish a five year prior work history 	<ul style="list-style-type: none"> Helps to identify employees who are a good fit for our corporate culture and will uphold high ethical standards Ensure prospective employees have the capability to perform to the standards that Royal Mail and our customers expect
	<ul style="list-style-type: none"> Review all elements of our recruitment processes every year 	<ul style="list-style-type: none"> Keeps Royal Mail's recruitment processes up-to-date and fit-for-purpose to meet our high standards
	<ul style="list-style-type: none"> Require relevant employees to complete the "Welcome to Royal Mail" training on mails integrity 	<ul style="list-style-type: none"> Ensures new employees consistently meet high standards
	<ul style="list-style-type: none"> Provide innovative training material, such as films and online training tools 	<ul style="list-style-type: none"> Provides effective and engaging content to reinforce the importance of the security of mail
Operational security 	<ul style="list-style-type: none"> Employ a team of around [X] security professionals, who focus on a prioritised security model of prevention, deterrence, detection, and disruption 	<ul style="list-style-type: none"> Maintains and develops our high standards, ensuring that our mail integrity objectives are met
	<ul style="list-style-type: none"> Provide nearly [X] targeted operational policies, processes and procedures 	<ul style="list-style-type: none"> Protects mail from the moment we receive it, to when it is safely delivered
	<ul style="list-style-type: none"> Produce annual loss estimate reports 	<ul style="list-style-type: none"> Tracks performance to identify and improve our processes
Conduct 	<ul style="list-style-type: none"> [X] 	<ul style="list-style-type: none"> [X]

8.3 **Our rigorous approach has driven down and maintained low levels of mail integrity incidents.** Security and mail integrity principles are embedded in our key operational processes. Royal Mail employs a team of around 170 security professionals, focused on Prevention, Deterrence, Detection, and Disruption. In 2015-16, Royal Mail Security opened [X] investigations into theft or intentional delay, and completed [X] (several investigations span more than one financial year). [X] employees were dismissed or resigned, of whom [X] were formally cautioned and [X] were prosecuted. This represents [X] of Royal Mail's frontline staff. Incidents involving loss or theft of mail are rare; when such circumstances do occur, we have a robust conduct and investigation framework in place.

8.4 **There is no need to introduce a new mail integrity framework.** Current regulation gives good guidance as to how they should remain compliant with the mail integrity code. It is clear and transparent about its objectives to minimise exposure to the theft, loss, damage, and interference of mail. There is no evidence of significant consumer harm to require a new mail integrity framework, Ofcom should simply update the current mail integrity code. Accordingly, we have provided some suggested minor amendments to the code in Annex 3. Should Ofcom decide, in spite of our representations, to remove the current framework it should consult Royal Mail on the proposed drafting prior to implementation, as it is currently not fit for purpose. The drafting of the regulation must be proportionate and clearly defined to be operable. Nonetheless, Royal Mail has provided an overarching view on Ofcom's proposed mail integrity regulation below.

Ofcom's proposed drafting of the mail integrity regulation represents a potentially very significant and unwarranted increase in the regulatory burden on Royal Mail.

8.5 **Ofcom is proposing a broad and expansive approach to the mail integrity framework. In our view, this represents a significant intervention and considerable uncertainty.** Ofcom stated that it: "intends

*to introduce new rules to clarify how postal operators must look after these items”*²⁸³. The proposed wording provides no such clarification. Ofcom's proposals require Royal Mail to take: *“all necessary steps to minimise the risk of loss, theft damage and interference of mail”*²⁸⁴. Without a suitable definition of *“necessary”*, Ofcom is applying unmanageable and impractical regulation. Under the proposed condition E1.3.6, Royal Mail will need to comply with *“any direction”* made by Ofcom to adopt such policies or procedures as the regulator sees fit. Royal Mail would need to put in place measures that are potentially disproportionate to the risk of loss that they are designed to prevent. Ofcom announced in its press release that: *“those who fail to meet the new rules would face fines”*²⁸⁵. This is deeply concerning given the current drafting of *“all necessary steps”* coupled with the fact that we must comply with *“any direction”* made by Ofcom. Royal Mail could face fines of up to 10% of turnover based upon potentially vague and ambiguous regulation.

- 8.6 **Ofcom is proposing a shift in mail integrity reporting from providing estimated loss of mail to actual loss of mail data. This would reduce the accuracy of the data, whilst generating no benefit for the consumer.** Loss estimates, as currently submitted to Ofcom, use a number of factors that enable Royal Mail to accurately calculate the amount of lost mail, including that which is not reported. This provides a consistent assessment of year on year loss. It is a more objective trend analysis of our success in meeting the mail integrity objectives. It also allows Ofcom to review the measures Royal Mail takes to reduce loss further. Actual loss estimates, however, as proposed by Ofcom, will not include unreported loss of mail. They will therefore be less accurate and less informative to Royal Mail and Ofcom. In addition, Royal Mail handles 16.5 billion items of mail every year. Conforming to Ofcom's proposed reporting standards will require investment in our systems to report and record all incidents of loss, irrespective of size.

Ofcom seems to take the position that there is an issue with untracked letters. We believe this is not the case.

- 8.7 **Ofcom suggests in its Fundamental Regulatory Review press release that there is an issue with untracked letters. It provides no evidence, however, that this is the case.** Ofcom states its: *“proposals would require postal operators to focus on ensuring letters arrive safely”*; and that it will introduce: *“new rules to clarify how postal operators must look after these items”*²⁸⁶. This suggests that there is a problem with mail integrity of untracked letters. Ofcom uses the term *“postal operators”*, suggesting that it is applying the proposed rules to more than one postal operator. Yet, Ofcom's proposals will not affect any other major letters operator other than Royal Mail. There is no evidence of consumer harm by Royal Mail. In fact, Royal Mail's customer satisfaction rating in letters is between 87% and 90%²⁸⁷. Ofcom previously indicated that it was no longer necessary for Royal Mail's Director of Security to provide updates on mail integrity, in person, on a quarterly basis. If Ofcom would like to open a dialogue on mail integrity, Royal Mail is happy to offer more meetings to discuss the progress it continues to make.

²⁸³ Ofcom, “Universal postal service returns to financial health” press release, 25 May 2016.

²⁸⁴ Annex 13 EC1.2.1.

²⁸⁵ Ofcom, “Universal postal service returns to financial health” press release, 25 May 2016.

²⁸⁶ Ofcom, “Universal postal service returns to financial health” press release, 25 May 2016.

²⁸⁷ Royal Mail Consumer Satisfaction Survey 2015/16, 90% satisfaction based on receiving experience (7,068 respondents) and 87% satisfaction based on sending experience (5,585 respondents).

Royal Mail welcomes a number of Ofcom's proposals. But, the regulator should go further. In addition, we would like to clarify some statements made by Ofcom.

Royal Mail welcomes a number of Ofcom's other proposals.

8.8 **Royal Mail welcomes Ofcom's proposal to remove prescriptive PCOP regulations.** This move is appropriate given the relatively low volumes of PCOP items that currently enter our network. However, while we agree with the removal of the requirement for code identifiers (para 7.74 of the consultation), operators should be required to display a 'clearly identifiable logo, or similar' on their letters. This is to ensure that the items can be identified and repatriated if they enter Royal Mail's network in error. Ofcom should also maintain an up-to-date list of postal operators – and their contact details – to facilitate repatriation. There are also a number of areas where Ofcom must provide additional clarification or definitions:

- **Royal Mail will be subject to a 'reasonable endeavours' clause (CP2.3.1):** Ofcom must clearly define what 'reasonable endeavours' means. Royal Mail proposes Ofcom continues to maintain a list of all letters operators. 'Reasonable endeavours' should mean that the operator checks if the other party is on that list and subsequently contacts them.
- **Prohibiting deliberate or instructed mis-posting:** Ofcom should include a clause clarifying that "mis-posted" only applies to accidental or unintentional mis-posting.

8.9 **Royal Mail agrees with Ofcom's proposal to revoke Consumer Protection 5.** This states that operators should deliver mail on behalf of their customers. This is a redundant condition. Postal operators already have sufficient incentive to ensure that they deliver mail on behalf of their customers without the need for this piece of regulation. **We also agree with Ofcom's proposals to reduce USO notification periods. But, we believe this approach should be extended to other USO notification periods.** Consumers do not need advanced notification for changes to delivery times and require minimal notification of changes to collection times. We also welcome Ofcom's proposal to withdraw the advance notification period for USO price reductions and the regulator's assessment that the current notification periods restrict Royal Mail's commercial flexibility. Ofcom should go further, however. It should remove the advance notification period for beneficial (or minor) non-price changes to USO services, along with the consultation period. The process to make any non-price change to USO services takes a minimum of three months. It often takes much longer. This introduces a lag before consumers can benefit from changes, for example, allowing customers to submit claims information electronically.

8.10 **Royal Mail agrees that Ofcom needs to redefine the "Relevant Postal Operator". Ofcom should also review its charging principles for the postal sector.** Royal Mail understands from Ofcom, that it is the only regulated postal operator, which meets the current £10 million threshold, to pay fees for both Ofcom and the Consumer Advocacy Bodies (CABs). This is despite the fact that the postal market – for both letters and parcels – includes other operators of significant scale and size. The turnover threshold of £10 million – inherited from Postcomm – is too high and should be reduced²⁸⁸. The basis for the charging calculation should be broadened to include all Relevant Postal Operators – for parcels and letters – including major new players such as Amazon Logistics and Argos. Ofcom has undertaken a review of the parcels sector as part of its Fundamental Review of Regulation. It has stated that it is going to increase its monitoring of parcels operators going forward. There is an increasing regulatory focus on the parcels industry. It is inappropriate

²⁸⁸ As set out in Royal Mail's response to Ofcom's on its postal charging in December 2011, and to Ofcom's preliminary consultation on the Statement of Charging Principles in June 2014.

and unreasonable for Royal Mail to be the only operator that contributes towards the cost of Ofcom's work in this area. Especially as Royal Mail has very limited ability to influence Ofcom's workplan, particularly given its focus on monitoring and reviewing the parcel sector. Ofcom should consult on changing the threshold, at which postal operators are required to contribute toward the fees for Ofcom and the CABs - and the definition of Relevant Postal Operators to include all parcel operators - as part of its planned consultation on the monitoring regime.

Royal Mail would like to clarify two statements made by Ofcom.

- 8.11 **Ofcom states that there are no contractual remedies available to consumers under a Scheme²⁸⁹ for USO parcels.** This misses the point. A Scheme is not a tool to prevent users from taking legal action (akin to an action for breach of contract) against Royal Mail, or to limit the ability for customers to complain. Instead, postal Schemes set out the terms and conditions under which we provide Universal Services. Schemes are used for those Universal Services, for which we do not provide terms and conditions at the point of sale, e.g., stamped letters. If Royal Mail breaches any of its obligations under the Scheme, then consumers can take action against and seek redress from Royal Mail, e.g., under Sections 91 and 92 of the Postal Services Act 2000. Moreover, section 89(2)(c) of the Postal Services Act 2000 specifically requires the Scheme to include procedures for dealing with the complaints of persons who use Universal Services²⁹⁰.
- 8.12 **There is no basis for Ofcom's concern that Royal Mail might refuse or delay the return of items entering its network.** Ofcom states: *"given Royal Mail's scale and the fact that it is likely to receive the majority of mail under CP 2, we are concerned that it may be able to refuse or delay the return of items to other postal operators"*²⁹¹. We are very concerned Ofcom has made this statement. Under no circumstances would Royal Mail ever intentionally delay mail in its possession. This would conflict with Royal Mail's social responsibilities and corporate culture. Royal Mail places the upmost importance on ensuring all mail is delivered in line with legal and regulatory obligations, and on upholding a duty to customers, including Access operators.

²⁸⁹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 7.82 - "We note that the majority of Royal Mail's universal service products are offered to mail users under a Scheme, rather than a contract. As such, there are no contractual remedies available to Royal Mail's universal service customers if they have a complaint relating to these services".

²⁹⁰ Sections 89 to 93 of the Postal Services Act 2000 concerning Schemes, as amended by the Postal Services Act 2011, are still in force.

²⁹¹ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 7.68.

Overview of paragraphs referenced in response to Ofcom Fundamental Regulatory Review, questions 7-11, 14-18.

<i>Questions responded in chapter</i>	<i>Summary and paragraph references</i>
<p>Question 7: <i>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?</i></p>	<p>No:</p> <ul style="list-style-type: none"> • The Condition should be extended to include Access operators. • Under Ofcom's proposals, Royal Mail will continue to be the only major letters operator with a minimum set of regulatory consumer protection standards²⁹². This approach will leave [X] of letters handled by Access operators unprotected by mails integrity regulation for part of their journey²⁹³. Ofcom's strategy is not in the best interests of the consumer and disproportionately impacts Royal Mail. • The postal system is a linear process of the collection, sortation and transportation of mail. Its security is defined by the weakest part in this chain. The regulatory protections should be applied equally to the key aspects of the postal process – collection, sortation and delivery. Currently Access letters, which enter the Royal Mail network at the inward mail centre, will only receive protection from this point onwards. This approach does not reflect Ofcom's own stated goals. A minimum set of mails integrity standards for all major letters operators is a more effective way of maintaining consumer confidence. <p>References: paragraph 8.1 and Exhibit 8.2.</p>
<p>Press release 7b: <i>Ofcom, in its press release, states that "all operators who deliver 'untracked letters' must minimise the risk of loss, theft, damage, under plans in today's consultation"</i> ²⁹⁴.</p>	<ul style="list-style-type: none"> • Ofcom uses the term "<i>postal operators</i>", suggesting that it is applying the proposed rules to more than one postal operator. This is not the case. Ofcom's proposals will not affect any other major letters operator other than Royal Mail. This suggests that there is a problem with mail integrity of untracked letters. • There is no evidence of consumer harm by Royal Mail. In fact, Royal Mail's customer satisfaction rating in letters is between 87% and 90%²⁹⁵. In addition, in 2013, Ofcom provided Royal Mail a dispensation for the reporting of individual "serious incidents". This is because levels of loss were so small. Ofcom previously indicated that it was no longer necessary for Royal

²⁹² Ofcom is proposing to only apply regulations to untracked letters and large letters up to 750g (as well as USO parcels), and only to end-to-end delivery operators. This excludes Access operators and closed networks. Royal Mail will therefore be the only major postal operator that has to put in place procedures to protect mail.

²⁹³ Royal Mail Full Year 2015-16 results presentation, inland addressed letters.

²⁹⁴ Ofcom, "Universal postal service returns to financial health" press release, 25 May 2016.

²⁹⁵ Royal Mail Consumer Satisfaction Survey 2015/16, 90% satisfaction based on receiving experience (7,068 respondents) and 87% satisfaction based on sending experience (5,585 respondents).

<i>Questions responded in chapter</i>	<i>Summary and paragraph references</i>
	<p>Mail's Director of Security to provide updates on mail integrity, in person, on a quarterly basis. If Ofcom would like to open a dialogue on mail integrity, Royal Mail is happy to offer more meetings to discuss the progress it continues to make.</p> <p>References: Chapter 8 summary and paragraph 8.7.</p>
<p>Question 8: <i>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 12?</i></p>	<p>No:</p> <ul style="list-style-type: none"> • Ofcom is planning to remove the current Mails Integrity Code and replace it with much more ambiguous regulation, which represents a potentially significant increase in burden for Royal Mail. There is no need to introduce a new mail integrity framework. • Current regulation gives operators good guidance as to how they should remain compliant with the mail integrity code. It is clear and transparent about its objectives to minimise exposure to the theft, loss, damage, and interference of mail. There is no evidence of significant consumer harm to require a new mail integrity framework, • Ofcom's proposes to move away from a prescribed set of mail integrity standards to an approach that represents a potentially significant burden for Royal Mail. Ofcom believes its proposals will: <i>"ensure that postal operators have the incentive to concentrate on good consumer outcomes rather than process"</i>²⁹⁶. Ofcom's aim is for postal operators to have more flexibility on their mail integrity procedures, whilst achieving its objectives²⁹⁷. Ofcom's proposals require Royal Mail – and only Royal Mail – to take: <i>"all necessary steps to minimise the risk of loss, theft damage and interference of mail"</i>²⁹⁸. Royal Mail would need to put in place measures that are potentially disproportionate to the risk of loss they are designed to prevent. Under the proposed condition E1.3.6, Royal Mail will need to comply with <i>"any direction"</i> made by Ofcom to adopt such policies or procedures as Ofcom sees fit. This gives Ofcom too broad a remit for regulatory intervention and is disproportionate. <p>References: paragraphs 8.4-8.6.</p>
<p>Question 9: <i>Do you agree that the proposed drafting of Essential Condition 1 including relevant definitions accurately</i></p>	<p>No:</p> <ul style="list-style-type: none"> • A minimum set of mails integrity standards for all major letters operators is a more effective way of maintaining consumer

²⁹⁶ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.2.

²⁹⁷ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 7.37.

²⁹⁸ Annex 13 EC1.2.1.

<i>Questions responded in chapter</i>	<i>Summary and paragraph references</i>
<i>capture our intended objectives and the intended operators and mail types?</i>	<p>confidence.</p> <ul style="list-style-type: none"> Ofcom's proposal to move away from a prescribed set of mail integrity standards represents a potentially significant burden for Royal Mail. <p>References: paragraphs 8.1-8.6. See Annex 2 for Royal Mail's proposed Essential Condition 1.</p>
Question 10: <i>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?</i>	<p>Yes:</p> <ul style="list-style-type: none"> However, we do not agree with Ofcom's proposal to remove the requirement for code identifiers (para 7.74). A more reasonable approach would be to remove the 'code identifier' but require that a '<i>clearly identifiable logo, or similar</i>' was included on the mail piece to ensure that it could be repatriated if it entered Royal Mail's network in error. Ofcom should also maintain an up-to-date list of postal operators, and their contact details, to facilitate repatriation. <p>References: paragraph 8.8.</p>
Question 11: <i>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?</i>	<p>Yes:</p> <ul style="list-style-type: none"> Royal Mail welcomes Ofcom's proposal to remove prescriptive PCOP regulations. This move is appropriate given the relatively low volumes of PCOP items that currently enter Royal Mail's network. <p>References: paragraph 8.8. See Annex 3 for Royal Mail's proposed Consumer Protection 2.</p>
Question 14: <i>Do you agree with our proposal to revoke Consumer Protection Condition 5?</i>	<p>Yes:</p> <ul style="list-style-type: none"> This is a redundant condition. Postal operators already have sufficient incentive to ensure that they deliver mail on behalf of their customers without the need for this piece of regulation. <p>References: paragraph 8.9.</p>
Question 15: <i>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?</i>	<p>Yes:</p> <ul style="list-style-type: none"> However, Ofcom should go further, however, and remove the advance notification period for beneficial (or minor) non-price changes to USO services, along with the consultation period. The process to make any non-price change to USO services takes a minimum of three months, but often takes much longer. This introduces a lag before consumers can benefit from changes, for example allowing customers to submit claims information electronically. <p>References: paragraph 8.9.</p>

<i>Questions responded in chapter</i>	<i>Summary and paragraph references</i>
<p>Question 16: <i>Do you agree with our proposal to reduce the advance notice period for specified collection times to one month (reduced from three months)?</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> • Royal Mail agrees with Ofcom that consumers need only minimal notification of changes to collection times. <p>References: paragraph 8.9.</p>
<p>Question 17: <i>Do you agree with our proposal to remove the advance notice period for latest delivery times (currently at three months)?</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> • Royal Mail agrees with Ofcom that consumers do not need advanced notification for changes to delivery times. <p>References: paragraph 8.9.</p>
<p>Question 18: <i>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?</i></p>	<p>Yes:</p> <ul style="list-style-type: none"> • Royal Mail agrees that the proposed restructuring and drafting reflects Ofcom's proposals to changing notification requirements for collections, deliveries and price reductions for USO services. <p>References: paragraph 8.9.</p>

Chapter 9 – A new sustainability framework for the Universal Service.

Ofcom question 2.

We operate in a fragile ecosystem. Our stretching efficiency and cost avoidance programmes alone cannot address the unique circumstances relating to post. Ongoing structural decline in letters and intense competition in parcels continue. Parcels revenue growth, for example, is not currently offsetting the decline in letters revenue. These circumstances create potential risks to the financial sustainability of the Universal Service.

Ofcom's duty to secure the provision of the Universal Service that is enshrined in the PSA 2011 has few – if any – precedents elsewhere. Alongside our focus on efficiency, a sustainability framework provides the best solution to underpinning the Universal Service. Long after-the-event solutions – like compensation funds – are typically too small to be of value and come too late. Subsidy would be a poor public policy outcome.

A key feature of the current regulatory approach is the substantial burden placed on Royal Mail. This includes the highly demanding reporting requirements – 170 financial and non-financial reports produced a year for Ofcom. More broadly, Ofcom is proposing a range of measures which will further restrict Royal Mail or create considerable and unnecessary uncertainty. They include the proposed regulatory cost allocation exercise and the application of the APR principles. In addition, the Ofcom proposals related to outcome based regulation and untracked letters are unwarranted and unnecessary. They would only apply to Royal Mail. Yet, the net result of the regulator's proposals elsewhere is that a minimum set of consumer protections would not apply to other major letters and parcels operators. In short, the regulatory burden – and how it is shared between operators – should be a key focus for Ofcom.

Here, we outline the main elements of the sustainability framework. A focus on revenue pools is a key aspect of sustainability. The Universal Service specification optimises the revenues available to fund the high, fixed cost Universal Service. Therefore, we do not wish to see any reduction in its scope. However, Ofcom should ensure that the USO is able to evolve over time to reflect the changing market conditions. There is also a need for active regulatory recognition that parcel competition is highly developed, intense, and growing. There is no need to incentivise more competition through mandating the delivery of Access parcels through the Universal Service network; it will undermine the financial sustainability of the Universal Service by removing valuable revenue pools to fund it.

The regulatory framework does not address key consumer issues and is primarily focused on Royal Mail. Stronger consumer protections – on all major players – in parcels and letters are key to sustainability. Royal Mail itself adheres to a highly developed set of regulatory standards. But other major players have no regulatory standards applied to them or a light touch complaints handling process. Ofcom must address this issue – both in parcels and letters.

- **We have made significant progress on efficiency.** We outstripped the UK economy's total factor productivity improvement every year during the 2010-11 to 2014-15²⁹⁹ period. We have ambitious and stretching plans to deliver more efficiency improvements.

²⁹⁹ Royal Mail estimate using Price, Volume, Efficiency, Other (PVEO) approach, RPI inflation as deflator; ONS data not available for 2015-16. For an overview of the PVEO approach, see FTI Consulting, Efficiency Metrics for Royal Mail, September 2015, Chapter 4.

- **The Universal Service has high fixed costs that need to be paid for through the generation and maintenance of significant USO and non-USO revenue pools.** The estimated³⁰⁰ standalone cost of the Universal Service is [£]. Set against USO-related revenues of [£]. This means a shortfall of [£]. Revenue pools (USO and non-USO activities) are vital to sustain the Universal Service. The current, high quality scope of the Universal Service should be maintained and updated.
- **There are significant risks to the Universal Service.** Whilst Royal Mail Group has a strong balance sheet and has an investment grade credit rating, there are risks to the financial sustainability of the Universal Service. The Reported Business is just within the EBIT margin range deemed appropriate by Ofcom³⁰¹ for securing a financially sustainable USO. Downside risks are greater and exacerbate the challenge. The margin of the Reported Business could easily fall below 5%, posing a challenge to our ability to invest and transform.
- **There is no need for the regulator to intervene further to promote competition.**
 - » **Market forces are doing their job**³⁰². The market is already highly competitive. Royal Mail already has ample spurs to efficiency.
 - » **Ofcom should seek to reduce – not increase – the burdens on the Universal Service provider.** The regulatory burden and how it is shared between operators – should be a key feature.
 - » **Ofcom does not have the right approach to ensure the financial sustainability of the USO.** Ofcom is overly reliant on after-the-event solutions – like compensation funds – that come too late and have been ineffective elsewhere. In addition, monitoring – while clearly important – does not constitute a set of concrete tools for appropriate intervention before sustainability becomes a major issue.
- **Our proposed sustainability framework has three key elements.** It is active and pre-emptive. Its specific components are:
 - » **Sustaining the revenue pools that underpin the USO.** Maintain the current Universal Service specification. The regulator should commit to actively update the USO to sustain revenue pools, e.g., by removing the prohibition of end-to-end tracking of standard parcels in the USO. The next User Needs Review needs to actively consider revenue implications in detail. There should be no changes to regulation without consideration of the impact on the Universal Service and the revenue pools to sustain it.
 - » **Focusing on the financial sustainability of the Universal Service.** Ofcom acknowledges that market forces are doing their job. There is no need for economic regulation to incentivise more competition. There should be no extension of mandated Access for letters, and no mandated Access for parcels. The regulatory burden – which is significant – should be reduced in line with good regulatory practice. Ofcom should remove the current Second Class (2C) safeguard price caps. Ofcom should remove the Post Code Area (PCA) targets.
 - » **Raising consumer standards to enable e-commerce growth.** A single consumer protection standard for all major players in both letters and parcels. The standard should include an appropriate redress and Alternative Dispute Resolution (ADR) schemes and appropriate financial compensation for all UK parcels operators providing 'Single Piece' type parcel services.

³⁰⁰ [£].

³⁰¹ Ofcom considers 5–10% EBIT margin as a reasonable commercial rate of return for the Reported Business.

³⁰² See Chapters 1 and 3.

We have made significant progress on efficiency³⁰³.

9.1 **A step change in efficiency has been delivered since privatisation.** We have achieved significant efficiency improvement, including 1.3% in 2015-16, building on the 4.5% improvement in 2014-15³⁰⁴. We outstripped the UK economy's total factor productivity in the period 2011-12 to 2014-15. We have transformed every aspect of our operations:

- Increased automation: letter sequence sort rates increased from 1% to 83% (2009-10 to 2015-16).
- We started to rationalise our mail centre estate in 2008. Since then we have closed 35 of 69 mail centres and opened 4 new modern mail centres (March 2008 to c.April 2016).
- Reduced operations headcount by [£] from 2009-10 to 2015-16³⁰⁵.

9.2 **Our transformation has delivered major efficiency improvements.** We have improved relations with the trade unions. This is delivering both commercial and operational benefits – c.80% fewer industrial disputes (2015-16 vs. 2013-14) and no national disruptions since 2009. Underlying UKPIL costs (before transformation costs) fell by 1% in both 2014-15 and 2015-16³⁰⁶. **We have an ambitious plan to deliver even greater efficiency improvements.** We have targeted to avoid c.£500 million in annualised costs by 2017-18³⁰⁷. We know where the efficiency gaps remain. We have a clear plan to target them. We actively review the absorbable rate of change. We seek to strike the appropriate balance between quality, efficiency, and industrial stability. There is a limit to how quickly we can remove costs from the business. Labour costs accounted for c.67%³⁰⁸ of our UKPIL cost base in 2015-16. Cost reductions in the face of declining volumes typically require reductions in the number of hours. This may involve costly redundancy programmes and often require redesign of the network or processes, which takes time.

9.3 **Shareholder scrutiny, intense competitive pressure in parcels and rapid e-substitution in letters are already major spurs to efficiency.** We are committed to delivering a high Quality of Service while seeking to become ever more efficient. In doing so, we actively review the absorbable rate of change and the appropriate balance between quality and efficiency. We disagree with Ofcom that our plans are “at the lower end of a reasonable range for [efficiency] improvement”. Econometric analysis shows the efficiency gap in delivery office and mail centres is small and the gap is narrowing – see Chapter 2. Ofcom stated that our Business Plan is stretching and more ambitious than past achievements. We consider all options to increase efficiency on an ongoing basis. We note with interest the operational measures WIK identified. The report outlines a number of operational practices that have been implemented by other postal operators. Some of these we are currently trialling. Others, we have consciously decided not to pursue. We do not believe them to be right for Royal Mail at this time. Nor do we believe that there are significant opportunities that we are not pursuing. But we keep this under continuous review.

The Universal Service has high fixed costs that need to be paid for through the generation and maintenance of significant USO and non-USO revenue pools.

9.4 **The Universal Service is expensive to deliver, with a standalone cost of [£]³⁰⁹.** The [£] earned in related revenues is not sufficient to cover its costs, leading to an annual shortfall of [£]³¹⁰. All Universal

³⁰³ See Chapter 2.

³⁰⁴ Royal Mail estimate using Price, Volume, Efficiency, Other approach, RPI inflation as deflator.

³⁰⁵ Royal Mail Operational Metric.

³⁰⁶ Royal Mail Annual Report and Financial Statements 2015-16, 2014-15, underlying UKPIL costs.

³⁰⁷ Royal Mail plc Annual Report and Financial Statements 2015-16, cumulative over financial years 2015-16, 2016-17, 2017-18.

³⁰⁸ Royal Mail Annual Report and Financial Statements 2015-16, UKPIL costs after transformation costs.

³⁰⁹ [£].

Service revenues are needed to cover the cost of the Universal Service as well as a large contribution from non-Universal Service activities. The costs of maintaining the Universal Service are substantially fixed in the short term. They cannot be easily scaled with volumes. Unlike revenue, which has a close relationship with volume, cost reduction in response to volume reduction is much smaller. In a world of declining volumes, this means that unit costs will increase - even if underlying efficiency is unchanged. This was recognised by NERA in a report for Ofcom: *"There are economies of scale and density in providing mail services, which means that unit costs typically fall when volumes increase, and rise when volumes fall, even if underlying efficiency is unchanged"*³¹¹.

9.5 **The current, high quality scope of the Universal Service needs to be maintained and updated.** We note that Ofcom is not currently considering any reduction in the scope of the USO. Royal Mail does not wish to see any reduction in the current scope of the USO. It optimises the revenues available to fund the Universal Service. It meets the needs of businesses and consumers. Customers want faster and more frequent parcel delivery, including Sunday delivery where appropriate. In letters, there is also an expressed market demand for fast and value for money delivery, i.e., First Class, for important letter communication. Key elements of the current specification that meet these trends include: First Class, overnight six days a week delivery, and uniform prices. This is highlighted by the importance of overnight products ([✂]), including Special Delivery ([✂]), to Royal Mail³¹². **While the Universal Service specification is well configured, it needs to evolve** to meet the changing needs of consumers and SMEs. Current retailing trends - for example, more overnight delivery, and disruptive business models - underpin the importance of a high quality Universal Service specification in the future.

There are significant risks to the financial sustainability of the Universal Service.

9.6 **The unique circumstances pertaining to post remain in place.** There are significant potential risks to the financial sustainability of the Universal Service. As Richard Hooper noted, Royal Mail is: *"not like other utilities"*³¹³. We operate in a fragile ecosystem with high fixed costs that take time to remove, material headwinds, and asymmetric downside risks. The regulatory blueprint needs to be grounded in these realities.

- **The future is uncertain.** Whilst our view remains that letters will continue their structural decline of 4-6% per annum in the medium term, there are plausible risks that could take us out of this range. There could be a tipping point in letters volumes, as discussed in Chapter 1. There are major disruptive forces emerging in parcels - new entrants such as Amazon Logistics, and different business models like Sainsbury's and Argos³¹⁴.
- **Parcels revenue growth has not been sufficient to offset letters revenue decline.** Letters revenues fell 2.5%³¹⁵ between 2011-12 and 2015-16, as volumes have declined, despite modest price rises. Letters revenue has fallen by £155 million in the past two years³¹⁶. In the same period, parcels

³¹⁰ [✂].

³¹¹ NERA consulting, Approaches to Measuring the Efficiency of Postal Operators, Final Report for Ofcom, August 2013, page 5 <http://stakeholders.ofcom.org.uk/binaries/post/postal-efficiency/nera.pdf>.

³¹² [✂].

³¹³ Richard Hooper, Saving the Royal Mail's universal postal service in the digital age, (2010), page 27.

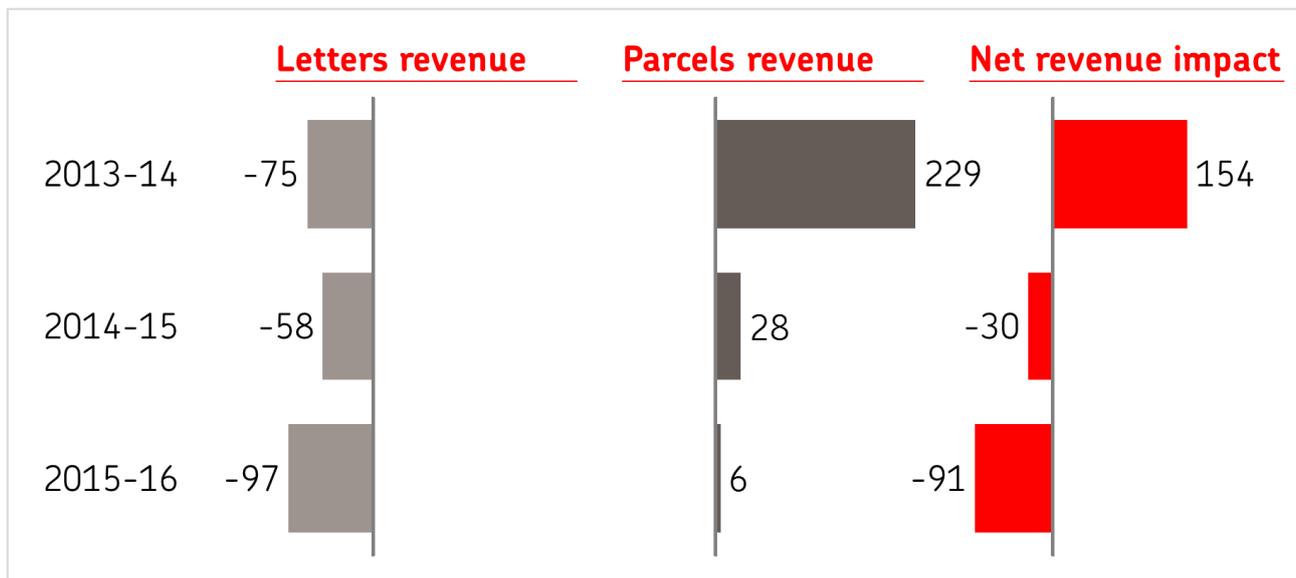
³¹⁴ See Chapter 3.

³¹⁵ Royal Mail plc Annual Report and Financial Statements 2015-16 UKPIL Letter Revenue of £4,470m compared with 2011-12 UKPIL Letter Revenue from Royal Mail plc Prospectus of £4,585m, not adjusted for working days.

³¹⁶ Royal Mail plc 2014-15 and 2015-16 Annual Report and Financial Statements, not adjusted for working days.

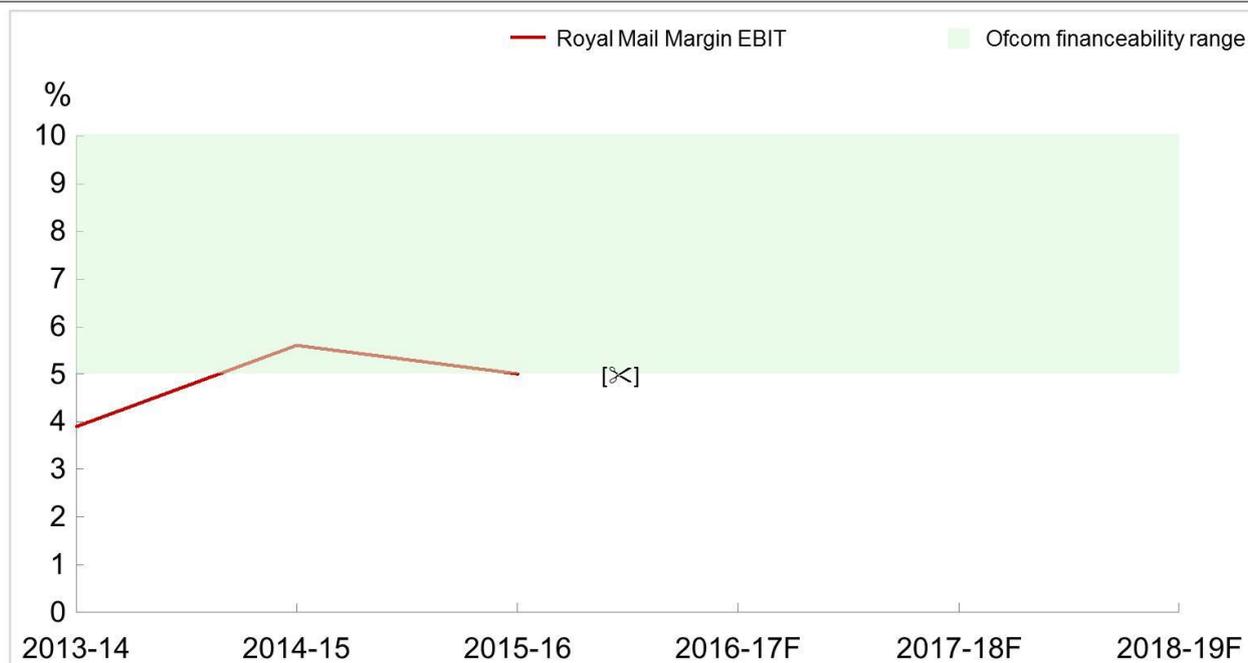
revenue did increase, but only by £34 million. Since April 2013, Royal Mail's average consumer parcel prices have fallen by an average of c.1.8% p.a. in real terms³¹⁷.

Exhibit 9.1: UKPIL Revenue change in letters and parcels, £m³¹⁸.



9.7 **The Reported Business is delivering just within the EBIT margin range deemed appropriate by Ofcom for securing a financially sustainable Universal Service** (see Exhibit 9.2). As a result of management action, the profitability of our Reported Business has improved significantly since 2012. Ofcom considers 5-10% EBIT margin as a commercial rate of return for the Reported Business. Royal Mail met this threshold for the first time since privatisation in 2014-15. Our margin, however, fell in 2015-16 from 5.6% to 5.0%, the bottom of Ofcom's range. [X].

Exhibit 9.2: Royal Mail Reported Financeability Business EBIT margin%, historic and forecast.



³¹⁷ Royal Mail Corporate Responsibility Report 2015-16, page 31.

³¹⁸ Royal Mail plc Annual Report and Financial Statements, 2013-14 to 2015-16, not adjusted for working days.

9.8 **Management has taken steps to ensure that the balance sheet of the Group is currently strong.** We have an investment grade credit rating (currently rated BBB with a stable outlook). In the Royal Mail plc Annual Report and Financial Statements 2015-16, the Directors stated that they had assessed the viability of the Group over the next three years. They considered all principal risks as set out in the 'Principal Risks' section of the Annual Report. They considered risks that could have a plausible and severe financial impact over the time horizon. In particular, they considered the potential impact of industrial action and deteriorating economic and market conditions. The downside scenario was tested to determine whether the Group would remain solvent. Based on the results of their analysis, there was a reasonable expectation that the Group would be able to continue in operation and meet its liabilities for the relevant period. Were this scenario to materialise, Royal Mail would take certain short term cost and cash actions which could mitigate the impact. Whilst these actions could maintain solvency, they could erode longer term sustainability. Our investment grade credit rating could be at risk. This could impact our ability to access new capital.

9.9 Alongside the modelling underpinning the viability statement, we considered, as part of our 2016 strategic planning process, the **key trends that could change this business environment in which we operate.** Specifically, we identified that a key revenue risk could come from the [§<]³¹⁹):

- [§<]

9.10 The scenarios demonstrated there are a number of **downside risks which could likely lead to a significant deterioration in the profitability** of the Reported Business. They underline the significant risk to the financial sustainability of the Universal Service. **An EBIT margin of 5-10% is the minimum necessary to ensure financial sustainability**³²⁰. If the margin of the Reported Business were to remain **below 5% for a prolonged period, there could be risks to the financial sustainability of the Universal Service.** Although still profitable, in such an environment, the business may find it much harder to attract investment, transform, and therefore compete. A margin of 5-10% is important to delivering long-term sustainability of the USO.

There is no need for the regulator to intervene further to promote competition.

Market forces are doing their job.

9.11 **In post, Ofcom has a difficult task: securing the sustainability of the Universal Service whilst promoting competition.** Ofcom – like most regulators – is focused on promoting competition in many of the sectors it regulates. The duty to secure the Universal Service enshrined in PSA 2011 has few, if any, precedents elsewhere. It is to be expected that it would take some time for the regulator to embed the importance of sustainability. The 2008-10 Hooper reports noted the contradiction between the sustainability of the Universal Service and competition. Hooper stated; *“there are some risks”* associated with competition, and *“some forms of competition may be inefficient if they simply exploit the constraint placed on Royal Mail to provide the universal service”*³²¹. Ofcom's dual role in competition enforcement and postal regulation creates the risk that any conflict will not be resolved in favour of sustainability. As the then Secretary of State Vince Cable stated in 2011: *“while competition is beneficial – and has brought real benefits to consumers over the last few years – it must not come at the expense of the Universal Postal*

³¹⁹ [§<].

³²⁰ Royal Mail plc, Response to Ofcom's July 2015 Discussion paper: Review of the Regulation of Royal Mail, 18 September 2015, paragraph 6.8.

³²¹ Hooper Report, Modernise or Decline, 16 December 2008.

*Service*³²². Yet, in the FRR, Ofcom states “*the maintenance of a competitive market for parcels should be the key objective for a regulatory framework for the parcels sector*”³²³. In reality, however, there is no need for regulatory intervention in the parcels sector. It is highly competitive. Competition should not be the regulator’s main focus in such a sector.

9.12 **The solution to sustainability is not more competition driven by the regulator. Market forces are doing their job**³²⁴. There is no need for the regulator to intervene further to promote competition in the name of efficiency. There is very strong and growing competition in parcels. Royal Mail has a range of market-based incentives to efficiency already. They include shareholder scrutiny and structural volume decline.

- **There are a number of major players in parcels.** Substantial investment in new facilities has generated c.20% annualised spare capacity. This has placed (and continues to place) pressure on prices. As Ofcom has recognised, “**the UK has one of the most competitive parcels markets in the world**”³²⁵. Competition will intensify. There are a number of disruptive business models, e.g., the expansion of Amazon Logistics and carrier management systems. Technological change is introducing new forms of competition.
- **In letters, Royal Mail also faces significant competition.** E-substitution is a potent form of competition. It constrains our pricing. The overall increase in letters prices since April 2012 was c.0.7% p.a. above RPI³²⁶ across all addressed inland letters and large letters. The **Access market is working well**. It has developed rapidly since its introduction in 2004. It is by far the biggest postal Access market in the EU. Access accounts for c.59%³²⁷ of all inland addressed letter volume (c.7 billion per year), and c.70%³²⁸ of the addressed letter volume posted by large businesses. Our Access letters pricing has been fair and reasonable. Access customers compete with each other and with Royal Mail for customer volumes. Large contracts are won and lost over a fraction of a penny.

9.13 **Against the backdrop of intense competition it is important that Ofcom does not take actions that could remove revenue pools or which generate significant uncertainty.** For example, if Ofcom were to mandate parcels Access or extend letters mandation, this would have a material impact on our revenue pools. Ofcom’s intention to test for cross-subsidy and its potential concern relating to “unfair leveraging” by Royal Mail will generate considerable uncertainty and is unwarranted. Royal Mail adheres rigorously to the accounting – and reporting – framework put in place by Ofcom. There is a high degree of oversight by the regulator. We closely adhere to the requirements of competition law. The appropriate measure to test for cross-subsidy is incremental cost and long run average incremental cost (LRAIC) is an appropriate measure of incremental cost. We have invested considerably in our LRAIC model. We wish to continue our engagement with Ofcom on it. In short, there is no need for more regulatory intervention.

Ofcom should seek to reduce – not increase – the burdens on the Universal Service provider. The regulatory burden – and how it is shared between operators – should be a key feature.

9.14 **A key feature of the current regulatory approach is the substantial burden placed on Royal Mail. Ofcom should reduce the burden of regulation in line with government policy.** In 2011, BIS directed Ofcom to: “*look again at where regulation is needed ... [to] determine what form that regulation should take*

³²² Secretary of State Letter to Ofcom, 15 April 2011, setting out the “intentions of the regulatory framework”.

³²³ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 4.105.

³²⁴ See Chapters 1 and 3.

³²⁵ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 1.2.

³²⁶ Internal Royal Mail calculations.

³²⁷ Royal Mail Full Year 2015-16 results presentation, % of inland addressed letters.

³²⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016.

if required'. More broadly, in 2015, Secretary of State Sajid Javid, said he was: *"determined to take the brakes off British businesses and set them free from heavy-handed regulators ... to help create more jobs for working people, boost productivity and keep our economy growing"*. Royal Mail operates in a complex regulatory environment where a number of the key aspects of the regulatory framework have not been updated. We note that Ofcom intends to consult on proposals to amend the USP Accounting Condition and Regulatory Accounting Guidelines. We are committed to working with Ofcom to develop a reporting framework that is targeted. This should provide Ofcom with the information it needs to secure the provision of the Universal Service and minimise the regulatory burden. Ofcom should seek to use existing management information where possible rather than requiring bespoke reports. Royal Mail remains subject to highly demanding reporting requirements. We provide over 170 financial and non-financial reports to Ofcom every year – an average of three reports per week. Many of these reports are produced solely for Ofcom. We voluntarily provide our management accounts report on a monthly basis to Ofcom. This provides the best insight on performance and early sight of any concerns about financial sustainability.

9.15 **In the FRR, Ofcom is proposing a range of measures which will further restrict Royal Mail and generate considerable, unwarranted uncertainty.** For example, Ofcom is seeking to introduce the main principles underpinning its 2014 Access Pricing Review proposals in the form of guidance. These proposals are a materially retrogressive change from the 2012 framework. Their proposed application now – despite the absence of direct delivery letter competition – would restrict our commercial freedom in the future in an unnecessary and disproportionate fashion. More broadly, it is the competitive postal landscape – not regulation – that maintains downward pressure on prices. The existing price caps – Second Class letters, large letters and parcels – represent unnecessary regulation and should be removed. Ofcom's planned review of cost allocation is also unnecessary. It will generate considerable uncertainty for a prolonged period of time. This follows a sustained period of uncertainty following the 16 different reviews the regulator has conducted since 2012. The current regulatory financial reporting framework was set by Ofcom and is controlled by it. The regulator has full and detailed visibility of our costs. Our pricing is fully compliant with competition law.

9.16 **Strong consumer standards – and how they are applied across many operators – should be a key feature of sustainability.** In mails integrity and consumer protection, Ofcom is proposing a number of unwarranted and disproportionate interventions. The only major operator it would apply to is Royal Mail. At the same time, despite clear evidence of customer need, the net result of Ofcom's proposals is that a minimum set of consumer protections would not be applied to other major letters and parcels operators. Ofcom's proposed direction for the mail integrity regulation represents a potentially very significant increase in the regulatory burden on Royal Mail. The current drafting – which requires Royal Mail to take *"all necessary steps"* and *"any direction"* – is effectively an unlimited commitment to mail integrity. It represents unmanageable and impractical regulation, particularly given Ofcom's statement that *"those who fail to meet the new rules would face fines"*. Ofcom also seems to suggest there is an issue with untracked letters but provides no evidence to substantiate its position. While the regulator uses the term "postal operators", the reality is that, of all the major operators, the proposed intervention would only apply to Royal Mail. It is unwarranted especially given Royal Mail's strong track record on mails integrity. More broadly, Ofcom does not address the quality of service issue elsewhere in the letters and parcels industry. A key part of any sustainability approach – and regulatory burden sharing – must be a minimum set of consumer protection standards that apply to all major players, including new parcel operators.

Ofcom does not have the right solution to ensure the financial sustainability of the USO.

9.17 Ofcom's current approach is **overly reliant on after-the-event solutions** (set out in Zone 3 of Exhibit 9.3), like compensation funds. Waiting until the Universal Service is in such serious difficulty represents a very

poor public policy choice. This was recognised by CEPA – in a report commissioned by Ofcom – in November 2015³²⁹. Actions taken to preserve short-term solvency may erode longer term sustainability and shareholder value. Instead, what is needed is a new sustainability framework, to make sure that such emergency measures are never required.

9.18 **Compensation funds are not a viable solution.** In practice, compensation funds are slow to set up, involving protracted periods of negotiation and syndication. Once operational, they are largely ineffective. There are two principal difficulties with compensation funds:

- **Compensation funds typically do not generate enough money to cover the cost of the USO.** Typically a compensation fund is supported by revenues from all operators' USO services in the market. USO-type revenues achieved by other operators are often minimal. As a result, few European countries have established compensation funds. Spain, Netherlands and Greece began to set up their own funds, but either abandoned or suspended their plans³³⁰. Those countries that have set up compensation funds have almost always required government intervention to top up the fund. Italy, for example, failed to raise sufficient revenue from licence holders of USO-type services. Contributions from other Italian operators amounted to only €111,000 in 2005 (0.04% of USO net costs³³¹). Subsequently, the Italian Treasury has subsidised the USP by c.€350 million a year to cover the estimated losses incurred through the provision of the USO³³².
- **Establishing a compensation fund is complex and time consuming.** Compensation funds are politically, legally, and commercially sensitive. There are a number of requirements to meet before a regulator and government can establish a fund. Defining the net cost burden of the USO can be particularly contentious. For example, Poste Italiane has calculated the net cost of the Italian Universal Service as c.€700 million³³³, more than double the figure the Italian regulator recognises. Similarly, agreeing an appropriate percentage of contributions from other operators is complex. Ofcom would need to determine a level of contribution (licence fee) that is effective, yet does not distort the market. Setting a licence fees too high can stifle competition. Setting the fees too low means the fund is too small. Consequently, compensation funds can take a significant period of time to establish. The process – ranging from net cost calculation to State Aid approval from the European Commission – has taken other countries a significant period of time to complete. In Greece, despite the European Commission approving the fund in 2014, it is still not operational. In the meantime, the Greek Treasury has not yet made any disbursements towards the net costs of the USO, estimated to be a total of €14–15 million a year³³⁴. A UK fund could not be brought into operation swiftly. Although BIS has recommended that Ofcom publish “*an assessment that that timescale is fast enough to avoid a failure in the Universal Service, even in the short term*”³³⁵, Ofcom has not yet provided such an assessment.

9.19 **At present, Ofcom has no before-the-event tools of significance in use. Instead, Ofcom is primarily reliant on monitoring which is a significant burden on Royal Mail.** Royal Mail welcomes many of Ofcom's proposals for new financial health metrics (see the response grid at the end of this chapter). But it

³²⁹ CEPA, Relevance of Margin Based Approach, 17 November 2015, page 21.

³³⁰ The Spanish Postal Act created the provision for a fund in 2011, but it has not yet been implemented. The Netherlands considered launching in a fund in 2014, but instead decided to reduce the USO specification. The Greek Universal Service provider has not yet received any revenue from the fund approved by the European Commission in 2014.

³³¹ A report by WiK-Consult for the USPS. Funding the Universal Service Obligation. March 2016.

³³² A report by WiK-Consult for the USPS. Funding the Universal Service Obligation. March 2016. As of 2015, the Italian government has set the level of compensation to a maximum of 262 million Euros a year.

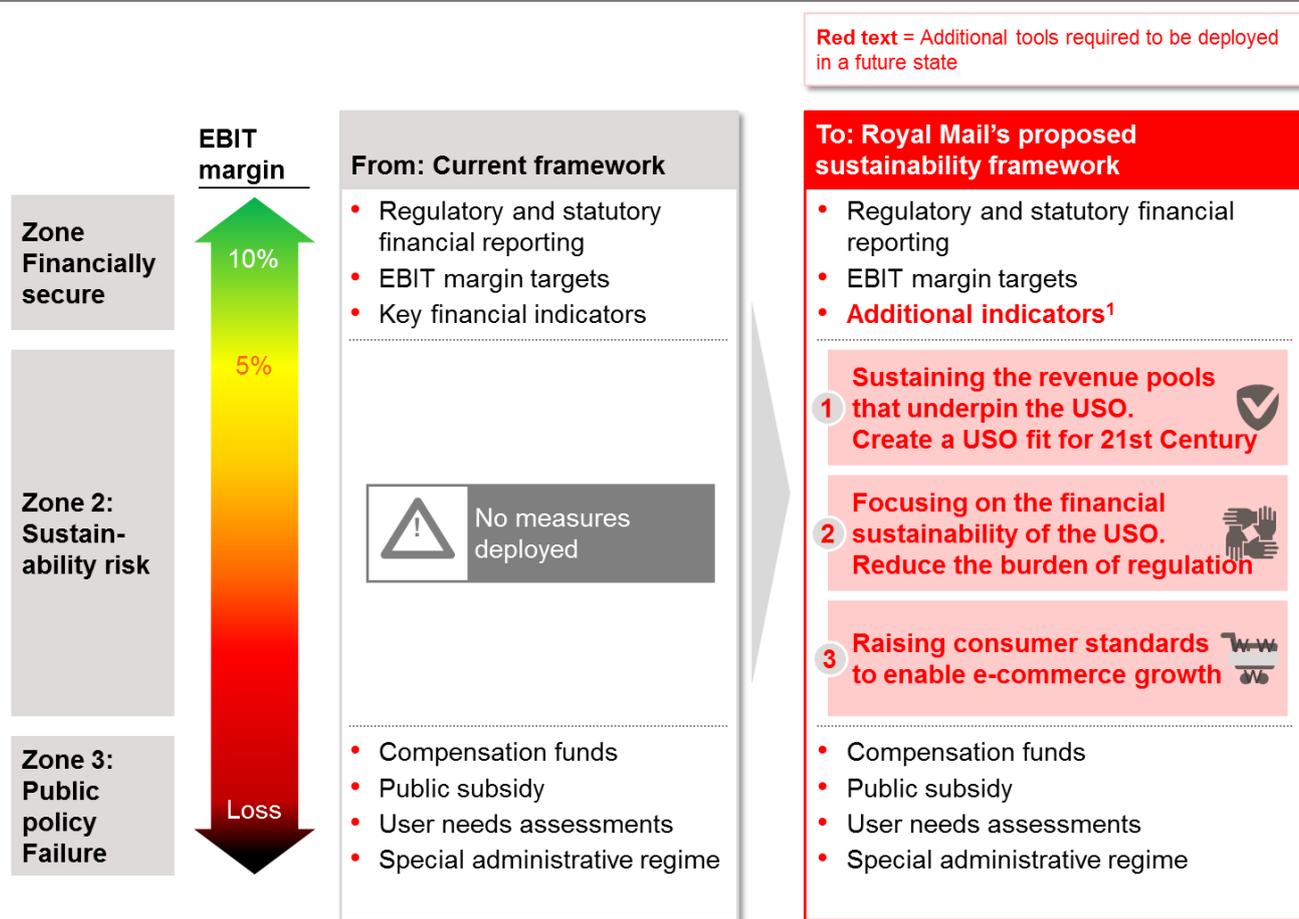
³³³ <http://postandparcel.info/62123/news/companies/poste-italiane-calls-for-review-of-universal-service-funding/>.

³³⁴ ELTA Financial accounts 2014. €14.9 million for 2013 and €14.2 million for 2014.

³³⁵ Competition in the postal services sector and the Universal Service Obligation – Department of Business, Innovation and Skills. March 2015.

should be understood that these - and the 5-10% target EBIT margin - are metrics to identify issues. They are not a set of tools to sustain the Universal Service. The duty to secure the Universal Service is an active duty. Regulatory thinking on sustainability needs also to be active and pre-emptive. Exhibit 9.3 sets out the terrain of this underused toolkit, and our proposed sustainability framework. These are addressed in more depth later in this chapter.

Exhibit 9.3: Missing elements in the current approach to sustainability³³⁶.



Our proposed sustainability framework has three key elements: sustaining revenue pools, focusing on sustainability, and raising standards to enable e-commerce.

Sustaining the revenue pools that underpin the USO.

9.20 **Decisions - or non-decisions - that prevent the Universal Service from changing could have a significant impact³³⁷.** If Universal Service products are not allowed to evolve over time - as user expectations develop - consumers will increasingly turn to competitors (see Chapter 6). This volume loss would significantly impact Royal Mail due to its high, fixed cost structure. A loss of demand would have a greater impact on revenues than on costs. It takes time to remove costs - it requires major structural change. Royal Mail could not respond to falling volumes by increasing prices because of the likelihood of creating a tipping point. Consequently, Royal Mail would have very few options available to maintain Universal Service revenue pools.

³³⁶ Footnote (1) in chart refers to additional financial health indicators including FFO / Net debt; Net Debt / EBITDA; and EBITDA / Interest.

³³⁷ In citing the promotion of competition, for example, stating that allowing tracked parcels in the USO could "risk damaging growing but relatively recent competition in 'single piece' parcels", Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 5.8.

- 9.21 **Ofcom appears to have adopted a more minimalist view of the Universal Service.** This was reflected in its 2013 User Needs Review. In that review, Ofcom only considered potential cost savings. It did not consider the revenue impact from reducing the scope of the USO. Ofcom also did not look at options to update the Universal Service or expand it. Its recent decision to keep the tracking prohibition on Universal Service products – other than Special Delivery – is another illustration of this approach. It appears that only in the specific circumstances when: (a) there is a demonstrable need; and (b) the rest of the market cannot meet that need, would Ofcom consider removing the tracking prohibition in the USO. This does not meet the need for the Universal Service to evolve to remain contemporary.
- 9.22 **Sustaining the revenue pools that fund the Universal Service must be at the heart of the new regulatory framework.** To underpin Universal Service revenue pools, the current high-quality Universal Service specification should be maintained and enabled to evolve over time. This includes allowing end-to-end tracked standard parcels in the USO. If Ofcom intervention were to reduce Royal Mail's ability to compete, the sustainability of the Universal Service could be challenged. Were the financial sustainability of the Universal Service to come under threat, there would be little Ofcom could do to return the Reported Business to a sustainable commercial rate of return. Ofcom cannot award Royal Mail additional revenues or reduce its cost base. Ofcom should ensure the Universal Service remains relevant by **allowing it to react quickly to changing user needs and competition.** This is supported both in the PSA 2011 and in Article 5 of the Postal Services Directive which states that the Universal Service should: *“evolve in response to the technical, economic, and social environment and to the needs of users”*³³⁸. The current regulations do not provide this flexibility.
- 9.23 **The next User Needs Review conducted by Ofcom should have as a pivotal feature the critical centrality of parcels and letters revenue to the USO.** Ofcom has said it will undertake a User Needs Review at some point in the next five years. Ofcom has significant discretion in this area – there is no guidance as to how such a review should be undertaken. As demonstrated by the research we have shared with Ofcom, the revenue impact of a reduction in the scope of the USO would more than outweigh any cost savings, putting the financial sustainability of the Universal Service under greater threat. Ofcom should also consider trends in the parcels sector and the continued importance of letters. The review should also encompass recognition that specification changes may lead to asymmetric risk and impact the financial sustainability of the Universal Service. Recognition that alternative revenue pools will not be available should be an important component too. The alternatives to revenue pools, i.e., public subsidy, or compensation funds, are limited and very modest as observed when applied in other countries. Ofcom should also consider to what extent the market, compared to the USO, would provide similar value for money products and services to a consistent level and provision in terms of convenience, universal price and geographical coverage.
- 9.24 **In summary, there should be no regulatory intervention without detailed and due consideration on the effect of it on revenues essential to fund the Universal Service.**

Focusing on the financial sustainability of the Universal Service.

- 9.25 Royal Mail has all the necessary incentives to drive efficiency. Therefore, **Ofcom should focus on its duty to sustain the Universal Service.** This focus on a proactive, preventative nature of the duty to sustain the Universal Service needs to be significantly enhanced through the Ofcom review. Any intervention must come before the Universal Service has become financially unsustainable. This, in turn, requires providing Royal

³³⁸ Postal Services Directive, Article 5.

Mail with the flexibility and regulatory underpinnings to actively respond on a timely basis to an emerging sustainability threat.

- 9.26 In line with this approach **Ofcom should not extend the mandatory Access regime in letters or mandate parcels Access to the Universal Service network** (see Chapters 3 and 5). While Ofcom is not currently proposing to extend the mandated Access regime to parcels, it remains open to requests from operators to extend Access, subject to sufficient evidence. We believe mandated parcels Access to our network is unwarranted. It would distort competition in the parcels sector. It would undermine the sustainability of the Universal Service, given the critical centrality of parcels revenue. We have raised this issue with BIS and requested that the PSA 2011 is amended to remove the ability to increase the scope of the mandatory Access to Royal Mail's network. In addition, there should be no extension of mandated Access in letters. The market is already highly developed and working well. Access operators now handle 59% of letters and 70% of business mail in the nation's postbag³³⁹. In other EU markets, no more than 11% is handled by Access operators³⁴⁰.
- 9.27 **There is no need to retain the existing 2C safeguard caps.** The competitive postal landscape – not regulation – already maintains strong downward pressure on prices. Customers already have sufficient protection through the PSA 2011 and Ofcom's General Universal Service Conditions. Ofcom has acknowledged that: "postal services and delivery is the only sector to see an increase in customers' perception of value for money"³⁴¹. The high fixed cost of the USO coupled with declining letter volumes creates upward pressure on unit cost. The cap was only intended to be in place until 2019. Retaining this cap will reduce our pricing flexibility and our ability to respond if necessary to sustain the USO. 'Safeguard' price caps therefore represent unnecessary regulation. (See Chapter 1.)
- 9.28 A new sustainability framework should not only **reduce gold plating of European postal legislation** but also, as the UK moves to exit from the EU, give serious consideration to those elements of the Postal Service Directive that should be reduced or removed to enhance the sustainability of the Universal Service. For example, Royal Mail is required to achieve a next day service at 91.5% performance across 118 of its 121³⁴² Postcode Areas (PCAs)³⁴³. This is not mandated by the EU Postal Services Directive (PSD); no other Universal Service Provider has such a requirement. There is also an inconsistency between the 93.0% 1st Class target and the 91.5% performance for each PCA. For Royal Mail to achieve a 91.5% performance across every PCA, it would have to achieve a much higher national performance than 93.0%. Specifically for all 118 PCAs to meet or exceed 91.5%, the overall national performance would need to be c.94.5%. Ofcom's review of the quality of service regime – which it plans to undertake in 2016 – provides an ideal opportunity to look at the PCA issue. We will engage with Ofcom fully on this review.

Raising consumer standards to enable e-commerce growth.

- 9.29 E-commerce growth in the UK is dependent on customers receiving a good delivery experience. The Universal Service has a stake in the quality of delivery to all end recipients, whether served by the USO or not. **If the sector acquires a poor reputation, and e-commerce growth is impacted, that would have**

³³⁹ Royal Mail Annual Report 2015–16, % of inland addressed letters.

³⁴⁰ ERGP, 2014 Report on E2E Competition and Access in EU Postal Markets – <http://ec.europa.eu/DocsRoom/documents/14345/attachments/1/translations/en/renditions/native>.

³⁴¹ Perceived value for money increased from 5.92 in 2005 to 6.91 in 2015. Ofcom's Customer Experience Report 2015.

³⁴² Royal Mail has an exemption for 3 of its PCAs because their remote location makes it impossible to deliver every day e.g. there is a ferry sailing every other day.

³⁴³ There are 121 Postcode Areas nationwide. All but three are set a minimum standard for First Class stamped and meter franked mail of 91.5%. The three exceptions are Shetland, Orkney and the Hebrides because of their remoteness. <http://www.royalmailgroup.com/royal-mail-delivers-quality-service-targets>.

a major impact on the finances of the Universal Service. The development of the parcels sector has outpaced consumer protection regulation. Consumer protections are particularly significant in parcels. End recipients typically do not choose the parcel delivery company when purchasing. In most cases, the e-retailer makes that choice for them. (See Chapters 7 and 8.).

9.30 **Most parcels operators are subject to little or no consumer protection standards.** Major new players, such as Amazon Logistics, are not even recognised as postal operators. Established postal operators are only required to provide consumers with a basic complaints process. Royal Mail, by contrast, as the Designated Universal Service Provider (DUSP), adheres to 32 consumer protection requirements. Evidence suggests that a higher number of regulatory consumer protections in parcels improves mail integrity performance. Royal Mail has a complaints ratio which is 80% less than the weighted average of its peers³⁴⁴. Ofcom should take action to raise standards, as set out in Chapter 7.

9.31 **The letters market has also developed significantly in recent years.** Yet the regulations for letters consumer protections – introduced in 2006 – are out of date. Ofcom has made some welcome steps to bring consumer protection regulations in line with market realities. For example, Royal Mail is pleased to see the removal of PCOP³⁴⁵, the revocation of Consumer Protection 5 and the withdrawal of the advanced notification period for changes to latest delivery time. But Ofcom proposes that Royal Mail continues as the only major letters operator with a minimum set of regulatory consumer protections. By contrast, Access operators who handle 59% of all letters volume for part of the mail's journey³⁴⁶, do not need to comply with current consumer protection standards. Ofcom should rectify this by applying a minimum set of standards to all letters operators (Chapter 8).

9.32 **Ofcom should apply a minimum set of regulatory consumer protection standards to all major postal operators – letters and parcels –** to protect the safety and security of consumers' mail. It should do so by broadening the proposed definition of 'Relevant Postal Operator' to include all major players and Access operators and extending the mail integrity and complaints handling process requirements to all identified 'Relevant Postal Operators'. Ofcom should also extend the requirements to provide an approved redress and Alternative Dispute Resolution (ADR) scheme and appropriate financial compensation to all 'Relevant Postal Operators' providing 'single piece' type services.

³⁴⁴ Royal Mail's peers have a weighted average complaints ratio of 0.087% – Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 7.29. We have assumed that this figure does not include Royal Mail as Ofcom did not request any information from us. By contrast, Royal Mail has a complaints ratio of [§<] mail integrity complaints on a total of 1.034 billion parcels conveyed, 2015-16.

³⁴⁵ Postal Common Operational Procedures Code of Practice as defined under the Postal Services Act 2011.

³⁴⁶ Royal Mail Full Year 2015-16 results presentation, % of inland addressed letters.

Overview of paragraphs referenced in response to Ofcom Fundamental Regulatory Review, question 2.

<i>Questions responded to in chapter.</i>	<i>Paragraph reference.</i>
<p>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.”</p>	<p>Royal Mail welcomes several of Ofcom’s proposals:</p> <ul style="list-style-type: none"> Royal Mail supports the extension of the regulatory framework until March 2022, subject to the important changes detailed in this chapter. We agree³⁴⁷ with Ofcom that “the EBIT margin of the Reported Business continues to be the appropriate metric “to use to assess the commercial rate of return of the universal postal service provider for the purposes of assessing financial sustainability over the medium to long term”³⁴⁸. However, we are concerned that Ofcom may augment its monitoring with a Return on Assets (ROA) metric if our financial returns reach the upper end of the 5-10% EBIT range. There are significant practical challenges in using an ROA metric – it is not appropriate for a people based business. We welcome the fact that Ofcom has agreed to consider our viability statement and the statement of principal risks in our annual report when considering sustainability. We are pleased that Ofcom has adopted our proposal to enhance its monitoring framework with additional financial health metrics. This is in line with how rating agencies assess Royal Mail. It will be helpful for Ofcom and Royal Mail to have a common view of these indicators. We will engage with Ofcom on how we can best provide the information it has proposed to include: funds from Operations (FFO) / Net debt; Net Debt / Earnings before Interest, Tax, Depreciation and Amortisation (EBITDA)³⁴⁹ and EBITDA / Interest (also known as interest cover)³⁵⁰. <p>Most pressingly, Royal Mail believes that Ofcom should put in place a proactive sustainability framework, to secure the Universal Service.</p> <ul style="list-style-type: none"> We have made significant progress on efficiency. But, our stretching efficiency programme alone cannot address the unique circumstances relating to post.

³⁴⁷ See the summary of our view provided in Ofcom, Review of the Regulation of Royal Mail Annexes 5-11, 25 May 2016, paragraphs A6.14-A6.15.

³⁴⁸ Ofcom, Review of the Regulation of Royal Mail, 25 May 2016, paragraph 6.42.

³⁴⁹ As defined under Royal Mail loan covenants see Note 20 of Royal Mail plc Annual Report and Financial Statements 2015-16.

³⁵⁰ As defined under Royal Mail loan covenants see Note 20 of Royal Mail plc Annual Report and Financial Statements 2015-16.

<i>Questions responded to in chapter.</i>	<i>Paragraph reference.</i>
	<ul style="list-style-type: none"> • Significant downside risks may bring the Reported Business component below the 5-10% range deemed appropriate by Ofcom for securing a financially sustainable USO. This is addressed in paragraphs 9.6-9.10. • Ofcom does not need to intervene further to promote competition - market forces are doing their job. Instead, Ofcom needs to focus on sustainability. This is addressed in paragraphs 9.11-9.13. • Ofcom should seek to reduce the regulatory burden on the Universal Service Provider. The regulatory burden should be shared between operators. This is addressed in paragraphs 9.14-9.16. • Ofcom's current approach is not sufficient. It is too reliant on after-the-event solutions or monitoring alone. These do not constitute a set of tools to sustain the USO. This is addressed in paragraphs 9.17-9.19. • We propose an active and pre-emptive sustainability framework made up of the three specific components: sustaining the revenue pools that underpin the USO, focusing on sustainability, and raising consumer standards to enable e-commerce growth. This is addressed in paragraphs 9.20-9.32. <p><i>We have a number of suggestions as to how Ofcom's proposals could be strengthened.</i></p> <ul style="list-style-type: none"> • Ofcom should also consider dividend-related metrics. Our business risk profile and high operational gearing limit the level of debt we can withstand whilst retaining an investment grade credit rating. As such, equity is a fundamental part of our capital structure and our ability to return dividends to equity holders over the longer term is a lead financial health metric. Accordingly, we propose a further metric that indicates our ability to fund dividends, including dividend cover (defined as in-year trading cash inflow divided by the cash dividend paid).

Annex 1

Ofcom's proposals that restrict Royal Mail, create an unnecessary burden and/or generate unwarranted uncertainty.

	Ofcom's Proposal	Royal Mail's Response
Price control	To retain the safeguard caps in their current form	<ul style="list-style-type: none"> Royal Mail does not agree with this proposal – we believe both of the safeguard caps should be removed. Royal Mail is subject to intense competition. This diminishes our ability to increase prices and ensures prices remain affordable. Therefore the main purpose of the safeguard caps is already fulfilled by market forces. These safeguard caps are not in keeping with Ofcom's stated principle of only intervening where necessary.
Parcels mandation	Remains open to considering requests to expand Access however we would emphasise that this requires a sufficient degree of evidence to meet the legal threshold for imposing an Access condition.	<ul style="list-style-type: none"> We believe mandated Access for parcels to our delivery network is unwarranted. Parcel mandation would actually undermine the financial sustainability of the Universal Service by removing valuable revenues needed to fund it. The intense competition in the parcels sector has occurred without a mandated Access regime. Royal Mail's delivery network is not essential for achieving effective competition in the parcel sector as there are many alternative providers to Royal Mail.
Regulatory cost allocation	To review cost allocations between parcels and letters and to build a costing model	<ul style="list-style-type: none"> There is no need for such a review. We comply with the USPAC and with the RAG. We are subject to an extensive monitoring regime which the regulator put in place. Such a review will create unnecessary uncertainty. This is a significant new regulatory burden which is not justified. Ofcom and Royal Mail should work together more closely within the existing framework. We will review specific methodological issues with the regulator. We will present our plans for future methodology changes to Ofcom. We have highly demanding reporting requirements – we produce 170 financial and non-financial reports a year for Ofcom.
Access Architecture	To significantly reduce the timeframe Royal Mail has to	<ul style="list-style-type: none"> We disagree with Ofcom's proposal to amend

Ofcom's Proposal

Royal Mail's Response

process applications for new Access services.

USPA 4.1 (c) to significantly reduce the timeframe to process applications for new Access services. It is neither warranted nor achievable. Ofcom has not presented any evidence that the current 13-week timeline does not meet the requirements of users. Ofcom has also not demonstrated that a six-week period is technically viable. It is required to do by Section 38 (8) of PSA 2011.

To introduce the main principles behind its 2014 Access Pricing Review as guidance.

- Royal Mail has major concerns about proposals in relation to the Access Pricing Review. In substance, Ofcom is seeking to introduce the main principles underpinning its 2014 Access Pricing Review proposals in the form of guidance. The use of guidance raises issues of procedural fairness and administrative law. These proposals are a materially retrogressive change from the 2012 framework. Their proposed application now – despite the absence of direct delivery competition in the letters segment – would restrict our commercial freedom in the future in an unnecessary and disproportionate fashion.

USO

Not to amend the Universal Service Order or the DUSP conditions to include tracking as standard on First and Second Class Single Piece parcels.

- Ofcom should remove the restrictive regulation that prevents end-to-end tracking of standard parcels in the USO. Royal Mail believes that Ofcom needs a new way of thinking about the Universal Service. If USO products are not allowed to evolve over time - as user expectations develop - consumers will increasingly turn to the competition.
- Opting not to update the USO will remove, over time, new or existing revenue pools. This will make it more difficult to fund the Universal Service. A market funded Universal Service needs to be contemporary and market facing.

Consumer Protections

Change the mail integrity framework to take “all necessary steps” and “comply with any direction made by OFCOM”.

- Ofcom's proposed drafting of the mail integrity regulation represents a potentially very significant and unwarranted increase in the regulatory burden on Royal Mail. The proposed drafting requires Royal Mail to take “all necessary steps”. This is effectively an unlimited commitment to mail integrity and represents unmanageable and impractical regulation. If Ofcom is to introduce new mail integrity regulations, they must be proportionate and clearly defined to be operable.

Ofcom's Proposal

Royal Mail's Response

- Ofcom's press release suggests that there is a problem with mail integrity of untracked letters. There is no evidence of consumer harm by Royal Mail. In fact, Royal Mail's customer satisfaction rating in letters is between 87% and 90%. If Ofcom would like to open a dialogue on mail integrity, Royal Mail is happy to offer more meetings to discuss the progress it continues to make.
- Ofcom uses the term "postal operators", suggesting that it is applying the proposed rules to more than one postal operator. This is not the case. Ofcom's proposals will not affect any other major letters operator other than Royal Mail.
- The protections should apply equally to the key aspects of the postal process – collection, sortation and delivery. This means they should apply to all Access operators and end-to-end parcel and letter operators.
- This is a continuation of an unlevel playing field which adversely affects the only party that has a universal social obligation.

Only apply basic complaints handling process to traditional parcel operators.

- There are issues with quality of service in the parcels sector. This may impede the growth of e-commerce.
 - The development of the parcels sector has outpaced consumer protection regulation. Most operators are subject to little or no consumer protection standards. For example, major new players, such as Amazon Logistics, are not recognised as postal operators, and so are not subject to any regulatory consumer protections at all. Established postal operators (other than Royal Mail) are only required to provide consumers with a basic complaints process. Royal Mail, by contrast, as the Designated Universal Service Provider (DUSP), adheres to 32 consumer protection requirements relating to parcels. Higher standards generate better outcomes for the consumer. In parcels, the ratio of mail integrity complaints is 80% lower for Royal Mail than that of the weighted average of its peers
 - This is a continuation of an unlevel playing field which adversely affects the only party that has a universal social obligation.
-

Reader guide for Annexes 2, 3 and 4.

In response to Ofcom's questions 9, 11, and 13, Royal Mail's drafting amendments to Essential Condition 1, Consumer Protection 2 and Consumer Protection 3.

Annexes 2, 3 and 4 contain Royal Mail's proposed changes to Ofcom's drafting of the regulatory conditions. These annexes reflect our commentary in Chapter 7 and 8 of this document; appropriate regulatory consumer protections in parcels and letters.

Essential condition 1 – Mails Integrity Code of Practice (Annex 2)

We do not think it is necessary to remove the Code. It is working well. Therefore, we have proposed changes to the current Condition and Code (rather than Ofcom's proposed revised Condition):

1. Changed the definition of "relevant postal operators" to include all letter and parcel operators including major new players (other than closed network operators).
2. Changed the definition of "relevant postal service" to mean a letters or parcel postal service up to 20kg.
3. Removed unnecessary reporting requirements.
4. Made minor changes to reduce ambiguity or remove obsolete requirements.

Consumer Protection Condition 2 – Postal common operating procedures (Annex 3)

1. Inserted a requirement for all operators to report up to date contact details to Ofcom, and for Ofcom to publish those details, so their mail can be repatriated.
2. Inserted a requirement for all operators to apply a clearly identifiable company logo to their mail.
3. Inserted a requirement for all operators to act reasonably in signing up to the PCOP agreement (PCOPA).

Consumer protection condition 3 – Complaints and redress (Annex 4)

1. Changed the definition of "relevant postal operators" to include all letter and parcel operators including major new players (other than closed network operators).
2. Inserted a requirement for all operators handling 'Single Piece' consumer parcels to comply with consumer complaint handling requirement and reporting requirements.

Key for reviewing annexes:

- Yellow highlighted text is wording that we propose to delete.
- Green highlighted text is wording that we propose to insert.

Annex 2

(Annex 13 to Ofcom's Review of the Regulation of Royal Mail)

Statutory Notification: essential condition

NOTIFICATION OF DECISION TO IMPOSE A REGULATORY CONDITION IN ACCORDANCE WITH SECTION 49 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 13 December 2011, at Annex 16 to the consultation document entitled 'Review of Regulatory Conditions: Postal Regulation', OFCOM published a notification in accordance with section 49 of, and paragraph 3(3) of Schedule 6 to, the Act setting out their proposals to impose on regulated postal operators an essential condition pursuant to their powers in section 49 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 49 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 an essential condition, in accordance with section 49 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers in section 49 of the Act, on postal operators (as defined in the conditions), to make provision for matters set out in that section 49.
2. The essential 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.

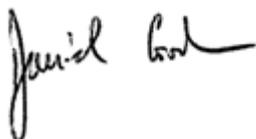
OFCOM'S DUTIES AND LEGAL TESTS

4. OFCOM is satisfied that this decision 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 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> <p>(a) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(b) “Appointed Day” means 1 October 2014;</p> <p>(c) “Relevant Code Postal Packet” means a postal packet conveyed by a relevant postal operator <u>in the provision of a regulated postal service or a universal service</u>;</p> <p>(d) “closed network” means a system providing for the conveyance of postal packets (and the incidental services of receiving, collecting, sorting and delivering postal packets) between:</p> <ol style="list-style-type: none"> i. the premises of one firm and another firm; ii. a government department and a third party firm; iii. branches and/or units in the same firm; or iv. government departments, <p>where both the sender and the recipient of the postal packets have entered into specific arrangements with the postal operator for the conveyance of postal packets to or from other members of that system, which, for the avoidance of doubt, includes a document exchange. But does not include delivery operators delivering on behalf of retailers, including marketplace sellers.</p> <p>(d) “Council” means the National Consumer Council established by s.1 of the Consumers, Estate Agents and Redress Act 2007;</p> <p>(e) “Damage” means, in relation to a <u>Code Postal Packet</u> Relevant postal packet, any physical damage to a <u>Code Postal Packet</u> Relevant postal packet (other than damage caused by interference or accidental damage) occurring after the time of acceptance of that <u>Code Postal Packet</u> Relevant postal packet 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;</p> <p>(f) “Delivered” a relevant postal packet shall be considered delivered, subject to adhering to any product specific signature or discharge requirements : -</p> <ol style="list-style-type: none"> (i) at the premises to which it is addressed or redirected, unless they are a post office from which it is to be collected, (ii) to any box or receptacle to which the occupier of those premises has agreed that postal packets addressed to persons at those premises may be delivered, or (iii) to the addressee’s agent or to any other person considered to be authorised to receive the packet,

	<p>shall be a delivery to the addressee</p> <p>(f) “Interference” means interference with a Code Postal Packet Relevant postal packet contrary to sections 83 or 84 of the Postal Services Act 2000;</p> <p>(g) “Loss” means the physical loss of a Code Postal Packet Relevant postal packet, other than as a result of:</p> <p style="padding-left: 40px;">(a) having been <u>stolen</u>,</p> <p style="padding-left: 40px;">(b) being incorrectly addressed,</p> <p style="padding-left: 40px;">at any time after the acceptance of that Code Postal Packet Relevant postal packet by the relevant regulated postal operator 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 relevant regulated postal operator to deliver that Code Postal Packet Relevant postal packet within 10 15 working days of its due day of delivery;</p> <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) “Relevant gulated postal operator” for the purposes of this condition means a postal operator which provides letters or parcel services, excluding those that operate within a closed network in relation to which, had those services been carried out prior to the Appointed Day, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(l) “Relevant regulated postal service” for the purposes of this condition means a letters or parcels postal service up to 20kg the provision of which, had it been carried out prior to the Appointed Day, 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 Code Postal Packet Relevant postal packets</p>
--	---

(f) **“Interference”** means interference with a Code Postal Packet Relevant postal packet contrary to sections 83 or 84 of the Postal Services Act 2000;

(g) **“Loss”** means the physical loss of a Code Postal Packet Relevant postal packet, other than as a result of:

(a) having been stolen,

(b) being incorrectly addressed,

at any time after the acceptance of that Code Postal Packet Relevant postal packet by the relevant regulated postal operator 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 relevant regulated postal operator to deliver that Code Postal Packet Relevant postal packet within 10 15 working days of its due day of delivery;

(h) **“Mail Integrity Code”** means the document of that name annexed to this Condition;

(i) **“Mail Integrity Objectives”** has the meaning given by paragraph 1.1 of the Mail Integrity Code;

(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;

(k) **“~~Relevant regulated postal operator~~”** ~~for the purposes of this condition means a postal operator which provides letters or parcel services, excluding those that operate within a closed network in relation to which, had those services been carried out prior to the Appointed Day, it would have been required to hold a licence under the Postal Services Act 2000;~~

(l) **“~~Relevant regulated postal service~~”** ~~for the purposes of this condition means a letters or parcels postal service up to 20kg the provision of which, had it been carried out prior to the Appointed Day, would have required the provider to hold a licence under the Postal Services Act 2000.~~

(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 Code Postal Packet Relevant postal packets or who are reasonably likely to have access to Code Postal Packets in the course of their work;

	<ul style="list-style-type: none">(n) “Relevant year” means any year beginning on 1 April;(o) “Royal Mail” means Royal Mail Group Limited (registered number 4138203);(p) “Serious incident” has the meaning given in paragraph 2.6 of the Mail Integrity Code;(q) “Stolen” means misappropriated contrary to the Theft Act 1968;(r) “Theft” means misappropriation contrary to the Theft Act 1968;(s) “Working day” means any day which is not a Sunday or a <u>public holiday</u>.
--	---

E 1.1.3 For the purpose of interpreting this Essential Condition—

	<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 Act¹;</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"> • Exceptions to Royal Mail’s universal service obligation – for <u>when</u> the 26 December <u>2009</u> <u>falls on a Saturday</u> in the UK, and local holidays in Northern Ireland and Scotland: <u>An exception to Royal Mail’s universal service obligation - no requirement for deliveries and collections when 26 December falls on a Saturday, a decision document (Ofcom, October 2015). (Postal Services Commission, October 2009).</u>
--	---

1.2. Obligation to comply with the Mail Integrity Code

E 1.2.1	<p>Unless OFCOM otherwise consents, a <u>relevant regulated</u> postal operator shall at all times comply with the <u>Mail Integrity Code</u>.</p> <p><u>For the purposes of this Condition E 1, any consent issued and not withdrawn by the Postal Services Commission prior to the Appointed Day, relating to:</u></p> <p><u>(a) Condition 8 of the licence held by Royal Mail under the Postal Services Act 2000 immediately before the Appointed Day; or</u> <u>(b) Condition 3 of a licence held by any other postal operator under the Postal Services Act 2000 immediately before the Appointed Day;</u></p> <p><u>shall be deemed to be a consent issued by OFCOM under this Condition.</u></p>
----------------	--

¹ 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 Packet Relevant postal packets to the risk of loss, theft, damage and/or interference; and
- (b) maintaining and improving regulated relevant 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 Relevant postal operators; and
- (b) all Code Postal Packets conveyed, received, collected, sorted, delivered or otherwise handled by regulated relevant postal operators.

1.4 Regulated Relevant 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 relevant 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 relevant 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 relevant 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~~relevant postal operator employs or uses (or intends to employ or use) Relevant Employees, the ~~regulated~~relevant 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 ~~relevant~~postal operator requires;
- (c) the steps that the ~~regulated~~relevant postal operator requires to be taken to satisfy itself of the identity of the prospective Relevant Employee;
- (d) the steps which the ~~regulated~~relevant 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 RegulatedRelevant postal operators must reasonably regularly monitor implementation of and compliance with the recruitment policy.

3.5 RegulatedRelevant 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 regulatedrelevant postal operator employs or uses Relevant Employees, the regulatedrelevant 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 Relevant postal operators must reasonably regularly monitor implementation of and compliance with the training policy.

4.5 Regulated Relevant 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 relevant postal operator employs or uses Relevant Employees, the regulated relevant 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 relevant postal operator requires Relevant Employees to meet; and

(b) establish, maintain and adhere to a conduct 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 Relevant 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 conduct disciplinary policy.

5.4 The conduct 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 relevant 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 Relevant postal operators must reasonably regularly monitor implementation of and compliance with the:

(a) standards of conduct Code of Business Standards; and

(b) Conduct disciplinary policy.

5.6 Regulated Relevant postal operators must reasonably regularly review the:

(a) ~~standards of conduct~~ Code of Business Standards; and

(b) Conduct disciplinary policy

and, where necessary, update or amend the ~~standards of conduct~~ Code of Business Standards or ~~conduct 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~~ relevant 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, up to the point that a Code Postal packet has been delivered.

6.2 ~~Regulated~~ Relevant 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 relevant 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~~ Relevant 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~~ **Relevant** 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~~ **Relevant** 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 ~~10~~ **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”.~~ **Such items are defined as “substantially delayed” and do not require reporting under MICOP.**

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~~ **Relevant** 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~~ **relevant** postal operator shall ensure that, so far as is reasonably practicable ~~and proportionate~~, all of:

- (a) its franchisees, agents or sub-contractors (if any) who are **directly** 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 relevant** 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 relevant** postal operator, it shall be sufficient for the **regulated relevant** 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 relevant** 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>	65(1)
<i>OFCOM</i>	90
<i>postal packet</i>	27(2)
<i>universal service provider</i>	65(1) and Schedule 9 paragraph 3(3)

Annex 3

(Annex 14 to Ofcom's Review of the Regulation of Royal Mail)

Statutory Notification: proposed modification of Consumer Protection condition 2

NOTIFICATION OF PROPOSALS TO MODIFY REGULATORY CONDITIONS IN ACCORDANCE WITH SECTION 51 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 27 March 2012, following a consultation, OFCOM published a statement entitled "*Securing the Universal Postal Service: Decision on the new regulatory framework*"¹ (the "**2012 Statement**") setting out various decisions, including the imposition of consumer protection conditions to make provision for matters set out in section 51 of the Postal Services Act 2011 (the "**Act**"). These conditions included Consumer Protection Condition 2 ("**CP 2**").
- (B) On 1 April 2014, following a consultation, Ofcom published a statement entitled '*Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions*'² setting out various decisions, including the decision to modify CP 2 (the "**2014 Modification**").³ In the 2014 Modification, Ofcom explained that this revised version replaced the previous published version notified in the 2012 Statement and took effect when this notification was published.

PROPOSAL

1. OFCOM hereby proposes, in accordance with section 51 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers and duties in section 51 of the Act, to revoke CP 2 and replace it with a new consumer protection condition to make provision for matters set out in section 51.
2. The proposed new CP 2 is specified in the Schedule, marked up against the existing condition to show the changes which are proposed, as highlighted in red text.
3. The effect of, and OFCOM's reasons for making, this proposal are set out in the accompanying consultation document.

Ofcom's duties and legal tests

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

¹ <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/statement.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/Statement.pdf>

³ http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/CP2_3.pdf

5. In making this proposal, OFCOM have considered and acted in accordance with their principal duty in section 29 of the Act and their general duties in section 3 of the Communications Act 2003.

Making representations

6. Representations may be made to OFCOM about the proposal set out in this Notification by no later than 3 August 2016.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, OFCOM may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if OFCOM has—
 - (a) considered every representation about the proposal that is made to OFCOM within the period specified in this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for this purpose by the Secretary of State.

Interpretation

9. 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 or for the purpose of CP 2 (as relevant).
10. In this Notification—
 - (a) “**2012 Statement**” has the meaning given to it in recital (A) to this Notification;
 - (b) “**2014 Modification**” has the meaning given to it in recital (B) to this Notification;
 - (c) “**Act**” means the Postal Services Act 2011 (c.5); and
 - (d) “**CP 2**” means consumer protection condition referred to in recital (A) to this Notification as modified and replaced by the 2014 Modification.
11. 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.

12. The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in blue ink, appearing to read 'Jonathan Oxley', with a small mark at the end of the line.

Jonathan Oxley

Group Director, Competition Group]

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

24 May 2016

Schedule

Proposed modification of CP2

CONSUMER PROTECTION CONDITION 2: POSTAL COMMON OPERATIONAL PROCEDURES

1. Application, Definitions and Interpretation

CP 2.1.1	This consumer protection condition (“ CP Condition ”) shall apply to regulated postal operators the universal service provider all relevant postal operators .
CP 2.1.2	<p>In this CP Condition—</p> <p>(a) “Access Indicator” means the Customer Access Indicator and the Royal Mail Access Indicator as those terms are defined in the relevant USP Access Agreement;</p> <p>(b) “Access Party” means a regulated postal operator (other than the universal service provider) that is party to a USP Access Agreement;</p> <p>(ae) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(bd) “appointed day” means 1 October 2011;</p> <p>(ch) “complainant” means a person who has made a <u>complaint</u>;</p> <p>(di) “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>(e) “express and secured service” means a service involving the conveyance of <u>postal packets</u> and any incidental services of collecting, sorting and delivering those <u>postal packets</u> which has at least one of the following features:</p> <ol style="list-style-type: none"> i. a guarantee for delivery by a certain time or date; ii. a facility enabling the sender and the recipient to monitor the progress of a postal packet through the postal operator’s network, including confirmation of delivery; <p>(fi) “intended operator” means the <u>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 relevant letters the Relevant Code Letters;</p> <p>(gs) “postal facilities” means the physical and human resources deployed by a relevant postal operator a regulated postal operator the universal service provider (and, where relevant, by its contractors and agents) for the purpose of providing <u>postal services</u>;</p> <p>(h) “miscollected letters” means <u>relevant letters</u> which have been</p>

	<p>collected in error by the <u>universal service provider</u> when it is not the <u>intended operator</u>;</p> <p>(i) “misdirected letters” means <u>relevant letters</u>, other than <u>miscollected letters</u> (but, for the avoidance of doubt, including <u>misposted letters</u>), which have entered the <u>postal facilities</u> of the <u>universal service provider</u> when it is not the <u>intended operator</u> in respect of those <u>relevant letters</u>;</p> <p>(j) “misposted letters” means <u>relevant letters</u> which due to customer error have entered the <u>postal facilities</u> of the <u>universal service provider</u> when it is not the <u>intended operator</u> in respect of those <u>relevant letters</u> and which have not been delivered to the relevant addressee;</p> <p>(k) “relevant letter” means a <u>postal packet</u> that is defined by Royal Mail's large letter dimensions <u>up to no more than 353mm in length, up to no more than 250mm in width, up to no more than 25mm thick and which weighs up to no more than 750g</u>;</p> <p>(l) “relevant postal operator” for the purpose of this condition means a <u>postal operator</u> that provides a <u>relevant postal service</u>;</p> <p>(m) “relevant postal service” for the purpose of this condition means a service of conveying <u>relevant letters</u> from one place to another by post and the incidental services of receiving, collecting, sorting and delivering <u>relevant letters</u>, excluding:</p> <ul style="list-style-type: none">(a) services for which the <u>postal operator</u> has not received any payment, reward, profit or advantage with respect to the conveyance of the <u>relevant letters</u>;(b) services provided by a charity which comprise solely the collection, conveyance and delivery of Christmas cards;(c) <u>express and secured services</u>; and(d) services consisting of conveying <u>relevant letters</u>, which have been sent from a location outside of the United Kingdom and which are addressed for delivery to a location outside of the United Kingdom, out of the United Kingdom.(e) services where a postal operator delivers relevant letters to the Designated Universal Service Provider for onward delivery <p>(n) “identifier” means a clearly identifiable logo or similar identifier unique to each relevant postal operator and notified to each relevant postal operator and Ofcom within a reasonable time of update. For the avoidance of doubt, this should be distinctly different in visual appearance to the indicia used for the purposes of Downstream Access.</p>
--	---

	<p>(e) “Code Identifier” means such mark, number or other identifier unique to each regulated postal operator as may be allocated and notified to each regulated postal operator from time to time prior to the Appointed Day by the Postal Services Commission or, from the Appointed Day, by OFCOM;</p> <p>(f) “Code Letter” means</p> <p>(a) — in the case of the universal service provider and a regulated postal operator acting in the capacity of an Access Party or Intermediary, a postal packet which is no larger than 460mm by 610mm by 460mm (or, if a tubular postal packet, 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 regulated postal operator (including an Access Party or Intermediary not acting in the capacity of Access Party or Intermediary), a Letter 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> <p>(ii) — weighs less than 350 grams;</p> <p>(c) — any postal packet deemed to be a Code Letter 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>(i) “Consumer Advocacy Bodies” means Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;</p> <p>(k) “Indicator” means in the case of an Access Party acting in that capacity, the relevant Access Indicator, and in all other cases, a payment indicator such as PPI;</p> <p>(m) “Intermediary” means a an access operator or any other postal operator that hands over postal packets to another postal operator (including but not limited to the universal service provider) for subsequent conveyance and delivery to the intended recipients of the postal packetsregulated postal operator (other than an Access Party) that is party to arrangements with the universal service provider under which that regulated postal operator delivers Postal Packets to the universal service provider for subsequent conveyance;</p> <p>(n) “Letter” has the meaning ascribed to it in the Act but excludes parcels;</p> <p>(o) “Miscollected Code Letters” means Code Letters which have been collected in error by a regulated postal operator which is not the Intended Operator;</p> <p>(p) “Misdirected Code Letters” means Code Letters, other than Miscollected Code Letters (but, for the avoidance of doubt, including Misposted Code Letters), which have entered the Postal Facilities of a regulated postal operator which is not the Intended Operator in respect of those Code Letters;</p> <p>(q) “Misposted Code Letters” means Code Letters which due to customer error have entered the Postal Facilities of a regulated postal operator which is not the Intended Operator in respect of those Code Letters and which have not been delivered to the relevant addressee;</p> <p>(r) “Postal Common Operational Procedures Code” means the Code of Practice in section 3 of this Condition;</p> <p>(t) “Postal Packet” has the meaning ascribed to it in the Act but excludes parcels;</p>
--	--

	<p>(u) “Prohibited Code Letters” means any postal packet which contains items and/or material prohibited or restricted by the Scheme;</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 regulated postal operator whose Postal Facilities the Relevant Code Letters (in respect of which it is not the Intended Operator) have entered;</p> <p>(x) “regulated postal operator” means a postal operator which provides services in relation to which, had those services been carried out prior to the appointed day, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(y) “Relevant Code Letters” means Miscollected Code Letters or Misdirected Code Letters, as the case may be;</p> <p>(z) “regulatory condition” means any condition of authorisation set by OFCOM under the Act;</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 letter or other communication, means the person whose communication it is;</p> <p>(dd) “Voluntary Code Letter” means any Postal Packet (other than a Prohibited Code Letter) which is not a Code Letter for the purposes of paragraph (b) of the definition of Code Letter but which is no larger than 460mm by 610mm by 460mm (or, if a</p>
<p>CP 2.1.3</p>	<p>For the purpose of interpreting this CP Condition—</p> <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 Act⁴;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be</p>

⁴ 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.

	<p>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 public holidays.</p>
--	---

2. Obligation to have procedures relating to miscollected letters and misdirected letters abide by the Postal Common Operational Procedures Code

CP 2.2.1	<p>The <u>universal service provider</u> shall establish, maintain and adhere to policies and procedures for the purpose of achieving the following objectives:</p> <p>(a) ensuring that <u>miscollected letters</u> and <u>misdirected letters</u> are:</p> <ol style="list-style-type: none"> i. returned to the <u>intended operator</u>; or ii. if such return is not reasonably practicable, otherwise handled (including, where appropriate and agreed with the <u>intended operator</u>, delivered to the intended recipient), in either case in an efficient, economic and timely manner; and <p>(b) ensuring <u>complaints</u> or other enquiries (including from customers) in relation to <u>relevant letters</u> made to the <u>universal service provider</u> which is not the <u>postal operator</u> to which the <u>complaint</u> or other enquiry should have been made, are handled in an efficient, economic and timely manner and in accordance with the requirements of CP 2.4.</p>
CP2.2.2	<p>Relevant postal operators shall, in April of each year, provide Ofcom with up-to-date contact information, including:</p> <ol style="list-style-type: none"> a. A copy of the operator's indicia b. The operator's contact details, including: <ol style="list-style-type: none"> i. Postal address ii. Phone number iii. Website address (if applicable) iv. Email address (if applicable) v. A named point of contact <p>Ofcom will maintain and publish an up-to-date list of relevant postal operators in the UK to support the successful repatriation of mail items.</p>
CP 2.2.1	<p>Unless OFCOM otherwise consent, each regulated postal operator shall comply with the <u>Postal Common Operational Procedures Code</u>.</p>

<p>CP 2.2.2</p>	<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> <ul style="list-style-type: none"> (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 (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</p>	<p>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>;</p>

<p>CP 2.2.4</p>	<p>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 costs reasonably incurred in the discharge of those functions.</p>
<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; (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</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</u></p>

	<p>the <u>Consumer Advocacy Bodies</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. Arrangements with relevant postal operators

CP 2.3.1	<p>The <u>universal service provider</u> shall use all reasonable endeavours to enter into arrangements with each of the relevant postal operators for the purposes of meeting the objectives set out in CP 2.2.1(a). Relevant postal operators must also act reasonably in this regard. Those arrangements must:</p> <p>(a) be on fair and reasonable terms and conditions, including charges; and</p> <p>(b) not include a charge for the return of <u>miscollected letters to the intended operator</u>.</p> <p>(c) all relevant operators shall ensure a "clearly identifiable logo or similar to ensure mail items can be successfully repatriated."</p>
CP 2.3.2	<p>The <u>universal service provider</u> shall prepare, publish and maintain standard terms and conditions for arrangements to achieve the objectives of CP 2.2.1(a).</p>
CP 2.3.3	<p>The <u>universal service provider</u> shall comply with any direction made by <u>OFCOM</u> requiring it to:</p> <p>(a) adopt such policies or procedures;</p> <p>(b) enter into or amend the terms of conditions of any arrangements required by CP 2.3.1; or</p> <p>(c) take any such other steps as <u>OFCOM</u> considers necessary, for the purposes of facilitating the achievement of the objectives set out in CP 2.2.1.</p>

4. Customer service enquiries

CP 2.4.1	<p>The policies and procedures that the <u>universal service provider</u> has in place in order to meet the objective set out in CP 2.2.1(b) shall ensure that:</p> <p>(a) <u>complaints</u> or other enquiries it receives in relation to <u>relevant letters</u> which should have been made to another <u>relevant postal operator</u> are treated with the same degree of care and importance that it would if the <u>complaint</u> or other enquiry had been made to that <u>relevant postal operator</u>;</p> <p>(b) an explanation is given to the <u>complainant</u> that the <u>complainant</u> should contact the <u>relevant postal operator</u>; and</p> <p>(c) the <u>complainant</u> is given the contact details of the <u>relevant postal operator</u>.</p>
-----------------	---

5. Obligation to keep records

CP 2.5.1	The <u>universal service provider</u> shall keep records of: (a) any <u>misdirected letters</u> or <u>miscollected letters</u> which it has handled in accordance with this condition CP 2; and (b) any charges it has made to the <u>intended operator</u> in respect of returning or otherwise handling <u>misdirected letters</u> , for a period of three years following the date on which it handled the <u>misdirected letters</u> or <u>miscollected letters</u> .
CP 2.5.2	The <u>universal service provider</u> shall provide copies of any records made for the purposes of CP 2.5.1 as soon as reasonably practicable in response to a request by <u>OFCOM</u> for such records.

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 packet</i>	27(2)
<i>postal services</i>	27(1)
<i>universal service provider</i>	65(1) and Schedule 9, paragraph 3
<i>user</i>	65(1)

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.~~

Annex 4

(Annex 15 to Ofcom's Review of the Regulation of Royal Mail)

Statutory Notification: proposed modification of Consumer Protection condition 3

NOTIFICATION OF PROPOSALS TO MODIFY REGULATORY CONDITIONS IN ACCORDANCE WITH SECTION 51 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 27 March 2012, following a consultation, OFCOM published a statement entitled "*Securing the Universal Postal Service: Decision on the new regulatory framework*"¹ (the "**2012 Statement**") setting out various decisions, including the imposition of consumer protection conditions to make provision for matters set out in section 51 of the Postal Services Act 2011 (the "**Act**"). These conditions included Consumer Protection Condition 3 ("**CP 3**").
- (B) On 1 April 2014, following a consultation, Ofcom published a statement entitled Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions² setting out various decisions, including the decision to modify CP 3 (the "2014 Modification").³ In the 2014 Modification, Ofcom explained that this revised version replaced the previous published version notified in the 2012 Statement and took effect when this notification was published.

PROPOSAL

1. OFCOM hereby proposes, in accordance with section 51 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers and duties in section 51 of the Act, to revoke CP 3 and replace it with a new consumer protection condition to make provision for matters set out in section 51.
2. The proposed new CP 3 is specified in the Schedule, marked up against the existing condition to show the changes which are proposed, as highlighted in red text.
3. The effect of, and OFCOM's reasons for making, this proposal are set out in the accompanying consultation document.

Ofcom's duties and legal tests

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

¹ <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/statement.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/Statement.pdf>

³ http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/statement/CP2_3.pdf

5. In making this proposal, OFCOM have considered and acted in accordance with their principal duty in section 29 of the Act and their general duties in section 3 of the Communications Act 2003.

Making representations

6. Representations may be made to OFCOM about the proposal set out in this Notification by no later than 3 August 2016.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, OFCOM may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if OFCOM has—
 - (a) considered every representation about the proposal that is made to OFCOM within the period specified in this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for this purpose by the Secretary of State.

Interpretation

9. 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 or for the purpose of CP 3 (as relevant).
10. In this Notification—
 - (a) “**2012 Statement**” has the meaning given to it in recital (A) to this Notification;
 - (b) “**2014 Modification**” has the meaning given to it in recital (B) to this Notification;
 - (c) “**Act**” means the Postal Services Act 2011 (c.5); and
 - (d) “**CP 3**” means consumer protection condition referred to in recital (B) to this Notification as modified and replaced by the 2014 Modification.
11. 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.

12. The Schedule to this Notification shall form part of this Notification.

Signed by

A handwritten signature in blue ink, appearing to read 'Jonathan Oxley', with a small mark at the end.

Jonathan Oxley

Group Director, Competition Group

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

24 May 2016

Schedule

Proposed modification of CP 3

**CONSUMER PROTECTION CONDITION 3:
COMPLAINTS HANDLING AND REDRESS**

3.1. Application, definitions and interpretation

<p>CP 3.1.1</p>	<p>This consumer protection condition (“CP Condition”) shall apply as follows: (a) CP 3.2 - all <u>postal operators</u>; and (b) CP 3.3 - the universal service provider apart from CP 3.3.16—regulated postal operators; all single piece postal operators (c) CP 3.3.16—the universal service provider</p>
<p>CP 3.1.2</p>	<p>In this CP 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) “Citizens Advice Consumer Service” means the telephone and online consumer advice service operated by the National Association of Citizens Advice Bureaux, registered company number 1436945; (d) “complainant” means a person who has made a <u>consumer complaint</u>; (e) “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; (f) “complaints handling procedure” means the procedure required by Condition CP 3.3.1; (g) “completed complaint” means a <u>consumer complaint</u> in respect of which there remains no outstanding action to be taken by the <u>postal operator</u> in accordance with its <u>complaint handling procedure</u>; (h) “consumer” means a person who uses <u>postal services</u> either as a sender or an addressee;

(i) **“consumer complaint”** means a complaint which is made ~~against a regulated postal operator or universal service provider~~ either—

- i. by a person in that person's capacity as a relevant consumer; or
- ii. by a person acting on behalf of such a relevant consumer;

~~(j) “contract customer” means a person who is a consumer in relation to a regulated postal service where the provision of the regulated postal service is governed by a contract between that consumer and the regulated postal operator or universal service provider;~~

(kj) **“Consumer Advocacy Bodies”** means Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;

(lk) **“DUSP condition”** means a designated USP condition imposed under s.36 of the Act;

(ml) **“public holiday”** means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;

(nm) **“qualifying redress scheme”** means a redress scheme which is approved by OFCOM in accordance with Schedule 5 of the Act⁴;

~~(g) “regulated postal operator” means a postal operator which provides services in relation to which, had these services been carried out prior to the appointed day, it would have been required to hold a licence under the Postal Service Act 2000, and includes the universal service provider;~~

~~(h) “regulated postal service” means a postal service the provision of which:~~

~~i— had it been carried out prior to the appointed day, would have required the provider to hold a licence under the Postal Service Act 2000; or~~

~~ii— is required to be provided by a DUSP condition.~~

(qn) **“relevant consumer”** means a consumer of a regulated relevant single piece postal service; ~~who is not a contract customer;~~

(o) **“single piece postal service”** means a service provided to a relevant consumer for the purpose of the conveyance of a single parcel, where the provision of that service is not governed by individually negotiated contracts between the consumer and the relevant postal operator **“relevant postal service”** means a postal service which the universal service provider is required to provide by a DUSP condition;

	<p>(fp) “specified time period” means the time period specified by the single piece postal operator universal service provider regulated postal operator in its <u>complaint handling procedure</u> or as otherwise agreed with a <u>relevant consumer</u>, as the maximum period that the single piece postal operator universal service provider regulated postal operator has to complete a <u>consumer complaint</u> before the single piece postal operator universal service provider relevant consumer who made that <u>consumer complaint</u>, or on whose behalf that <u>consumer complaint</u> was made, becomes entitled to refer that <u>consumer complaint</u> to a <u>qualifying redress scheme</u>;</p> <p>(sq) “vulnerable consumer” means a consumer who cannot reasonably be expected to pursue a <u>complaint</u> on their own behalf;</p> <p>(tr) “working day” means any day other than a Saturday, a Sunday or a public holiday;</p>
<p>CP 3.1.3</p>	<p>For the purpose of interpreting this CP 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 Act⁵;</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>

3.2. Obligation on postal operators

<p>CP 3.2</p>	<p>A <u>postal operator</u> shall establish, make available and comply with transparent, simple and inexpensive procedures for dealing with <u>complaints of consumers of postal services</u>, which facilitate the fair and prompt settlement of disputes. Ofcom will, from time-to-time, undertake reviews to ensure that the procedures are in place, and working to the benefit of consumers.</p>
----------------------	--

⁵ 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.

3.3. Obligations on the ~~universal service provider~~ single piece postal operators ~~regulated postal operators~~

<p>CP 3.3.1</p>	<p><u>A single piece postal operator</u> The universal service provider A regulated postal operator shall establish, make available and comply with a <u>complaints handling procedure</u> in accordance with CP 3.2 and CP 3.3.2 for dealing with <u>complaints</u> of <u>relevant consumers</u> of regulated relevant <u>single piece</u> postal services.</p>
<p>CP 3.3.2</p>	<p>A <u>complaints handling procedure</u> must:</p> <ul style="list-style-type: none"> (a) be in plain and intelligible language; (b) allow for <u>consumer complaints</u> to be made orally or in writing (including electronically); (c) set out contact details to allow a <u>relevant consumer</u> to make a <u>consumer complaint</u>; (e) allow for <u>consumer complaints</u> to be progressed through each stage of the <u>complaints handling procedure</u> orally or in writing (including electronically); (f) allow for <u>consumer complaints</u> with no evidence base to be dealt with; (g) describe the process which the <u>single piece postal operator</u> regulated postal operator universal service provider will follow with a view to investigating and resolving a <u>consumer complaint</u> and the likely timescales for that process; (h) provide for an internal review of an existing <u>consumer complaint</u> where a <u>complainant</u> indicates that they would like such a review to occur because he or she is dissatisfied with the handling of that <u>consumer complaint</u>; (i) set out contact details for <u>Citizens Advice Consumer Service</u>; (j) describe the <u>complainant's</u> right to refer a <u>consumer complaint</u> to a <u>qualifying redress scheme</u>: <ul style="list-style-type: none"> (i) from the point at which the <u>single piece postal operator</u> regulated postal operator or universal service provider notifies the <u>complainant</u> in writing, that it is unable to complete the <u>consumer complaint</u> to the <u>complainant's</u> satisfaction; or (ii) after the expiry of the <u>specified time period</u>.
<p>CP 3.3.3</p>	<p>The regulated postal operator <u>single piece postal operator</u> universal service provider shall, not less than once every three calendar years, review the <u>complaints handling procedure</u> and seek feedback from a reasonable number of <u>complainants</u> to ensure the <u>complaints handling procedure</u> meets the needs of <u>relevant consumers</u>.</p>

<p>CP 3.3.4</p>	<p>Upon receipt of a <u>consumer complaint</u> made through the <u>complaints handling procedure</u> the <u>single piece postal operator</u> and regulated postal operator <u>universal service provider</u> shall record in a written or electronic format the following details:</p> <ul style="list-style-type: none"> (a) the date that the consumer complaint was received; (b) whether the consumer complaint was made orally or in writing; (c) the identity and contact details of the complainant; and (d) a summary of the consumer complaint.
<p>CP 3.3.5</p>	<p>For each <u>consumer complaint</u> received through <u>complaints handling procedure</u> the <u>single piece postal operator</u> and regulated postal operator <u>universal service provider</u> must also record:</p> <ul style="list-style-type: none"> (a) a summary of any subsequent contact with the <u>complainant</u> and any advice given or action taken in response to the <u>consumer complaint</u>; (b) the date (if any) on which the <u>consumer complaint</u> became a <u>completed complaint</u>; and (c) the date (if any) on which the <u>single piece postal operator</u> regulated postal operator <u>universal service provider</u> sends a written notice to a <u>complainant</u> in accordance with CP 3.3.7.
<p>CP 3.3.6</p>	<p>Where a <u>single piece postal operator</u> regulated postal operator <u>universal service provider</u> has recorded a <u>consumer complaint</u> as a <u>completed complaint</u> but within three months of the date of making that record a subsequent contact is made by or on behalf of the <u>complainant</u> in relation to that <u>consumer complaint</u> which indicates that it is not a <u>completed complaint</u>, the regulated postal operator <u>single piece postal operator</u> <u>universal service provider</u>:</p> <ul style="list-style-type: none"> (a) must as soon as reasonably practicable take account of that <u>consumer complaint</u> in any report which it is obliged to prepare and publish in accordance with CP 3.3.14; (b) shall not otherwise be entitled to treat that <u>consumer complaint</u> as a <u>completed complaint</u> until that <u>consumer complaint</u> is demonstrably a <u>completed complaint</u>.

<p>CP 3.3.7</p>	<p>A single piece postal operator The universal service provider Each regulated postal operator must send a notice to a <u>complainant</u> on the earlier of:</p> <p>(a) the first <u>working day</u> after the day on which the single piece postal operator regulated postal operator universal service provider becomes aware that it is not able to complete a <u>consumer complaint</u> made through its <u>complaints handling procedure</u> to the <u>complainant's</u> satisfaction; or</p> <p>(b) the first <u>working day</u> after the day on which the <u>specified time period</u> for that <u>consumer complaint</u> expires.</p>
<p>CP 3.3.8</p>	<p>The notice referred to in CP 3.3.7 must be in writing (including electronically) unless another format has been agreed with the <u>complainant</u>, and notify the <u>complainant</u>—</p> <p>(a) of their right to refer the <u>consumer complaint</u> to a <u>qualifying redress scheme</u>;</p> <p>(b) of the contact details of the <u>qualifying redress scheme</u>;</p> <p>(c) that the <u>qualifying redress scheme</u> process is independent of the single piece postal operator regulated postal operator universal service provider;</p> <p>(d) that the <u>qualifying redress scheme</u> process is free of charge to the <u>complainant</u>;</p> <p>(e) of the types of redress that may be available under a <u>qualifying redress scheme</u>; and</p> <p>(f) that any outcome of the <u>qualifying redress scheme</u> process is binding upon the single piece postal operator regulated postal operator universal service provider but not upon the <u>complainant</u>.</p>
<p>CP 3.3.9</p>	<p>Each single piece postal operator The universal service provider Each regulated postal operator must allocate and maintain such level of resources as may reasonably be required to enable that the single piece postal operator regulated postal operator universal service provider to receive, handle and process <u>consumer complaints</u> made through its <u>complaints handling procedure</u> in an efficient and timely manner and in accordance with this Condition.</p>

<p>CP 3.3.10</p>	<p>Each single piece postal operator The universal service provider Each regulated postal operator must put in place arrangements to deal with <u>complaints</u> made through its <u>complaints handling procedure</u> in relation to which the <u>Consumer Advocacy Bodies</u> makes representations on behalf of a <u>vulnerable consumer</u>. If a single piece postal operator a regulated postal operator the universal service provider identifies a <u>consumer</u> as a <u>vulnerable consumer</u> with a <u>consumer complaint</u>, or the <u>Consumer Advocacy Bodies</u> refers such a <u>consumer</u> to a regulated postal operator the single piece postal operator universal service provider, that regulated postal operator the single piece postal operator universal service provider must take such additional steps as it considers necessary or appropriate with a view to assisting that <u>vulnerable consumer</u> and completing their <u>consumer complaint</u> in an appropriate and prompt manner.</p> <p style="text-align: center;">-</p>
<p>CP 3.3.11</p>	<p>Each single piece postal operator The universal service provider Each regulated postal operator must:</p> <ul style="list-style-type: none"> (a) publish its <u>complaints handling procedure</u> in such a manner as will ensure reasonable publicity for it; (b) ensure that its <u>complaints handling procedure</u> appears at a clear and prominent location on any relevant website it operates or controls; and (c) ensure that details of how to make a <u>consumer complaint</u> are made available at all its business premises which are accessible to the public, including the premises of its agents.
<p>CP 3.3.12</p>	<p>Where a single piece postal operator a regulated postal operator the universal service provider becomes aware, following contact by or on behalf of the <u>complainant</u>, that a <u>consumer complaint</u> which the <u>postal operator</u> had recorded as a <u>completed complaint</u> is not a <u>completed complaint</u>, the single piece postal operator regulated postal operator universal service provider must as soon as reasonably practicable—</p> <ul style="list-style-type: none"> (a) direct the <u>complainant</u> to the <u>complaints handling procedure</u>; and (b) offer to provide a copy of the <u>complaints handling procedure</u> to the <u>complainant</u> free of charge.
<p>CP 3.3.13</p>	<p>Each single piece postal operator The universal service provider Each regulated postal operator must provide a copy of its <u>complaints handling procedure</u>, free of charge, to any person who requests it.</p>

CP 3.3.14	<p>Each single piece postal operator The universal service provider</p> <p>Each regulated postal operator must—</p> <ul style="list-style-type: none">(a) publish by 30th June each year a consumer complaints report in such a manner as will ensure reasonable publicity for it;(b) publish its consumer complaints report at a clear and prominent location on any website it operates or controls; and(c) provide a copy of its consumer complaints report, free of charge, to any person who requests it.
------------------	--

<p>CP 3.3.15</p>	<p>A <u>consumer complaints</u> report is a report in relation to the twelve month period ending on 31st March of the year in which the report is published which contains the following information:</p> <p>(a) the number of <u>consumer complaints</u> which the <u>single piece postal operator</u> regulated postal operator <u>universal service provider</u> received during that period, which had not become <u>completed complaints</u> within that period; and</p> <p>(b) the number of <u>consumer complaints</u> which the <u>single piece postal operator</u> regulated postal operator <u>universal service provider</u> received, during that period, which had become <u>completed complaints</u> within that period,</p> <p>in each case presenting the information broken down by no more than ten of the main causes of <u>consumer complaint</u>.</p>
<p>CP 3.3.16</p>	<p><u>Each single piece postal operator</u> <u>The universal service provider</u> shall submit to <u>OFCOM</u> and to the <u>Consumer Advocacy Bodies</u>, and publish in such a manner as will ensure reasonable publicity for them, not later than two months from the end of the quarter to which they relate, written quarterly reports which shall</p> <p>(a) set out -</p> <p>(i) the number of <u>consumer complaints</u> received during that quarter from <u>relevant consumers</u> which have not become <u>completed complaints</u>; and</p> <p>(ii) the number of <u>consumer complaints</u> received during that quarter from <u>relevant consumers</u> which have become <u>completed complaints</u>.</p> <p>(b) present the information referred to in paragraph (a) for the United Kingdom as a whole -</p> <p>(i) broken down by no less than ten main categories of <u>consumer complaint</u>, and</p> <p>(ii) showing the compensation that has been paid to <u>relevant consumers</u> in relation to <u>consumer complaints</u> that were found to be valid.</p>
<p>CP 3.3.17</p>	<p>A regulated postal operator <u>Each single piece postal operator</u> <u>The universal service provider</u> must be a member of a <u>qualifying redress scheme</u> in relation to <u>consumer complaints</u> about the provision of a regulated <u>single piece</u> postal service.</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.

Defined term	Section of the Act
<i>OFCOM</i>	90
<i>postal operator</i>	27(3)
<i>postal packet</i>	27(2)
<i>universal service provider</i>	65(1) and Schedule 9 paragraph 3
<i>user</i>	65(1)