



Unites' response to the Ofcom 'Review of the Regulation of Royal Mail' consultation

August 2016

This response is submitted by Unite the Union which is the UK's largest trade union with over 1.4 million members across all sectors of the economy including communications, information technology, manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.

Unite represents the interests of The Communication and Managers' Association (CMA) and represents some 9,000 communications professionals, of whom the majority are managers in the Royal Mail Group, Post Office Ltd, Parcelforce, Guernsey Post Limited, Jersey Post Office and the Isle of Man Post Office. Unite CMA is the only union recognised for managers in Royal Mail and represents all grades. A number of Unite CMA members work in joint ventures with Royal Mail or outsourced companies such as Romec, Quadrant, Capita, Atos Origin, CSC, and Xansa. Unite membership is open to both employed and self-employed people working in the communications sector, and over a million members of Unite are themselves users of postal services in the UK.

Introductory Comments

Unite, being the union representing communication professionals in the UK, makes it a major stakeholder in all decisions relating to postal employment practices, terms and conditions, and health and safety issues. Unite welcomes the efforts and commitment of Royal Mail to commit to and ensure positive labour standards and collaborative working with the trade unions to tackle the challenges facing the industry. Good industrial relations are vital in the postal sector and the success of the company and the unions to improve in this area over the last few years, even through challenging periods of evolution within the sector, have been achieved by raising labour standards through effective, open and respectful relationships with the unions representing the Royal Mail workforce. Unite is committed to continuing in that vein and to continuously review its position to ensure that members are not adversely effected for no real reason or for objectives that are not warranted, necessary or appropriate.

The ongoing provision of quality, secure jobs mainly at full time, is an important component in the postal industry in the UK and is not something that should be meddled with unnecessarily. There are going to be ongoing challenges for the companies, employees and trade unions in the industry but the suggestion of reductions in job security, diminution of terms and conditions of employment and a race to the bottom is not what will secure the sector.

Ongoing cooperation, involvement and engagement is key to the ongoing provision of a successful universal service provider for every business, community and individual across the UK.

As you will observe below we do not provide detailed answers to questions 8 to 18 as these are technical questions on access and other conditions of the arrangements. Unite consider it more appropriate for the directly interested parties to provide feedback on these points. We do however make a couple of general points in these areas and make our position known.

Questions

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

1. Unite considers that the current regulation arrangements appear to be working well and do not require any major overhaul, changes or extension. The impact of and requirements to meet the demands of the regulator and shareholders is such that Royal Mail has enough pressure to which it has to respond and that any additional regulatory burden would be counterproductive and, put simply, bureaucracy for the sake of it.

Indeed, Unite would contend that having seen the developments in Royal Mail over the last few years that a light touch approach to regulation is now appropriate, and more relevant than ever. Those of our members working in the company want to see standards being set and methodologies applied that enable them to carry out their roles and responsibilities in a straightforward, customer focused and effective way. An increase in regulation would very likely lead to downward pressures on performance, cost and quality even when they would be designed to do the complete opposite. It is important therefore to assess the current position, accept that this is working relatively well and not to interfere for the sake of it.

Turning now to some of the specific points covered in Section 4 of the document.

1.1 The continuing decline in letters volumes and the increase in e-commerce, with the focus on small parcels, has and will present challenges to Royal Mail. Unite notes in the company annual report 2015-16, page 02, that Royal mail describes itself as an organisation "changing from a letters company that delivers parcels, to a parcels company that deliver letters" but despite the 3% fall in addressed letters in the year still have huge volumes (not reported) of letters that it delivers to all 29 million addresses 6 days a week should that be required.

The commitment to the USO and its importance to Royal Mail is vital as are its plans to use its existing network to deliver both letters and parcels at the same time wherever possible despite the obvious practical difficulties that this presents. It is important to acknowledge that consumers want certainty and consistency which can be achieved by Royal Mail being the delivery company of choice where, in the opinion of Unite, the last mile is a natural monopoly and should be acknowledged and welcomed as such.

The failure of the Whistl business model, in its alternative end to end network, even when introduced only in limited high density conurbations, confirms that competition for final

delivery is not a reliable option and only has the potential to undermine the universal service obligation (USO) and its viability. Ofcom should therefore recognise this, as it appears to do so, and provide certainty in this area.

1.2 In respect of efficiency and cost reduction it is clear that from a Unite perspective we have been faced with a number of challenges in this area. The plans introduced by Royal Mail have been largely successful from a company perspective but often at the expense of Unite members. In respect of redundancies these have been by voluntary means but concerns remain that the cuts have been too much and there is an ongoing impact on individuals and their ability to do the jobs for which they are employed. Overall headcount reduction in Royal Mail to the end of March 2016 is reported as around 3,500 in UKPIL of which 538 are management grades. There is an increase of 27 Senior Management roles in the company.

The Royal Mail management review, reported in the March 2015 accounts as it was undertaken in that year had a target saving of £50 million and it has been acknowledged that this actually delivered £80 million savings. There are also some subsequent changes which will provide for cost reduction.

From a Unite perspective we are working closely with the company to identify issues and areas that require attention to resolve and remove any difficulties that have arisen out of the changes and to ensure that individuals are able to deliver their objectives in a positive and professional manner. Some support may be required to achieve this. This work is ongoing.

Notwithstanding the above, it cannot be suggested that efficiency measures have not been high on the list of issues for Unite members and they have, despite many concerns and worries about these changes, delivered on the challenges set by the company. Furthermore it is unlikely that these challenges will go away and that Unite members will be faced constantly with ambitions for improved quality and reduced costs. It is our objective to ensure that these do not get out of hand or that our members are not asked to deliver changes that are neither realistic, reasonable nor achievable.

Unite is concerned that some of the comments in the Wik report on the Royal Mail business plan are making comparisons that are not real or relevant as it is not certain that a way of working in one country would necessarily transfer to another country or company. Neither would one set of arrangements transfer to the industrial relations environment in another company. Furthermore, Unite is concerned that Wik is proposing a set of measures that put forward an unacceptable agenda of outsourcing, service reduction and attack on terms and conditions of employees (See page xx in the Executive Summary). Unite does not accept such a proposition and it is for the company and trade unions to agree the most appropriate position in these areas of collective bargaining. We also consider that the WIK report is selective in its detail and fails to acknowledge that there are different terms and conditions across parts of Royal Mail and even different terms upon redundancy which despite our opposition continue. This is not something about which Unite is content but it demonstrates the bias in their opinion.

1.3 In respect of the sustainability of the USO it appears that this is now achievable and therefore no changes are required. Indeed, it is noted by Unite that Ofcom accepts that (para 4.102) that "Royal Mail is making returns at the lower end of the 5-10% EBIT margin range, some progress on efficiency and not raising prices as much as it could, against a backdrop of

increasing customer satisfaction.” However, we note that the Royal Mail Group reported margin (before transformation costs) was 6% and 5,4% (also before transformation costs) in UKPIL. This is welcomed even when in our submission to Ofcom in January 2012 we suggested an 8% margin. However we now think that this ambition may be frustrated by the excess capacity in the parcels market leading to downward pressure on price and the increase in the use, outside of Royal Mail, of “lifestyle couriers” with little or no employment protection. Unite is concerned that this is an example of the drive to the bottom in terms of employment conditions in the industry and something which we will constantly and consistently fight and campaign against. Indeed, we consider that Ofcom should pick up the initiative as set out in the BIS Select Committee report of March 2015 and that “Ofcom investigates the impact on and the service provided to customers, by any downward pressure on wages, terms and conditions of postal sector employees. To help guard against any downward pressure on the wages and conditions of postal staff, we recommend that the Government considers extending Ofcom’s remit to include consideration of labour costs, conditions and standards in the postal market.”

1.4 We note the comment that competition in single piece parcels has started to emerge but Ofcom goes on to confirm that its research has found that between 2013-14 and 2014-15 that single piece parcels carried by competitors to Royal Mail increased by 34% which is substantial.

Unite considers that the demand for consumers for a delivery service based on the balance between quality and cost has been the motivator for Royal Mail to review its approach to pricing etc. and it is this customer demand that will continue to develop this section of the market. However, consumers also recognise the benefit of convenience and this is not always available from providers other than the Post Office. An integrated network whereby the Post Office with 11,500 branches can accept and introduce parcels into the network for Royal Mail to deliver is important particularly at a uniform price regardless of distance within the UK.

1.5 In respect of pension costs this is of extreme importance to Unite and something that we are engaging with the company on. It is recognised that the Ofcom position is that it “would not expect Royal Mail to agree a level of future contributions which are unaffordable and could jeopardise its financial sustainability” and to a large extent neither would Unite. However, we have an agreement through to at least 2018 and we expect the company to fulfil its commitments in that regard and to engage with Unite at an early stage, as we are doing, to make every effort to find an acceptable solution. However, this is a complex and sensitive area which will require much debate between the parties if a positive outcome is to be achieved.

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?

We agree and see no reason to change the current arrangements at this stage. There is a commitment to the USO as it currently stands in the UK and there appears to be no desire to alter that significantly by either consumers or Royal Mail. Unite welcomes the commitment from Royal Mail to a six day service which was most recently published in the company’s Corporate Social Responsibility Report, where in the foreward the CEO stated, *“we are proud to deliver a “one-price-goes-anywhere” service on a range of letters and parcels to more than*

29 million addresses, across the UK, six-days-a-week". This commitment is positive and based on the ability to deliver through the USO as it is largely currently configured. Despite the Unite opposition to the privatisation of Royal Mail, the company is proving to be successful and profitable then there is no need to change the USO which is the foundation on which the business is built. However, we consider that there is a need to examine closely the complexity of regulation and the amount of reporting that has to happen for what appears to be the sake of it. A review should take place to examine closely the level of detail required with an objective of removing all unnecessary paperwork. We have feedback on an ongoing basis that our members tell us they are unclear on what is reported and why with most of it appearing to be to satisfy the information required by Ofcom. There is a balance to be struck and it appears not to be currently.

Question 3: Do you agree that the analysis summarised in Section 4 and set out in more detail in the annexes to this consultation accurately reflects the UK postal market?

Unite generally accepts the position as outlined in Section 4 and that it overall reflects the developments and needs of the UK postal market as it stands. However, we are concerned that there the potential for a drive towards the bottom in the parcels market and that any further intervention could lead to the erosion of decent pay and conditions of employment.

We consider that the UK is better served by a parcels industry that has minimum standards of jobs security, decent pay and conditions along with other benefits such as sick, holiday and maternity pay etc. This is the only way to secure good quality of service and a reliable parcels infrastructure that citizens will become increasingly dependent on given the likely increase in home shopping and other e commerce activities.

In respect of prices there is no real issue, other than excessive capacity in the industry leading to a drive for volume which has a negative impact on prices, as most companies offer a range of services based on time and cost which gives consumers options depending on their needs. For example we noted that Royal Mail would charge £2.85 for delivery in 2 to 3 days (second class) and other parcels companies were in the region of £4 to 5 with 3 to 5 days for delivery quoted in one case. This demonstrates the benefit of having an integrated parcels delivery company with good quality of service and decent terms and conditions of employment for employees. Unite argues that an integrated and joined up Post Office and Royal Mail network is the backbone of the countries needs for the future of e commerce.

Question 4: Do you agree with our proposal not to amend the Universal Service Order or the DUSP conditions to include tracking as standard on First and Second Class single piece parcels?

4.1 No. Unite is not opposed in principle to including tracked parcels in the universal service as this would be a positive development facilitated by improvement in technology that would offer certainty and security where consumers required it. However, this would only be appropriate if it was in addition to a product that could be used by the consumer who had no need or arrangements to use the tracked service. Additionally, it must not replace an existing product with one at a premium price and therefore must be in addition to standard offering which from the customer's point of view need not be tracked. If the technological advances are such that Royal Mail wishes to track the item for its own internal purposes then this should be allowed.

It is clear that customer expectations are developing but this is not universal and there are still many consumers who have no immediate need to track parcels. Indeed there appears to be anecdotal opinion developing that consumers are getting fed up with being bombarded with constant texts saying “their parcel is round the corner” when what they want is certainty on arrival and in good condition. In the alternative there are many who are keen on speed, detailed information on tracking and knowledge when the item will be delivered is important to them and for which they recognise and acknowledge the cost implications of such a service. Indeed there are an increasing number of individuals who use this facility to ensure delivery at the right time and in many respects they get what they pay for.

Question 5: Do you agree with our proposal to retain the safeguard cap in its current form?

5. Unite agrees with the proposal to retain the safeguard cap even when it appears to be redundant currently under the arrangements. However the fact that Royal Mail does not charge up to the cap may not always be the case and its withdrawal could be counterproductive for those vulnerable consumers it is designed to protect.

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

6. No. We do not agree that the amendment to reinforce the ten week notice period be introduced.

From the information available it appears that the parties involved have been able to resolve the differences between them during any change and that in an industry that is fast moving and seeking to meet the needs of customers a 10 week notice for changes to pricing and process appears excessive. The main thrust of the approach is one of agreement and there appears to be little or no evidence that access users have had to resort to seeking the intervention of Ofcom. Accordingly, the approach should continue to be one of cooperation in change and encouraging the ability to move quickly to respond to consumer’s needs.

However, the whole issue is complex and perhaps needs to be simplified, which may offer an opportunity for shorter periods of notice.

Unite is also concerned that extensive notice periods can give competitors an unfair advantage and allow them to respond without any requirement to consider the potential impact on Royal Mail.

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

Unite believes that proper consumer protection through a robust mails integrity approach is vital to the confidence in the public postal service and that any changes must be considered

fully and to apply as appropriate across the whole of the industry on a fair, sensible and equal basis.

We are well aware of the importance that Royal Mail puts on this as are our members who manage the organisation. We evidence this through training provided as an absolute requirement and the focus that is put on this on a daily basis some of which is also demonstrated by disciplinary proceedings taken against our members who may potentially contravene the rules in this area.

Currently the regulations apply on to the universal service provider and our understanding of the proposed change is that this would be extended to other “relevant postal operators”. We would go further and extend these requirements to access operators despite the low level of complaints which confirms there are problems, albeit small in number.

Unite also considers that this provision should be extended to parcels operators particularly given the increasing volumes of single piece parcels being conveyed by other operators to Royal Mail and the somewhat haphazard approach to security that can be observed in some of these premises. Additionally the increase in e commerce and the reliance on parcel delivery renders this an increasingly important area, if consumer confidence is to be improved.

We therefore support the proposal in question 7 but on the basis as outlined.

Question 8: : Do you agree with the proposed streamlining revisions to Essential Condition 1, including the removal of the Mail Integrity Code of Practice, as drafted in Annex 12?

Yes.

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

This is a technical piece of the consultation and we make no comment and leave it to the postal operators to comment.

Question 10: Do you agree with the proposed revisions to Consumer Protection 2, including the removal of the PCOP code and agreement, as drafted in Annex 14?

Unite welcomes the clarification and simplification in Consumer Protection 2 in Annex 14 but notes that it is only fair and just that reasonable payment is made to the USP for work that they have been required to undertake on behalf of another provider and that the arrangements should be simple and practical

We are concerned however that paragraph CP2.5.1 may be overly prescriptive and costly. The requirement to keep records should be minimal but relevant and must be consistent with whatever internal procedures are used. Access for Ofcom to the internal data should meet the requirements and not require an additional layer of bureaucracy.

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

Yes.

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

Refer Q13

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

In response to questions 12 and 13, Unite is concerned about the proposal to differentiate between the USP and others as this potentially puts a burden on Royal Mail which is unfounded. That said of course it is important that the USP has a proper, robust, thorough and timely complaints procedure that meets the needs of its customers.

Unite is also concerned that Royal Mail is being singled out for special and unfair treatment versus other postal operators through the additional requirements on redress and reporting.

Unite considers that all operators should have equal requirement to provide an effective complaints procedure and that they should be required on an equal basis to report annually. This information could inform consumers on the quality of service they may be buying.

Question 14: Do you agree with our proposal to revoke Consumer Protection Condition 5?
No comments to make on this question.

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

Unite agrees that a notification period is required in order that consumers and SME's, who otherwise may have the potential to "miss" the changes, with the potential therefore for surcharging, but we favour Option 2 which would provide one week notice for changes to be understood and introduced. We also believe there should be an obligation on Royal Mail to fully inform customers and to be flexible in its approach to surcharging immediately after the increase.

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

Unite understands and accepts the proposal to reduce the notification period to one month for changes to collection times as this is sufficient for changes to be understood and allowed for. We would not support any proposal to remove the notice period altogether as there is an

operational requirement to introduce changes in a planned and considered way within Royal Mail. It is only right and proper therefore that customers' have a period of notice and one month is reasonable and appropriate.

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

Unite does not agree this proposal. The delivery time is important to home owners, small businesses and others and to remove the notification would be a negative and unwelcome move. Certainty in delivery time is important and this proposed change could have an impact on that, in a number of different ways including the potential for constant changes to delivery times.

Ofcom recognises that "eight out of ten residential customers are very satisfied or fairly satisfied with the time of day post is delivered". Unite considers that this is a result of certainty and this proposal could alter that leading to uncertainty and consumer confidence being reduced.

Accordingly, Unite considers that the notice period should be one month which would also have the added benefit of providing consistency between collections and delivery times as contained in our response to questions 16 and 17.

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

Despite the point that the drafting changes to the text in Annex 17 are minimal, this is a very technical proposal and best informed by those that are required to provide the information.

However, Unite expresses its opinion that the reporting of information should not be onerous and must be made available in a useful and informative format. Undoubtedly, the provision of detail and specified information is essential and particularly if the detail is of benefit to the recipient. However we think that the requirement to report should be incumbent on all players in the postal industry to ensure that proper and appropriate comparisons can be made. Indeed, we encourage Ofcom to develop a proposal that can ensure that comparisons on cost, quality of service and timings can be made available to industry and society.

Conclusion

This review of regulation in Royal Mail is important for Unite members working in the industry and for those served by it.

Experience has shown, as we have demonstrated above, that more and better quality jobs as set out in the original, and subsequent Directives, have not been forthcoming. Indeed, in the UK we have seen pressure on jobs, pay and terms and conditions of employment in the industry.

We have also seen that competition in end to end delivery is not feasible nor indeed necessary and Ofcom should come to realise the reality of that situation. There is not any real benefit in pursuing competition just for the sake of it.

Equally important is the pressure on Royal Mail from shareholders that additional and potentially conflicting challenges from the regulator are not always welcome. There is a need to regulation in the sector but this should be "light touch" and proportionate.

Unite accepts that the last few years have been interesting and uncertain but that the time is right for less rather than more regulation and that the focus should be on ensuring that customer service is met and improved in an industry that will continue to evolve as technology and e commerce develops.

It is also important that jobs in the industry are of good quality with appropriate security for terms and conditions of employment and that we are not participating in a race to the bottom for workers in the postal sector.

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