



Future Development of the Postal USO Team
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Consultation: Review of the universal postal service and other postal regulation

- Response by the Mail Competition Forum

The Mail Competition Forum provides the following response to the Consultation Document on Ofcom's review of universal postal service and other postal regulation (the Consultation, published by Ofcom on 30th January 2025).

This response is not confidential; it may be published in full and attributed to the Mail Competition Forum.

The Mail Competition Forum (MCF) is a group which represents the interests of several of the UK's leading mail and parcel operators, who compete both with one another and with the incumbent Designated Universal Service Provider, Royal Mail (RM). The objective of the MCF is to support the development of conditions in the UK for fair, vibrant and sustainable competition to Royal Mail within a stable and undistorted market. The majority of MCF members offer services to customers using downstream access to handover mail to the local Mail Centre for onward processing and final delivery by RM ("Access"), through contracts with RM (Access Letters Contract, ALC)

In its regulation of the UK postal market, Ofcom's review of the current regulatory framework for USO and related postal services (Access services in particular), is a crucial item of work and the MCF hopes Ofcom will seize the opportunity to make some much needed changes to the current regulatory regime,.

It is clear that RM's ability to finance provision of the Universal Service remains fragile (as evidenced by Ofcom's latest Annual Monitoring Review and data given in the Consultation). That fragility is likely to be caused by the significant shift in postal volumes from mail to parcels and the continuing decline in mail volumes – but not wholly by those factors.

The MCF sees RM as having failed to deliver good service to mail users and similarly to have failed to improve efficiency – while instead imposing unrestrained, repeated and high-above-inflation price increases on its customers.

The MCF also sees Ofcom's current regulatory regime as resulting in failure by Ofcom to fulfil its principle statutory duties (that Universal Service provision be financially sustainable and efficient, and to further the interests of citizens and consumers, where appropriate by promoting competition), the MCF believes important changes need to be made to the regulatory regime (which has been in place, very little changed, since 2012).

Changes to universal postal service (USO) and, consequently, to related postal services – in particular to Access services – are probably necessary and are now all but inevitable.

However, the MCF's responses to previous consultations have had a common theme on the need to revise the regulatory regime set by Ofcom in 2012 and we continue to argue for that

regime to be adjusted, in particular in relation to constraining increases in postal service prices and ensuring RM efficiency improvement.

In response to Ofcom's Call For Inputs (CFI) in January 2025, the MCF submitted proposals for regulatory change and engaged extensively with Ofcom to discuss the MCF's perspectives (the Consultation references several of the points made by the MCF).

The MCF now responds to this formal Consultation and will continue to engage with Ofcom on how the current regulatory regime for post should be changed.

Please note that the comments below represent the general views of MCF members, rather than the opinion of each and every MCF member. Several MCF members will be making their own, specific responses.

(The comments below follow the structure of the Consultation and use that document's paragraph and question numbering.)

"1 Overview"

"2 Introduction and Background"

"3 Postal Users Needs Assessment"

"4 Financial sustainability of the USO"

"5 Proposed changes to the delivery frequency of Second Class letters"

"6 Proposed changes to USO quality of service targets"

These sections give Ofcom's rationale for concluding that the changes it proposes are the most appropriate route to address the issues facing RM while also requiring a USO that meets the core needs of consumers.

The MCF does not challenge the evidence Ofcom has set out, or disagree with Ofcom's conclusions or proposals.

However, it does seem that Ofcom has largely sought only to test the changes proposed (and extensively lobbied for) by RM, rather than fully assess any other options, including those set out in the CFI (such as a USO subsidy). The Consultation says nothing about why those other options have been dismissed, yet it also says more significant change may be required at a later date. The MCF questions why no other options have been considered now and compared with the longer term effects of the current tactical proposals.

The MCF's area of interest is focused on the mail market and, within that, on Access services. Hence, we note the content of sections 1-6 of the Consultation, but have only a few specific comments.

Parcel services

At 2.43, Ofcom says it is not proposing changes to the USO specification for parcel collection or deliveries, having examined this issue in its 2022 Review of Postal Regulation and decided it should not be introduced as it would risk distorting competition in the provision of parcels. Based research we conducted in 2022 and 2023, Ofcom continues to believe that parcel needs are being met and does not consider there has been a material change in circumstances since that decision

The MCF very much supports this position and is grateful to Ofcom for once again being clear that the USO will not be widened to include Tracked parcel services. As Ofcom have rightly concluded in the past and again now, to widen the USO in such a way would seriously distort in RM's favour a competitive market which is delivering the needs of consumers.

Quality of Service (QoS)

Over the past several years, RM has consistently failed to achieve the regulatory targets set by Ofcom (and has rightly been fined for that failure).

Ofcom has recognised the clearly and consistently expressed consumer need for reliability in postal services and RM's chronically woeful provision of services to the required standards. Hence, (as well as proposing new 'on time' targets for both First Class and Second Class)

Ofcom has set out new 'tail of mail' targets for both these USO services: 99.5% D+3 for First Class and 99.5% D+5 for Second Class, to ensure the reliability needed.

The MCF strongly supports the need for these new 'tail of mail targets' and welcomes this proposed addition by Ofcom to the regulatory targets.

However, Ofcom highlight the benefit of a delivery tail measure for RM to prioritise investment in recovering from service failure rather than meeting the on-time measure. Ofcom have not given any indication on the relative penalties for failure of these different sets of targets, but as the difference in target is substantial the MCF feels it is likely the penalty for failure to achieve 'tail of mail' targets will need to be very high to drive that focus. A consequence may be that, in a world of limited RM resources, RM prioritises 'tail of mail' achievement over the 'on time' measure - which then results in customers actually receiving service performance closer to the slower, 'tail of mail' standards.

We are also concerned that Ofcom considers those customers who say that mail taking a day longer would not meet their requirements are impacted "by inconvenience rather than any serious harm". However, this inconvenience is likely to result in recipients of medical letters, benefits and financial communications being more inclined to accept communications via electronic means rather than post where choice is provided. It is unclear how Ofcom have reflected this more indirect impact of revenue loss in their modelling, especially as in the consultation Ofcom seems to be coming closer to a lower revenue loss for RM of £100m rather than its initial assessment in the CFI of £275m-525m for D+2.5.

Ofcom notes that the proposed Second Class delivery specification means "either one, or two, fewer opportunities to deliver any given Second Class letter". The MCF sees this to mean delivery failure is much more likely to be biased to those walks with only one opportunity and, consequently, with an overall average QoS of 95% it is likely that many recipients will see a performance of 90% every other week – very different to a consistent performance of 95% throughout the year.

In proposing a D+5 'tail of mail' target for Second Class, Ofcom seem to have assumed that redelivery of failed deliveries would take place only on the next scheduled Second Class delivery day. However, the MCF has been told by a senior RM Operations Director that RM plan to deliver failed mail on the next day (with First Class and other daily-delivery items. Given that is RM's plan, the MCF suggests the 'tail of mail' target for Second Class should be D+4, not D+5.

While RM has consistently failed to achieve the regulatory targets for USO services, it is equally true that RM has similarly failed to achieve the QoS targets for Access services (set out in the Access Letters Contract); those targets have (other than for the Economy service) not been achieved in any month since May 2020 and performance has typically been around 80% - very greatly short of the 95% target.

In 2023/24, 70.7% of addressed mail was posted on an Access service – meaning the great majority of letters received by UK consumers are Access letters, not USO letters. RM's consistently dreadful QoS performance for Access has, therefore, been the predominant cause of the delays suffered by consumers.

The MCF strongly argues that 'tail of mail' targets are warranted for the D+2 and new D+3 Access services described in the Consultation, as well as for the USO services, and (as with the USO services), in addition to the 'on time' QoS targets, not instead of them. This would recognise consumers' and posting customers' need for reliability of Access services as well as for USO services.

The proposals made in this Consultation relate only to the QoS targets for the USO services, but it was abundantly clear from responses to Ofcom's Call for Inputs in early 2024 that posting customers and receiving consumers also see a clear need for Ofcom to revise its monitoring and enforcement regime, so that RM's QoS performance is not merely reported publicly each quarter but also actively assess that performance and holds RM to account.

Currently Ofcom only considers QoS performance annually, after the full-year results have been published. Investigation of that performance then takes several months and any consequence of RM for performance failure is applied well after mail users have experienced the impact of poor performance.

Several responses to the Call for Inputs urged Ofcom to act more frequently and more swiftly.

Ofcom's own summary of responses to the Call for Inputs (published in September 2024) recognised this need and said (in 3.13 of that document) that after a first consultation on changes to the USO specifications there would be a "second phase of work" which would include proposals related to the broader QoS regime. Ofcom said: "we will review our overall QoS requirements on Royal Mail and our approach to enforcement to ensure it appropriately incentivises Royal Mail's performance and ensures the high levels of reliability that customers value;" but no mention of that is made in this Consultation, not even in section 9 "Next steps and update on other work"

The MCF firmly believes Ofcom should revise its approach to QoS enforcement and urges Ofcom to commit to making further proposals, as it has said it will.

"7 Proposed changes to the access condition"

Regulation of D+3 service

The MCF agrees with Ofcom's statements that it is "highly unlikely that Royal Mail would continue to offer only the D+2 and D+5 access services currently required..., but rather that it would introduce a D+3 access service" and that "there would likely be material volumes of access mail outside of any regulatory safeguards if D+3 were not regulated."

As Ofcom says, RM has "the ability to harm competition in the bulk mail market..., due to its position in the relevant wholesale (downstream) market and its vertically integrated structure, which could enable it to reserve for itself large volumes of customers that prefer D+3. It could achieve this by offering D+3 access on less favourable terms and conditions than its own upstream operation...in the absence of access regulation, there is a risk that Royal Mail may refuse to provide access for the purposes of downstream D+3 access in the future but continue to provide its own D+3 retail bulk services."

Ofcom therefore concludes it would be appropriate to regulate D+3 Access to support effective competition in the bulk mail market."

The MCF strongly supports the need for D+3 Access to be regulated.

Ofcom proposes that the regulated D+3 service should apply to Letters and Large letters.

The MCF also strongly supports this proposal, as it is very important for customers to be able to choose between the D+2 and D+3 services when posting Large Letters. Were Ofcom not to do this, the only Access service available for Large Letters would be the D+2 service, which would mean customers would have to use that significantly higher priced service.

Performance reporting for D+3

Ofcom proposes that the existing performance reporting requirements for D+5 should similarly be applied for D+3.

The MCF strongly supports this proposal and agrees with Ofcom that provision of this information is necessary for mail users to make informed decisions about which service to use, as they would otherwise not have a known single day that their mail is due to be delivered.

As Ofcom says, provision of this information should be required by regulation because access to data and delivery information are important factors in ensuring the introduction of D+3 Access brings benefits to users of Access services.

However, the MCF does not support Ofcom's proposal that this reporting would not begin until the second full quarter after the obligations come into force.

The MCF does not share Ofcom's belief that RM will need some lead-in time implement this reporting. RM has been planning and preparing for the new D+3 service for over a year and the systems needed to report D+3 in the same way as for D+5 now are very similar.

The MCF believes performance reporting of D+3 alongside that for D+2 and D+5 will be very important for customers in deciding which service to use. Assuming the D+3 service goes live in Summer 2025, it is unacceptable for customers to have to wait 6 months until January 2026 before performance for D+3 is provided (and then only for Oct-Nov, as RM does not report performance for Dec).

Ofcom is aware that (under the terms of the ALC) RM already reports performance for D+2 and D+5 to Access customers each month (for that customer and overall). The ALC provided by RM to include the terms for D+3 also includes that requirement, with no delay between implementation and the start of reporting.

The MCF therefore believes it is entirely possible for RM publicly to report performance for D+3 for the quarterly period which includes service implementation and thereafter, with no delay. We urge Ofcom to revise its proposal.

Margin squeeze control

Ofcom has considered whether to apply a margin squeeze control to D+3 and, if so, what should be the Relevant Retail Services. Ofcom concludes that a margin squeeze control should apply to the D+3 service and that the Relevant Retail Services be those currently listed for D+2 (with some revisions to remove retail services no longer offered by RM), as those retail services will be adapted to meet RM's new alternate day delivery model.

The MCF supports Ofcom's conclusions and proposals.

However, the MCF has also previously explained the need for Ofcom to include in the Relevant Retail Services the Retail Unsorted Services with which RM competes against Access operators.

In 2023/24 bulk mail was 63% of all letters and of that bulk mail 83% was Access mail.

RM no longer effectively competes with Access with its presorted bulk mail services, but it certainly does compete against Access using its unsorted bulk mail services, which are not included in the Relevant Retail Services and so are outside the margin squeeze protections. RM has exploited this by offering its unsorted services at prices close to (even, at times, below) the prices it charges for Access services (the MCF has provided information to Ofcom illustrating this).

All Access mail must be presented to RM presorted, so while Access operators do offer unsorted services to posting customers, the operator must incur the cost of doing the sortation as well as the cost of the RM Access price. The total of those costs leaves little (or no) margin for the Access operator.

Hence, the MCF has asked and asks again for RM's Retail Unsorted services to be included in the list of Relevant Retail Services.

This is particularly necessary for the D+2 margin squeeze test which is proposed to be set against Mailsort 1 services. Not only are there very little Mailsort 1 volumes, but if RM want to minimise First Class volumes it is quite likely it will withdraw the Mailsort 1 services (which are not mandated), which would then severely erode the margin squeeze protections.

Access pricing

The MCF strongly disagrees with Ofcom's related proposal that the margin squeeze controls should be the only pricing regulations for Access.

The MCF has consistently and for several years set out why some form of direct price constraint is warranted for Access services, not least because of the many, excessive price increases that have been imposed by RM on Access customers – often more than once during a 12 month period and always with a level of increase far greater than the rate of general price inflation at the time.

Despite abysmal QoS performance, RM has been able to exploit Access customers through excessive price increases because there is no direct pricing constraint or Ofcom-required QoS targets for Access services.

In November 2024, the MCF met Justin Madders MP, the Minister with postal services responsibility; as part of that the Minister was shown the chart below:



RM has, in the view of the MCF, abused its monopoly position in delivery of mail in the absence of regulation to protect customers from such abuse.

In the Consultation, Ofcom says it has considered other options for pricing regulation such as formal price controls or an ex-post pricing regime. However, Ofcom has decided that “imposing price controls on Royal Mail would not be reasonable and would place an overt, and at this stage unjustifiable, burden on its commercial freedom.”

Ofcom notes that the Access share of the total bulk mail letters market has grown from 84% (2021/22) to 86% (2023/24) and says “This suggests that our current regulation is supporting competition in the bulk mail market.”

The MCF strongly disagrees. The fact that there is competition in the upstream part of the market does not mean there is not excessive pricing downstream (where RM has a monopoly).

The benefit of price control on Access is particularly to drive RM efficiency improvement - which Ofcom acknowledges is not progressing well. We see the proposed major changes to Ofcom’s regulatory regime in RM’s favour as being an ideal time to also set some constraints on RM’s pricing freedom. It is clear from RM’s frequent increasing of the First Class price (which has more than doubled in five years) and the pricing RM has announced for D+2 Access that RM intend to use excessive pricing to drive out volumes from other than Second Class / D+3 Access. While Ofcom may see that as part of financially stabilising USO provision, its intention not to widen price constraints means it is rejecting any ability to manage it.

The MCF once again calls for Ofcom to actively reconsider applying some form of pricing constraint for Access services, possibly linked to QoS achievement and efficiency improvement (as has been done to good effect by other statutory regulators of monopoly service providers in other sectors).

Ancillary D+3 access obligations

The MCF supports Ofcom’s proposal to apply the various obligations currently in place for D+2 and D+5 Access to the new D+3 Access service.

D+5 Access

The MCF does not challenge Ofcom's proposal to remove Saturday delivery from the specification for D+5 access.

However, we draw Ofcom's attention to comments made below regarding Ofcom's intention that any regulatory changes it decides to make will come into effect on the day its decision statement is published.

The version of the Access Letters Contract (ALC) provided by RM to Access customers (as part of Contract Change Notice 114 on 19/12/24) does not include changes to the terms for the D+5 Economy service to allow Economy mail to be delivered on Weekdays (instead of on Working Days) and hence not be delivered on Saturdays. If Ofcom decides to remove Saturday delivery from the specification for D+5 access, RM is required to issue a new Contract Change Notice after Ofcom has made that decision – giving at least 70 days' notice.

Regulation of D+2 Access

The MCF is aware that RM has been lobbying for D+2 Access to become unregulated when the changes to that service are made and the new D+3 Access service is implemented.

We agree with RM that "offering D+2 access would give access users additional choice as they decide whether the price/delivery window relationship still works for them." From our discussions with Access customers, there is a clear need for D+2 to continue as well as D+3 and D+5.

However, we strongly object to D+2 becoming unregulated and concur fully with the comments made by Ofcom in relation to RM's belief that D+2 should be unregulated.

In particular, we know that if D+2 Access were to become unregulated and hence probably become VATed, that would have severe impact on the many customers who will need to continue using D+2 for some or all of their mail.

Many of these customers are financial services businesses who will need to continue using D+2 in order to meet financial regulations on them for communications to their clients/account holders. All D+2 users will already face a very significant price increase for that service, but for those such providing financial services who are unable to recover VAT, D+2 services becoming VATed will be a further 20% impact on their postage costs.

Were D+2 Access to become unregulated, it would (we assume) also then no longer be covered by the margin squeeze protections, allowing RM to price as it wants both D+2 Access and its own Retail services which compete with Access, and so exploit RM's monopoly in letter delivery. Access operators would be unable to offer competitive Access services and those customers needing to continue to use D+2 would have to pay prices that had no constraints, effectively denying them the choice they need.

The MCF is full agreement with Ofcom's conclusion that there is no case for removing D+2 access services from regulation. We very strongly urge Ofcom not to change that position.

Margin squeeze control transparency

The MCF has repeatedly explained to Ofcom our belief that the margin squeeze controls do not work effectively and are not transparent, effectively causing them to have no effect on RM's pricing decisions.

In particular, the MCF has pointed to:

- RM being required to show it only expects the controls to be met following a price change;
- It not being apparent if Ofcom has actively checked whether the controls have actually been met, based on actual volumes and prices;
- Ofcom instead putting the onus on Access operators to evidence breach of the controls (when only RM and Ofcom have the data required to do that)
- There being no public statement that Ofcom has checked for breach of the controls and what it found.

The MCF hence supports Ofcom's proposal to comment (in its annual Post Monitoring Report) on whether RM has been compliant with the margin squeeze test.

However, we argue that Ofcom must also make a public statement after each RM Access price increase on whether Ofcom has provisionally assessed that the margin squeeze test will be met.

Quality of Service (QoS)

Ofcom has considered the impact its proposals will have on its quality of service regime and it has accepted that users of the new D+3 service will have less certainty over when their mail is delivered, meaning it will be more difficult for them to plan their business operations and this could negatively impact their use of mail.

However, while noting the comments made by Access operators and customers in responding to the Call For inputs that there would be valuable benefits if Ofcom were to require RM to share more information about when mail should be delivered (and how the Mailmark barcode present on the great majority of mail could be used in doing that), Ofcom has considered only whether RM should be mandated to scan every Mailmark letter at the point of delivery and has concluded that "extending Mailmark reporting beyond its current specification would be disproportionate. For example, it {RM} has observed that scanning on delivery would be time, labour and cost intensive."

The MCF believes this is taking far too narrow a view.

We believe it is practical for RM to enhance the information it provides to customers from sortation scanning of the Mailmark barcode to provide more predictive information on when mail should be delivered. For example, we understand from RM that it will be using (and is already using for the D+3 pilots) an algorithm that sequences mail at the Inward Mail Centre according to the delivery schedule for the destination addresses of the items – information which RM could and should then make available to operators and customers.

Ofcom notes that "Royal Mail has already developed the existing Mailmark reporting for the benefit of its customers and its own delivery operations without this being required by regulation, and that it would be open to Royal Mail and its customers to agree additional reporting on a commercial basis."

Given the hugely uneven balance of negotiating power between RM and its Access customers, even if Ofcom believes it would not be appropriate for it to mandate additional reporting by RM, the MCF urges Ofcom clearly to state an opinion that RM should increase the mail delivery information it provides.

Ofcom has also considered QoS enforcement and compensation, including the MCF's call for improved oversight and investigation of Access Quality of Service, for an Access QoS target set higher than the Second Class USO target and for Ofcom to publish a penalty formula explicitly linked to QoS failures by RM.

However, Ofcom concludes that "we do not consider there currently to be a case for considering further regulation in relation to the quality of access services."

This means Ofcom's regulations for Access will continue to require only that RM reports its service performance, leaving it to RM and access operators to agree QoS targets (and compensation arrangements) through contractual agreement

This creates a significant issue for Access customers.

The MCF strongly supports the need for there to be new tail-of-mail targets for the USO services regulated by Ofcom and welcomes this proposed addition by Ofcom to the regulatory targets.

The MCF strongly argues that tail-of-mail targets are equally warranted for the D+2 and new D+3 Access services, as well as for the USO services, and (as with the USO services), that the tail-of-mail targets be in addition to the on-time QoS targets, not instead of them. This would recognise consumers' and posting customers' need for reliability of Access services as

well as for USO services, recognising that the great majority of mail is posted on Access services, not USO services.

We also believe the existing service performance compensation arrangements should be extended to achievement of tail-of-mail targets.

If Ofcom does not extend its regime for QoS to Access services, the MCF is unsure whether Ofcom can then require there to be tail-of-mail targets (as well as on-time targets) for Access Mail.

The MCF strongly urges Ofcom to make a statement clearly supporting (if not mandating) tail-of-mail targets for D+2 and D+3 Access and for the service performance compensation arrangements to be extended to these targets.

Changing how access services are defined

The MCF notes Ofcom's consideration of changing the "D+X" descriptions of Access services to "H+X" where H is the day of handover to RM (as suggested by the MCF) and Ofcom's proposal to clarify what speed of service the Access services should deliver by amending the definitions of "D+2 Access" and "D+5 Access", and add a similar definition of "D+3 Access".

The MCF does not disagree with the Ofcom proposal.

USPA Conditions 5.3 & 5.4

These Conditions seek to ensure that RM does not use the information it receives from Access operators to obtain a competitive advantage over Access operators.

They have been in place since the time of Postcomm as the postal regulator and were continued by Ofcom in 2012. In 2022, as part its Review of Postal Regulation, Ofcom considered whether there was need to reform these conditions, but concluded they should remain unchanged.

This means these Conditions have existed, unchanged, for some 20 years – during which time the UK mail market has changed immensely.

The Conditions were originally set to protect the initial development of Access in competition to RM's Retail services when Access was first introduced, but Access is now 70.7% of all addressed mail and 83% of bulk mail.

The need for protections has changed - the need now is for new Access services to be developed, to offer customers increased choice.

The Conditions have been used by RM to block or deter requests for new Access services, by justifying excessive costs which RM says are necessary to establish IT systems for a new Access service that will be entirely separate from RM systems – even when RM already has such systems in place in order to offer its own existing service with which the new Access service would directly compete – i.e. RM is using these Conditions to defend against the development of competition.

In 2023, an MCF member (Whistl) brought a dispute to Ofcom about RM's use of the Conditions in this way. Despite the justifications set out by Whistl and Whistl even being willing to consent to the Conditions being waived (an exemption allowed in the Conditions), Ofcom ruled in favour of RM and the new service requested by Whistl has not been developed, denying mail users a choice.

The MCF has asked Ofcom to consider whether revisions could be made to relax the USPA 5 Conditions, to support the development of new services, but Ofcom has decided not to.

At in this Consultation, Ofcom says "we will keep this issue under review and will consider intervening if it appears that there is a need to do so."

The MCF strongly believes there is already a clear need to review these Conditions and calls on Ofcom to recognise this and to undertake such review now.

Requirement for fair and reasonable terms

USPA Condition 3 currently requires that D+2 and D+5 access services are provided on “fair and reasonable terms, conditions and charges”. Ofcom proposes that this requirement will also apply to the new D+3 access services.

The MCF supports this proposal, as it would be wholly unreasonable for this requirement to apply to D+2 and D+5 but not to the D+3 service which is expected to be used for much of the mail currently using D+2 (and perhaps also some of the mail currently using D+5).

The MCF has asked Ofcom to be more specific in its definition of “fair and reasonable terms, conditions, and charges” and so be more explicit on what is acceptable, and with fully enforceable regulatory powers for any breaches.

Ofcom says “This regime supports commercial negotiations between Royal Mail and Access operators when agreeing the terms and conditions of access” and considers it “preferable for access to be established through commercial negotiations” as Access customers have the option to bringing any disputes to Ofcom on a case-by-case basis.

The MCF does not agree and strongly reiterates its call for Ofcom to be more explicit on what is acceptable and to ensure the terms of Access are fair and reasonable, with enforceable regulatory powers for any breaches.

We believe Ofcom has ignored the huge disparity in negotiating power between RM and Access customers, with RM being in a monopoly position. As the MCF has explained to Ofcom, this disparity has meant that the terms of the ALC are very largely in RM’s favour and there have essentially been no customer-requested changes to the ALC, while there have been numerous RM-instigated changes.

RM also has unilateral power (often at short notice periods of 70 or even just 30 days’ notice) to impose changes to the ALC.

The option Ofcom says is available, of bringing disputes to it on a case-by-case basis, is in practice very rarely available. Bringing a dispute puts a very high burden of proof on the customer, at a very high cost, and it takes Ofcom a very long time to consider, investigate and rule on any case it accepts.

As far as the MCF is aware, only one dispute raised with Ofcom has been upheld – and that only after several years of investigation.

The MCF strongly urges Ofcom to reconsider its position on this and, as a possible way forward, to establish a Code of Practice similar to that it has already established in the telecoms market for access to the BT/Openreach network.

“8 Impact of our proposals on financial sustainability”

Ofcom has assessed the net savings from changes to the universal service (and, we assume, to Access services) as £250m-£425m in 2025/26.

Ofcom then says its analysis suggests that, although potential savings from USO reform would have a material impact, they are not sufficient to ensure the return of RM profitability to the 5-10% range Ofcom believes is needed for the long term financial sustainability of the USO.

Hence, Ofcom believes long term financial sustainability of the USO will also require RM to realise the full potential cost savings of the reforms, achieve significant growth in parcels, effectively manage the decline in letter volumes, and improve its efficiency.

The MCF is sceptical that RM achieve what Ofcom believes is necessary. Hence, we doubt that the proposed reform will achieve financial sustainability of the USO.

Ofcom has said nothing about how it will monitor or set targets for RM’s performance in realising the requirements it says RM will need to achieve - or anything about how Ofcom will respond if those requirements are not met.

The MCF thinks Ofcom may have to reopen the issue of USO (and Access) regulatory reform at some unknown future time, but Ofcom has given no indication of what would prompt it to consider further reform or what it might do.

“9 Next steps and update on other work”

Need for implementation period

Ofcom says in plans to publish a statement in Summer 2025 and that it intends any regulatory changes will come into effect on the day that statement is published (to give RM flexibility to begin changing its operating model as soon as possible).

The MCF does not believe immediate implementation of changes would be practical for Access customers or the related supply chain. We urge Ofcom to reconsider and instead to require a short implementation period between publication of Ofcom’s decision statement and the regulatory changes coming into effect.

While RM has engaged with Access customers about the changes it plans for Access services and has provided information to allow customers to plan for implementation of them, customers will be unable to put the new requirements into effect immediately – especially as the date when Ofcom will publish its decision statement is entirely unknown.

In many cases, Access mail is produced by the supply chain many days (perhaps weeks) before it is collected by Access operators. This is because (especially for advertising campaigns), mail production has to be booked and scheduled well in advance of the posting date and the volume of mail involved may require production over a number of days.

This has significant implications for the physical preparation of mail (e.g. the indicia shown on the mail items), the correct data file to be submitted to RM (e.g. the product and service codes, and pricing data) and the physical presentation of the mail for handover to RM (e.g. the sortation of items and the labelling of mail containers). Those changes cannot be made immediately.

It is also sometimes the case that mail will be collected from the production site but not handed over to RM by the Access operators the next day (either because that is the service operation of the operator or because the customer has asked for the mail to be held before handover to RM). Again, this is especially the case with advertising campaigns, e.g. where the customer wants its mail to be delivered to recipients on different days in different geographic areas.

Hence, it would generally not be possible for customers, the supply chain or operators to implement the changes needed to comply with the new RM requirements immediately.

Ofcom may feel this can be addressed by RM allowing a ‘grace period’ during which Access mail would not have to comply fully with the changed requirements. However the Access Contract does not allow for such a period; instead RM has the power to immediately apply surcharges or even to reject the mail.

A period when some Access mail met the changed requirements while other mail did not would also cause major difficulties for RM in correctly processing and delivering the mail (e.g. the automated sortation of mail would need to recognise both the old and new presentation requirements, or process the mail twice, and delivery staff would have difficulty in recognising what service to give).

The MCF has also noted that the new version of the Access Letters Contract (ALC) provided by RM (as part of Contract Change Notice 114 on 19/12/24) does not include changes to the terms for the Economy service so that the delivery pattern for Economy will to match that of the planned new D+3 service (in particular, for Economy mail to be delivered on Weekdays not on Working Days and hence not delivered on Saturdays).

RM has told the MCF that it will address this once Ofcom has published a decision and if that decision is for Economy mail to be delivered on Weekdays only, RM will issue a new Contract Change Notice giving 70 days’ notice.

This means the delivery pattern for Economy mail would not change for at least 70 days after the Ofcom decision, when the D+2 and D+3 Access services would change immediately.

The MCF believes this will cause significant confusion for customers when seeking to choose the best Access service for their mail, as D+3 and Economy deliveries will have different delivery patterns. It may also cause disruption to RM's smooth introduction of D+3, as Economy items would (for at least 70 days) have to include Saturday as a delivery day (which would mean using the D+2 delivery operation).

The MCF strongly believes that an implementation period is necessary and the Ofcom decision should include this in the effective date for the regulatory changes.

However, we are not calling for the implementation period for D+2 and D+3 changes to be set by Ofcom to match the 70 days period for RM to change the Economy service.

We believe customers, the supply chain and operators could work with RM to agree a common implementation period so that the D+2, D+3 and Economy changes happen on the same date, and for that implementation period to be less than 70 days after Ofcom publishes its decision statement.

The MCF urges Ofcom to discuss this with industry groups and RM, so that an implementation period can be set as part of the decision statement.

D+3 pilots

The Consultation says that if Ofcom decides to proceed with its proposals, it is unlikely to take enforcement action in respect of the pilots (which RM has already started to implement) unless it becomes clear that there is a material adverse impact on consumers (in which case Ofcom may decide to take a different approach).

The MCF finds it curious that Ofcom has decided to ignore the fact that these pilots are in breach of current Ofcom Conditions, are in breach of the current Access Letters Contract and are possibly even to be breach of Postal Services Act 2000 s83 (which states that is a criminal offence to delay the post intentionally unless to do so would be with "reasonable excuse").

Ofcom's statement effectively allows RM to act in this way without consequence, with an assumption that Ofcom will take no action and with no requirement on RM to show that the impact on consumers will be small.

Although RM estimates the pilots will "cover about 4% of delivery points", the impact will be concentrated in particular parts of the UK. The 37 Delivery Offices listed by RM as participating in the pilots are linked to 13 Mail Centres, which means some local areas will see aggregated impact.

This will mean some local-to-local posting customers (e.g. local authorities and NHS trusts will see significant parts of their area affected) and for local authorities the impact will be felt at a time when council tax letters and election mail is being sent (in authorities where there will be elections in May).

The MCF's concerns are heightened because (as far as we know), RM

- Will not be undertaking any local communication to posting customers or recipient consumers
- Will not allow any 'opt-out', as all mail posted on the D+2 service will be switched to the D+3 service
- Will not offer any compensation to affected customers, who will be paying the D+2 price but receiving a D+3 service.

We know of some posting customers who (typically because of regulatory requirements on them) will have to switch to using a RM Retail 1st Class service instead of the D+2 Access service they use now, at considerable extra cost.

RM have said the quality of service impact of the trials will be seen in the national quality of service performance and compensation will be paid according to the arrangements for that in

the Access Letters Contract. However, that subsumes the localised impact into the national measurement, when the impact will be felt locally.

The MCF does not argue against RM piloting the proposed operating model (we assume the pilots will help to ensure effective operation of the new model, if Ofcom's decisions allow it to be implemented), but we are greatly concerned that Ofcom has neither properly understood and recognised the localised impact nor required RM to do anything to mitigate that impact.

Second Consultation

Ofcom's own summary of responses to the Call for Inputs (CFI) (September 2024) recognised the need clearly expressed by respondents for Ofcom to address aspects of its regulatory regime in areas related to but not directly concerned with changes to the USO specification itself.

In that summary, Ofcom said it intended to conduct its work in two phases and the second phase of work would include consultations on proposals related to:

- The broader QoS regime (overall QoS requirements and enforcement)
- Affordability and pricing (options to ensure the continued affordability of USO services, including more targeted interventions and the broad approach to regulation of RM pricing of Royal Mail's services); and
- Other issues (such as the structure of the access obligations and the scope and definition of USO products).

In a presentation to Ofcom in August 2024, the MCF set out a number of 'Essential' and 'Desirable' needs which it called on Ofcom to address. In summary, the MCF said:

"Responses to Call For Inputs were clear: there must be benefits to customers/consumers to mitigate impact of severe service degradation. These benefits must come at same time as changes benefiting RM"

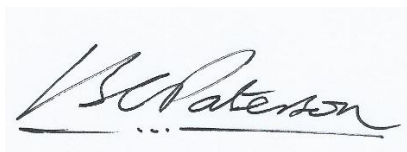
However, in this Consultation there is no mention of a second phase with a further consultation to address the issues Ofcom stated in the summary of responses to the CFI.

Ofcom does make some comments on "Further planned work", but there is no mention of reviewing its approach to QoS enforcement, or considering the structure of the access obligations.

In the MCF's view, Ofcom has decided it will give RM what RM has asked for, but will do nothing to ensure there are benefits to customers and consumers to mitigate the impact of severe service degradation. RM will get what it wants – and in the Summer of this year – while those using RM's services will get nothing that benefits them.

The MCF sees this as hugely disappointing and failing Ofcom's regulatory responsibilities. We ask Ofcom to explain why it has taken this approach, why there will now be no second phase and why the needs of customers and consumers have been very largely ignored.

The MCF (and its individual members) would be happy to discuss with Ofcom any of the comments made in this response.

A handwritten signature in black ink, appearing to read 'Ian Paterson', written over a light blue rectangular background.

Ian Paterson
MCF Secretary