

24 April 2013

Mr S O'Hara
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Dear Sean,

Thank you for providing the opportunity for Consumer Focus to respond to Ofcom's call for inputs on its review of Mail Integrity and Postal Common Operational Procedures.

The Mail Integrity Code of Practice (MICOP) and the Postal Common Operational Procedures Code of Practice (PCOP) are important for consumers as the combination of the two provides a system that protects senders and recipients of mail in a multi-operator market. They mandate that appropriate training, disciplinary and reporting procedures are in place for all 'Regulated Postal Operators' (RPOs) to protect the mail (MICOP).¹ They also ensure that in the absence of a specific formal contract between RPOs there nevertheless remains a 'default' agreement for the repatriation of mail in 'an efficient, economic and timely manner' (PCOP).²

Consumer Focus has previously welcomed the extension of the PCOP to cover additional postal packets other than letters (within specified cost and weight limits) sent by Royal Mail, access operators and regulated postal operators and also the extension of the MICOP to cover access operators.³ We note however that Ofcom is now considering extending the MICOP and PCOP further, and in the following pages we set out our responses to that particular question as well as others posed by Ofcom in the document.

Should you wish to discuss any of the issues further then please do not hesitate to contact me.

Yours sincerely



Michelle Goddard
Head of Postal Services

¹ Ofcom, *Review: Mail Integrity and Postal Common Operational Procedures – Call for inputs*, p.23. <http://bit.ly/159HWYI>

² Ofcom, *Review: Mail Integrity and Postal Common Operational Procedures – Call for inputs*, CP2.3.1. <http://bit.ly/159HWYI>

³ Consumer Focus, *Consumer Focus response to Ofcom consultation in relation to Review of Regulatory Conditions: Postal Regulation*, p.14, <http://bit.ly/17qVaiZ>

Consumer Focus response to questions

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

Consumer Focus sees no reason for a change to the status quo as the current arrangement appears to be working well. However if there is evidence to the contrary then it needs to be made available and reviewed to assess whether a change is necessary. At present if any aspect of the code is particularly onerous to industry as a whole or an individual operator they can apply to Ofcom for amendment; we therefore do not see a need for industry to set its own standards even with oversight from Ofcom.

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

Consumer Focus notes that this would result in end-to-end parcel operators being covered. This could be a significant change to the approach to regulation within the wider postal market as Ofcom is committed to avoiding imposing unnecessary regulatory burdens (set out in section 6 of the Communications Act 2003), and increasing the scope of regulation to a competitive market could constitute such a burden.

Given the potential impacts on consumers and industry, as well as the increased level of regulation for Ofcom to manage, we believe Ofcom should consider the potential costs and benefits of such an extension. This would be likely to include such factors as the incremental cost of compliance by industry set against the incremental benefit to consumers of the compliance. Consumer Focus would be happy to offer input into this process as we are conducting extensive research on the consumer experience of the parcels market.

We also note that the European Commission (EC) published a Green Paper in November 2012 which set out to discuss the ways in which the cross-border parcel market in the European Union could work better for consumers, and included a consideration of potentially increasing the scope of regulation to include parcels operators.⁴ Ofcom may find it useful to engage with the EC to see what potential costs and benefits it has identified with increasing the scope of regulation to include parcels operators. Consumer Focus has also responded to the EC Green Paper emphasising that competition can deliver benefits to consumers; however as the majority of consumers that pay for a parcel service currently do so as 'delivery initiators' via purchases from online retailers there is still limited scope for them to exercise choice as often the online retailer will choose the service provider.⁵ Extension of the MICOP could help to provide additional guarantees of delivery security standards for these 'delivery initiators'.

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

Consumer Focus considers the current reporting requirements to be appropriate.

⁴ European Commission, *Green Paper: An integrated parcel delivery market for the growth of e-commerce in the EU*, 29.11.2012. <http://bit.ly/YtJyJ1>

⁵ Consumer Focus, *Consumer Focus response to the European Commission's Green Paper consultation on an integrated parcel delivery market for the growth of e-commerce in the EU*, February 2013. <http://bit.ly/17ld4uZ>

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

Consumer Focus believes that transparency on the security of the service provided by operators provides consumers with useful information when deciding which operator to use. The publication of details of lost, stolen or damaged parcels might also put more of an incentive on industry to improve their standards and this would yield gains for all postal users. We therefore believe that publication of certain reported information provided under the MICOP, such as the number of packets during the year that are lost, stolen or damaged, would be advantageous to all consumers.

However, we also recognise a number of problems with this approach that would require further consideration by Ofcom and industry. For example, the data on lost, stolen and damaged parcels is only estimated and is also confidential, and publication of certain data could actually lead to more theft as criminals target the identified vulnerabilities within the system. For completeness sake the volumes being handled would also be required, otherwise operators carrying the most would be at a disadvantage because there is a greater possibility that those carrying the most would also lose the most. This could be easily resolved by showing the percentage of mail items lost, damaged or stolen against the volumes.

Given the potential benefits to consumers and also the risks involved with publication of this data, we would therefore ask Ofcom and industry to consider what and how much data could reasonably be made public without leading to unintended consequences.

Q2.5 Should Ofcom impose obligations on regulated postal operators to meet certain identified standards in relation to mail integrity rather than imposing operational requirements in MICOP? Please set out your reasons.

Consumer Focus believes that the current operational requirements set out in the MICOP provide sufficient guidelines on measures to protect the mail.

We are concerned that any attempt to set identified standards would either result in an 'industry average' approach that could be unfair to some operators, or would lead to each operator having its own set standards which could become incredibly time-consuming for Ofcom and lead to the regulator effectively micromanaging companies. The risks of failure to meet the standards, such as financial penalties, could result in litigation, uncertainty in the market and create perverse incentives for the industry to become *less* transparent.

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

Consumer Focus believes the level of detail is appropriate; we do not feel there is a need for Ofcom to micromanage industry providing that consumers are adequately protected.

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

This is an industry matter. We do not know costs of compliance so cannot comment.

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

Consumer Focus would like Ofcom to investigate the level of awareness of MICOP among operators and provide detail as to the ways in which the code is currently communicated to them, and how it could be improved in future.

We would also appreciate further clarity as to how Ofcom monitors the level of operators' compliance with the requirements in the MICOP.

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

Consumer Focus sees no reason for a change to the status quo as the current arrangement appears to be working well; however if evidence is presented to show that this is not the case then this should of course be reviewed.

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

Please see our response to Q2.2.

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

Please see our response to Q2.2.

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

Please see our response to Q2.7.

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

Consumer Focus believes that as long as there is a requirement to repatriate mail in a timely manner (which is set out in CP2.3.1) then the requirements are sufficient.

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

Consumer Focus sees no reason why there needs to be a change to the status quo as the current structure is working well. However, we believe that the mechanism by which industry could modify the PCOP should ensure that the views of all industry players are equally accounted to avoid the risk of any proposed modification done solely at the behest of a particularly dominant player.

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

Consumer Focus has not identified any additional issues relating to the PCOP Code or Agreement.