

## ***“Mail Integrity and Postal Common Operational Procedures”***

### **- UK Mail Response to Ofcom’s February “Call for Inputs” April 2013**

Note: Throughout this document:

Cfl	= Ofcom’s February 2013 Call for Inputs”
Codes	= the MI and PCOP Codes of Practice
MI	= Mail Integrity
PCOP	= Postal Common Operational Procedures
RM	= Royal Mail
RPO	= Regulated Postal Operator (as defined by Ofcom in its regulatory conditions)
UPS	= Universal Postal Service (the ‘universal service’)
UKM	= UK Mail

Numbering used in referring to the Cfl as per the paragraph and figure numbering in the Cfl. Quotations from the Cfl are shown in *italics*; paragraph numbers are referenced in square brackets [ ]

UKM welcomes the opportunity to respond to Ofcom’s Call for Inputs on its review of the Codes. Our comments follow below and may be made public and attributed to UKM.

### **1. Introduction**

UKM notes that Ofcom’s March 2012 statement (setting out the new regulatory framework) said (at paragraph 12.115):

“In light of the above, we have decided... to review the Codes with a view to issuing a consultation setting out the results of the review in 2012. Following that review, and depending on its outcome, we plan to... extend the application of the Codes (assuming that we conclude that the Codes are still required broadly in their current form)”

That is, any extension of the Codes will be dependent on the outcome of the review and a subsequent consultation, conditional on the Codes still being required.

UKM is not aware of any evidence or indication that there is a problem relating to the Mail Integrity of access mail which is sufficient to justify extension of regulation into a currently unregulated area. From UKM’s understanding of reported instances of mail integrity breaches, they occur once mail has been received by RM, or during the delivery of mail carried by other RPOs.

It is also the case that there is strong competition for access mail and access mail services are provided under bi-lateral contracts. Both these factors mean that access mail customers are able to exercise a high degree of choice in who carries their mail and on what terms. Access mail customers are very able to require particular mail integrity procedures, service measurement and reporting and compensation or service failure payments.

UKM believes there is not a need for Ofcom to apply the Codes to access mail because there are mail integrity or operational procedures concerns. Nor is there a need for Ofcom to apply regulatory conditions because the market already fully recognises the needs of customers.

In responding to Ofcom's December 2011 consultation "Review of regulatory conditions" and subsequently, UKM set out its reasons why it believed it was both unnecessary and inappropriate for the remit of the Codes to be extended beyond RPOs; we said:

"the existing PCOP Code does not apply to UKM as UKM is not a Regulated Postal Operator. However, UKM had previously signed up to the Code and has procedures for dealing with other operators' mail which are consistent with the Code.

UKM is in the same position with regard to the MI Code: we are not currently under an obligation to comply with this Code but our general procedures for mail integrity are intentionally consistent with it (where relevant and practical).

We do not support and argue against the extension of the PCOP and MI Codes to formally apply to access operators.

We believe this is unnecessary as access operators have clearly shown during the past nearly eight years that access-based services have operated without evidence of failings in relation to complaints or consumer concerns, in the absence of regulatory obligation for inter-operability and mail integrity.

It has been, and will continue to be, good industry practice to operate in a manner that is consistent with the principles set out in the PCOP and MI Code – without being subject to regulatory obligation to do so."

That remains UKM's position.

UKM is puzzled by Ofcom's statement that:

*"as access mail is injected into another network, the chance of mail going astray is increased"* [1.3]

UKM does not accept the premise that just because access mail transfers from one operator to another (RM) at one point in its journey from posting to delivery it is any more likely to go astray than mail which is passed from one part of an operator's infrastructure to another. Indeed, it would be reasonable to assume that the handover procedures for access mail at RM Mail Centres are likely to mean more careful handling.

UKM also asks Ofcom to justify its statement that:

*"access mail is generally of low intrinsic value"* [1.3]

This statement must be intended to make a distinction between access mail and non-access mail, which Ofcom's statement would imply must be generally of high intrinsic value. That is certainly not the case as all mail is generally of low intrinsic value, not just access mail.

While UKM continues to believe it is not necessary or appropriate for the Codes to extend to access mail and we are puzzled by the reasons Ofcom gives for its intention to do so, we recognise the need to respond to Ofcom's 'Call for Inputs'.

## **2. Mail Integrity Code of Practice**

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?

As mentioned above, UKM does have procedures in place to protect the integrity of mail and those procedures are generally consistent with the MI Code as being good practice for a reputable access mail operator.

This demonstrates that UKM supports the principles of the MI Code even though we do not agree that the Code should be imposed on access mail. It hence shows commitment to what might be termed 'self-regulation' and UKM believes that commitment is shared by the postal industry as a whole.

UKM notes that s6 of the Communications Act 2003 says:

"6(2) In reviewing their functions under this section it shall be the duty of OFCOM—

(a) to have regard to the extent to which the matters which they are required under section 3 to further or to secure are already furthered or secured, or are likely to be furthered or secured, by effective self-regulation"

We therefore believe it would be appropriate for Ofcom to consult on proposals that the MI Code should be owned and managed by the postal industry, with an ability to ensure such self-regulation is appropriate and effective through regulatory supervision.

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.

UKM does not believe the remit of the MI Code should be extended further than its existing application to RPOs and (as stated above) does not support extension of the Codes to access mail.

Therefore, UKM does not believe the Code should be imposed on all postal operators or any other specific types of postal operator.

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.

UKM believes there are a number of technical issues should the MI Code be extended to access mail and such reporting be required; these arise from the fact that all access mail is passed to RM for final delivery.

Where UKM (and other access operators) provide standard down-stream access (DSA) the service covers conveyance of the mail from collection to final delivery. But the local sortation and final delivery are carried out by RM under contract to UKM.

UKM believes that as RM will be reporting on the mail they carry (RM being an RPO) it would be appropriate and logical for RM to report on access mail while that mail is in their care.

This would be particularly logical where the access mail is carried under Customer Direct Access (CDA) or Agent For Access (AFA) services, which account for c40% of access mail. For these services the customer is contracting directly with RM for the downstream part of the letter's journey and the access operator is responsible only for the upstream part, from collection to handover to RM.

It is also the position that RM does not acknowledge receipt of any particular item of access mail (or of any specific bag or tray of mail despite each bag or tray having a unique identification number). UKM consequently can see significant practical issues in identifying whether a mail integrity problem happened before or after the mail passed from UKM to RM, unless UKM is able to require confirmation from RM that it has received the mail.

UKM hence strongly believes that, should the MI Code be extended to cover access mail, the Code must be re-drafted such that the Code (including reporting) applies to the access operator only while the mail is in its care. After handover to RM, the Code will apply to RM and RM should report on access mail as it is in RM's care. This should not in any way weaken the application of the Code or its value to postal users as the Code obligations would continue to apply throughout the journey of the mail.

Also, UKM notes that in regulatory condition E 1.1.2, "Code Postal Packet" is defined in terms relating to a "postal packet". UKM assumes this is intended to incorporate the definition of "postal packet" from the 2011 Postal Services Act but it is unclear to UKM what is meant by "postal packet" in relation to access mail.

The majority of access mail is conveyed by an operator such as UKM is handled in sealed bags from collection to the point of handover to RM. Postcomm, as the previous postal regulator, recognised the sealed bag as the postal item.

Hence it would seem logical and consistent that, should E 1 be extended to access mail, the Code Postal Packet will be the sealed bag, not the individual items it contains.

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.

UKM believes it is appropriate for the UPS provider (i.e. currently RM) to report to Ofcom the information required by the MI Code and for such information to be published. This is important for public confidence in the public postal service.

But UKM does not believe it is necessary for information relating to mail carried under contract to be reported to Ofcom or published as such reporting is already covered by the commercial terms for such mail if required by the customer.

Q 2.5 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.

In the CfI Ofcom refers to the quality of service targets set for RM and the information published in relation to achievement of those targets. Ofcom then draws a parallel between those targets and publication and the publication of complaints information.

UKM is puzzled by this comparison as there are quality of service standards only for UPS services (not for all RM services) and those standards are set in order to ensure that RM does not allow service performance to fall as an alternative to appropriate investment in service quality where RM has an effective monopoly. (Ofcom similarly requires RM to measure and report on access mail quality of service, where RM also has an effective monopoly).

UKM does not believe Ofcom should establish identified standards for the procedures covered by the MI Code and cannot see how such standards could be set or measured.

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

UKM believes the current level of detail is appropriate as it provides a clear framework whilst not seeking to apply detailed requirements which might be unnecessary, inappropriate or impractical for a specific operator.

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

In March 2012 UKM wrote to Ofcom in response to a request for information on the processes required for UKM to comply with the Codes. That response provided confidential information on the significant financial and procedural impact on UKM if the Codes were to apply to our access mail.

While UKM works to the principles of the MI Code we are concerned that imposing the reporting obligations required by the Code on access mail would result in excessive costs not warranted by any need for regulation by Ofcom.

In responding to Q2.3 above, UKM explained why it strongly believes that the MI Code (if extended to access mail) must make a distinction between when the mail is in the care of the access operator and when it is in the care of RM.

If that distinction were made in the reporting obligations of the Code, the cost impact could be manageable.

*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.*

UKM believes that Ofcom must fully consider and consult on ways in which the application of the MI Code could work in practice, given that access mail is handed over from the access operator to RM but RM does not provide any confirmation of receipt or any information to the access operator in relation to the handling of the mail after receipt.

For example, the regulatory condition on Mail Integrity defines “Loss” in terms of an item not delivered after 15 working days. However, UKM has no information from RM on the receipt or actual delivery date of any item and so is unable to categorise items as not having been delivered after 15 working days.

UKM notes that the provisions of the MI Code relate to Relevant Employees and the definition of Relevant Employee is extremely wide, including staff who “may be involved” in handling mail. For an operator such as UKM, with an integrated network for the efficient handling of parcels and mail, the definition would cover every member of UKM staff, regardless of their role and whether they have any significant involvement in the handling of mail as opposed to parcels. UKM believes Ofcom would have to consider this issue.

The definition of Relevant Employees also includes any sub-contractors who are (or may be) involved in handling mail.

For some access mail RM is a sub-contractor and the MI Code’s application to an access operator would therefore include all RM staff. But UKM doubts that RM would be willing or able to accept that all the provisions of the MI Code could be applied by UKM to all RM staff, for example RM would presumably be unwilling to accept that UKM could insist its vetting, training, and disciplinary procedures were applied to all RM staff and that RM must report compliance to UKM.

Although the Mail Integrity Code does not explicitly require a postal operator to undertake Criminal Record Bureau checks on its “Relevant Employees” (the requirement is for criminal record declarations), a postal operator may feel it would aid demonstrating compliance with the code if it did undertake Criminal Record Bureau checks, rather than relying solely on declarations by its staff. However, RM is in a highly privileged position in doing so as it alone among postal operators is able to have direct access to the Police National Computer; all other postal operators must use the materially more expensive route of using a commercial gateway to the criminal records.

UKM believes Ofcom must also consider the MI Code’s requirement that a “serious incident” must be reported to Ofcom as soon as possible when a “serious incident” is defined as one relating to more than 10% of the items carried by the relevant Employee that day. UKM believes it is not practically possible to know how much mail has been handled by any specific Relevant Employee on any specific day.

### **3. Postal Common Operational Procedures Code of Practice and Postal Common Operational Procedures Agreement**

UKM notes and agrees with RM’s view that the PCOP Code should not be extended to  
*“items carried by parcel operators, express couriers etc which, because they are usually tracked, are much less likely to be mis-directed.”* [3.7]

However, UKM does not agree with RM’s view that the Code should apply to access operators (and points out that RM’s new access contracts will soon reduce the maximum weight for an access item from 5kg to 2kg).

UKM’s position on the PCOP Code is essentially the same as on the MI Code: UKM supports and already works to the principles of the Code, as good industry practice for a postal operator, but does not believe it is necessary or appropriate for the Code to be imposed on access mail.

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?

As with Q2.1 above, UKM believes it would be appropriate for Ofcom to consult on proposals that the PCOP Code should be owned and managed by the postal industry, with an ability to ensure such self-regulation is appropriate and effective though regulatory supervision

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.

UKM does not believe the remit of the PCOP Code should be extended further than its existing application to RPOs and (as stated above) does not support extension of the Codes to access mail.

Therefore, UKM does not believe the PCOP Code should be imposed on all postal operators or any other specific types of postal operator.

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.

Part of the rationale for extending the PCOP Code to access mail seems to be that the nature of access mail means it is more likely to 'go astray'.

It would then be logical for the scope of the Code to be limited to items that are eligible for access services. Access mail items are not individually tracked (at least, not after receipt by RM) and will soon have a maximum weight of 2kg (as well as dimensional limits set by RM for 'Letters' and 'Large Letters'). The Code definition of complaint should then be revised to apply in relation to items illegible for access services.

At the moment, the definition means that any complaint about any item carried by any postal operator is covered by the Code, including for example a parcel carried by an express courier. UKM can see no justification to extend regulation in this way to postal services which have never previously been regulated and where the market is fully competitive.

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

UKM acknowledges that it is good industry practice to ensure that mail items which are found to be in the network of an operator other than the intended operator are swiftly returned to the correct operator and so provide good service to postal customers. But UKM is not aware that any quantifiable benefits of the PCOP Code have been shown to exist.

As mentioned above in responding to Q2.7, in March 2012 UKM wrote to Ofcom in response to a request for information on the processes required for UKM to comply with the Codes. That response provided confidential information on the significant financial and procedural impact on UKM if the Codes were to apply to our access mail.

While UKM works to the principles of the PCOP Code we are concerned that imposing the reporting obligations required by the Code on access mail would result in excessive costs not warranted by any need for regulation by Ofcom.

As with the MI Code and for the same reasons, UKM strongly argues that if the PCOP Code is to apply to access mail it should apply to the access operator while the mail is in the care of the access operator and, separately, apply to RM when it is in the care of RM.

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

UKM believes that the existence of a general PCOP Agreement, to which any operator can become a signatory, encourages operators to work to that agreement (whether under regulatory obligation or not) and to have consistent procedures in place to deal with miscollected, misposted and misdirected letters.

Reliance on a network of bi-lateral arrangements between postal operators would not be as comprehensive or consistent.

*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.*

UKM believes it would be appropriate for the PCOP Code to be managed by the industry. That industry management should include the process for agreeing any modifications to the Code.

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

UKM notes that regulatory condition CP 2.1.2 defines “Access Indicator” as being the Customer Access Indicator and the Royal Mail Access Indicator. However, UKM believes that RM does not now require an access customer to use a Customer Access Indicator and so Ofcom are requiring something which RM no longer requires.

**Conclusion:**

UKM continues to believe that it is neither necessary nor appropriate for Ofcom to extend the MI and PCOP Codes to access mail. Such imposition would hugely extend this regulation into parts of the postal market which have never been previously regulated in this way, where there is no market failure or consumer detriment and which are unrelated to Ofcom’s primary statutory duty to ensure provision of the universal postal service.

UKM does not believe the intended extension of the Codes can be justified under the tests for regulatory powers to be necessary, proportionate, relevant and effective.

Should Ofcom proceed to impose the Codes on access mail, UKM believes it would be appropriate for the Codes to be managed by the operators to whom the Codes would apply.

UKM further strongly argues that the Codes must recognise that two postal operators are involved in the handling of access mail (and for much access mail the customer has separate contracts with the two operators). The Codes should apply separately to the access operator when the mail is in its care and to RM when the mail is in RM’s care.

UK Mail  
April 2013