



Safeguard cap for Second Class Large Letters and packets

Consultation on the proposed modification to the safeguard cap condition (DUSP Condition 3)

Consultation

Publication date: 14 February 2013

Closing Date for Responses: 15 March 2013

Contents

Section		Page
1	Proposed modification to the safeguard cap condition	1

Annex		Page
1	Responding to this consultation	5
2	Ofcom's consultation principles	7
3	Consultation response cover sheet	8
4	Current DUSP condition 3	10
5	Statutory notification: proposed modification of DUSP condition 3	13
6	Consolidated version	17

Section 1

Proposed modification to the safeguard cap condition

Introduction

- 1.1 On 27 March 2012, we published our decision on the new regulatory framework for the postal market (“the March 2012 statement”).¹ This granted Royal Mail significantly more pricing flexibility to help secure the ongoing provision of the universal postal service, subject to certain key safeguards. These included a safeguard cap to ensure vulnerable consumers could afford a basic universal service.
- 1.2 Accordingly, we set a 55p cap on the price of Second Class stamp Letters (“Letters”) effective from April 2012 which would be increased by CPI inflation over the period of the regulatory framework. We also determined that it was appropriate to impose a cap on Second Class stamp Large Letters² and packets up to 2kg (“Large Letters and packets”) and noted that we would consult on the structure, form and level of such a cap. This consultation was published in April 2012 and included the statutory notification for the Designated Universal Service Provider (“DUSP”) condition.³
- 1.3 The calculation of the cap on Large Letters and packets was more complex than the Letters cap as there were a number of different formats and weight steps involved. The basket structure of the cap that we proposed was designed to give Royal Mail significant flexibility to set its prices for individual products as long as the overall level of the cap was not exceeded (given the weighted average of the seven products included in the basket).
- 1.4 In considering the level of the cap, we noted that in general consumers buy Large Letter and packet products less frequently than Letters and when this is averaged across the year they have a low weekly spend on these products. We therefore proposed that the level of the safeguard cap should be at the same percentage increase as for Letters (53% plus CPI) for the seven year duration of the regulatory framework.
- 1.5 On 20 July 2012, we published the statement setting out our decision to set the level of the safeguard cap for Large Letters and packets at a 53% increase over 2011-12 prices, increasing with CPI inflation for the seven year duration of the regulatory framework.⁴ DUSP condition 3 setting out the safeguard cap for Large Letters and packets that was adopted pursuant to that statement and that is currently in place is set out in Annex 4.

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

² “Large Letters” means any item larger than a Letter and up to length 353mm, width 250mm, thickness 25mm, and weighing no more than 750g.

³ Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/postal-service-letters-packets/summary/condoc.pdf>

⁴ Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/postal-service-letters-packets/statement/statement.pdf>

- 1.6 Following adoption of DUSP condition 3, Royal Mail has identified a problem with the formula for the calculation of the maximum price to be charged for the services specified in DUSP condition 3. Having considered Royal Mail's concerns, we agree that the formula as currently drafted does not accurately implement our intended policy.
- 1.7 The purpose of this consultation is to set out the modifications to DUSP condition 3 that we propose to correct this error and to ensure that the condition works as originally intended.

Legal framework

- 1.8 We set out the details of the legal framework for imposing regulatory conditions, including the safeguard cap for Large Letters and packets, in our consultation on the structure, form and level of the safeguard cap for Large Letters and packets. This was published on 27 April 2012 with the subsequent statement published on 20 July 2012.
- 1.9 In addition, we explained in those two documents why the statutory tests for imposing regulatory conditions were met in relation to the safeguard cap for Large Letters and packets.
- 1.10 The relevant statutory tests that need to be considered in this consultation are those set out in Schedule 6 to the Postal Services Act 2011 (the "Act") for modifying a regulatory condition.⁵ Schedule 6 provides that we may modify a regulatory condition only if we are satisfied that the modification:
- is objectively justifiable;
 - does not discriminate unduly against particular persons or a particular description of persons;
 - is proportionate to what it is intended to achieve; and
 - is transparent in relation to what it is intended to achieve.
- 1.11 We do not consider it necessary to carry out a detailed impact assessment of the proposed modification. An impact assessment was carried out for the decision to adopt the safeguard cap for Large Letters and packets and the decision as to the structure, level and form of that cap. The changes to the formula for calculating the level of the safeguard cap that are being proposed in this consultation merely ensure that DUSP condition 3 can operate effectively and as originally intended.

Problem and proposed change to the safeguard cap formula

- 1.12 During the process to set prices for 2013-14, Royal Mail identified an issue with the safeguard cap formula for the calculation of the maximum price to be charged for the specified basket of products, which is set out in DUSP condition 3.2.2. As we had not specifically defined which CPI index period would be used within the formula, both the CPI index and the maximum increase in prices were to be calculated in reference to the time period "t". The letter "t" referred to the Relevant Year, which we defined as

⁵ The expression "regulatory condition" is defined in section 28(2) of the Act as including a designated USP condition and a USP access condition; that definition applies to Schedule 6 by virtue of sections 53 and 63 of the Act, when read together.

the period beginning on 1 April and ending on 31 March for each year that the regulatory framework would be in place.

- 1.13 Therefore for Royal Mail to calculate the level of the cap, the current formula requires it to use the level of CPI for the following year (i.e. a forecast for the year for which the prices are to be set) in the calculation. However the Office for National Statistics (the “ONS”) publishes the Consumer Prices Indices approximately two weeks after the end of the month for the previous 12 months (on a rolling basis). As a result, to complete the calculation Royal Mail would need to use a forecast and ONS does not provide forecasts of CPI. In addition, forecasts are inherently inaccurate and the formula in the DUSP condition does not provide a correction mechanism if the forecast ultimately proves to be incorrect.
- 1.14 Furthermore, using the period of the Relevant Year as the basis of the level of CPI is inconsistent with that used for the corresponding Letters cap. The Letters cap uses actual CPI from the 12 months ending in September of the previous year. We did not intend that the CPI period to be used in determining the level of the safeguard cap for Large Letters and packets would be different to the corresponding Letters cap.
- 1.15 On this basis we propose to define the term CPX within the formula so that it relates to the level of the CPI index on the 30 September immediately before the beginning of a “Relevant Year”. This will allow Royal Mail to use published CPI figures produced by the ONS and ensure that the Large Letters and packets cap will have the same percentage increase in level as the Letters cap will over the seven year period of the regulatory framework.⁶
- 1.16 In addition, to ensure the formula works as intended and is consistent with the basis for CPI used in the Letters cap, we are also proposing to clarify the base year for the CPI increase (2012-13), and define year 0 and the initial prices ($P_{i,0}$) within the condition.
- 1.17 We consider that the proposed modifications satisfy the statutory tests set out in Schedule 6 for modifying regulatory conditions. In particular, the proposed changes are:
 - **objectively justifiable** because the safeguard cap formula, as it currently stands, contains an error that prevents the level of the cap being calculated at the time when Royal Mail is setting its prices for the year ahead. Furthermore, as it currently stands, the safeguard cap for Letters uses a different period for CPI from the safeguard cap for Large Letters and packets when no such distinction was intended;
 - **not unduly discriminatory** because it affects the USP – and there is only one such USP (Royal Mail) in the UK;
 - **proportionate** because the modifications are the minimum alterations required to allow the safeguard cap formula to function as intended; and

⁶ Although the same percentage increase in level applies to both caps over the seven year period, they are calculated in slightly different ways. The Large Letter and packets cap is a control on the maximum level of prices for the basket of products, which is adjusted each year to reflect the level of the CPI in the month of September prior to the start of the Relevant Year relative to its level in the September preceding the first Relevant Year (i.e. September 2011). By contrast the Letters cap is a control on the maximum annual increase in price (for this single price point), which is calculated on the basis of the percentage increase in the CPI over the relevant year compared to the previous year (starting at 55p in 2012-13).

- **transparent** because the proposed change to the DUSP condition is set out in Annex 5 with a consolidated version in Annex 6 of this consultation.

Next steps

- 1.18 This document has a four week consultation period; therefore we request that interested parties respond to this consultation by 15 March 2013.
- 1.19 Following consideration of responses, we plan to issue our statement at the end of March or early April 2013.

Question 1.1: *Do you agree with the proposed change to the safeguard cap formula for Second Class Large Letters and packets? If not, please explain what alternative changes you would propose to address the problem that has been identified.*

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 15 March 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/safeguard-cap/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email christopher.bentley@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Christopher Bentley
Floor 4
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3601
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Christopher Bentley on 020 7981 3322.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in March or early April 2013.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

- A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

- A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

- A2.3 We will be clear about who we are consulting, why, on what questions and for how long.
- A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
- A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.
- A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.
- A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

- A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

☐

Name/contact details/job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

☐

Name

Signed (if hard copy)

Annex 4

Current DUSP condition 3

DESIGNATED USP CONDITION 3
SAFEGUARD CAP PRICE CONTROL FOR LARGE LETTERS AND RELEVANT
PACKETS

3.1. Application, Definitions and Interpretation

DUSP 3.1.1	This designated USP condition (“ DUSP Condition ”) shall apply to the <u>universal service provider</u> .
DUSP 3.1.2	In this DUSP Condition—
	<p>(a) Basket means the services of sending <u>Large Letter</u> and <u>Relevant Packet</u> products by <u>Second Class Post</u> that the <u>universal service provider</u> currently provides;</p> <p>(b) “Consumer Prices Index” or “CPX” means the index of consumer prices compiled by an agency or a public body on behalf of Her Majesty’s Government or a governmental department (which is the Office for National Statistics at the time of publication of this Notification) from time to time in respect of all items;</p> <p>(c) “Large Letter” means a letter weighing up to 750 grams that is no more than 25 millimetres thick and up to 353 millimetres in length and up to 250 millimetres in width.</p> <p>(d) “Relevant Packet” means any item greater than a <u>Large Letter</u> in dimensions but weighing no more than 2kg;</p> <p>(e) “Relevant Year” means one of the following periods:</p> <p style="padding-left: 40px;">(1) the period beginning on 1 April 2012 and ending on 31 March 2013 (the “First Relevant Year”);</p> <p style="padding-left: 40px;">(2) the period beginning on 1 April 2013 and ending on 31 March 2014 (the “Second Relevant Year”);</p> <p style="padding-left: 40px;">(3) the period beginning on 1 April 2014 and ending on 31 March 2015 (the “Third Relevant Year”);</p> <p style="padding-left: 40px;">(4) the period beginning on 1 April 2015 and ending on 31 March 2016 (the “Fourth Relevant Year”);</p>

	<p>(5) the period beginning on 1 April 2016 and ending on 31 March 2017 (the “Fifth Relevant Year”);</p> <p>(6) the period beginning on 1 April 2017 and ending on 31 March 2018 (the “Sixth Relevant Year”);</p> <p>(7) the period beginning on 1 April 2018 and ending on 31 March 2019 (the “Seventh Relevant Year”);</p> <p>(f) “Second Class Post” means a service of sending an item by post where the <u>universal service provider</u> aims to deliver the item no later than the third working day after it was posted. For the purposes of this DUSP Condition it does not include services which are not universal services or which include charges in respect of additional registered, insured, tracked or recorded services;</p>
DUSP 3.1.3	<p>For the purpose of interpreting this DUSP Condition—</p> <p>(a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in DUSP 3.1.2 above and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the <u>Act</u>;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this DUSP Condition shall be construed accordingly; and</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this DUSP Condition were an Act of Parliament.</p>
3.2 Maximum price to be charged for specified services	
DUSP 3.2.1	This DUSP Condition specifies the maximum prices that the <u>universal service provider</u> shall be permitted to charge for the group of services within the <u>Basket</u> in each <u>Relevant Year</u> .
DUSP 3.2.2	<p>In each <u>Relevant Year</u> t the price of services i in the <u>Basket</u> shall be set such that –</p> $\frac{\sum_i P_{i,t} V_{i,t-2}}{\sum_i V_{i,t-2}} \leq \left(\frac{\sum_i P_{i,0} V_{i,t-2}}{\sum_i V_{i,t-2}} \times X_t \right)$ <p>where –</p>

	$X_t = (1 + 53\%) \times \frac{CPX_t}{CPX_0}$ <p>$P_{i,t}$ is the maximum price charged for sending a single <u>Large Letter</u> or <u>Relevant Packet</u> by <u>Second Class Post</u> in <u>Relevant Year t</u>; and</p> <p>$V_{i,t-2}$ is the volume of stamped mail delivered by the <u>universal service provider</u> in the twelve months to March in the year t-2 for service i as calculated by the <u>universal service provider</u> using a reasonable methodology which has been disclosed to <u>OFCOM</u>.</p>
DUSP 3.2.3	Where the <u>universal service provider</u> makes a material change (other than to a charge) to any product or service which is subject to this Condition or there is a material change in the basis of the <u>Consumer Prices Index</u> , DUSP Conditions 3.2.1 and 3.2.2 shall have effect subject to such reasonable adjustment to take account of the change as <u>OFCOM</u> may direct to be appropriate in the circumstances. For these purposes a material change to any product or service which is subject to this DUSP Condition includes the introduction of a new product or service wholly or substantially in substitution for that existing product or service.
DUSP 3.2.4	The <u>universal service provider</u> shall record, maintain and supply to <u>OFCOM</u> in writing, no later than three months after the end of each <u>Relevant Year</u> , the data necessary for <u>OFCOM</u> to monitor compliance of the <u>universal service provider</u> with the requirements of this Condition.
DUSP 3.2.5	This DUSP Condition shall not apply to such extent as <u>OFCOM</u> may direct.
DUSP 3.2.6	The <u>universal service provider</u> shall comply with any direction <u>OFCOM</u> may make from time to time under this DUSP Condition.

Table of terms defined in the Act

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

Defined term	Section of the Act
<i>OFCOM</i>	<i>90</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>

Annex 5

Statutory notification: proposed modification of DUSP condition 3

NOTIFICATION OF PROPOSALS TO MODIFY REGULATORY CONDITIONS IN ACCORDANCE WITH SECTION 36 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- (A) On 20 July 2012, Ofcom published a statement entitled “*Securing the Universal Postal Service: Safeguard cap for Large Letters and packets*”⁷ setting out its decision to impose a Designated USP condition on Royal Mail pursuant to its powers in section 36 of the Postal Services Act 2011 (the “**Act**”).
- (B) The Designated USP condition that took effect on 20 July 2012 (the “**Condition**”) included a safeguard cap price control that applies to the universal service provider with respect to the charges that the universal service provider is permitted to charge for the service of sending Large Letters and packets up to 2kg by Second Class Post.
- (C) OFCOM is proposing to modify the Condition in order to correct certain errors in the formula for the calculation of the maximum price to be charged for the services specified in the Condition.

PROPOSAL

- 1. OFCOM hereby proposes, in accordance with section 36 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers and duties in section 36 of the Act, to modify Royal Mail Designated USP condition 3, to make provision for matters set out in that section 36.
- 2. The proposed modification to Designated USP condition 3 is specified in the Schedule hereto.
- 3. The effect of, and OFCOM’s reasons for making, this decision are set out in the accompanying consultation document.

OFCOM’S DUTIES AND LEGAL TESTS

- 4. OFCOM is satisfied that this proposal satisfies the general test in paragraph 1 of Schedule 6 to the Act.
- 5. In making this proposal, OFCOM has considered and acted in accordance with its principal duty in section 29 of the Act and its general duties in section 3 of the Communications Act 2003.

⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/postal-service-letters-packets/statement/statement.pdf>

MAKING REPRESENTATIONS

6. Representations may be made to OFCOM about the proposal set out in this Notification by no later than **15 March 2013**.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, OFCOM may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if OFCOM has—
 - (a) considered every representation about the proposal that is made to OFCOM within the period specified in this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to OFCOM for this purpose by the Secretary of State.

INTERPRETATION

9. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act.
10. In this Notification—
 - (a) “**Act**” means the Postal Services Act 2011 (c.5); and
 - (b) “**Royal Mail**” means Royal Mail Group Ltd, whose registered company number in England and Wales is 04138203.
11. For the purpose of interpreting this Notification—
 - (a) headings and titles shall be disregarded;
 - (b) expressions cognate with those referred to in this Notification shall be construed accordingly;
 - (c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
12. The Schedule to this Notification shall form part of this Notification.

Signed by **David Brown**



Competition Finance Director

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

13 February 2013

SCHEDULE

PROPOSED MODIFICATIONS TO DESIGNATED USP CONDITION 3

	Modification
1	In the definition of “Consumer Prices Index” in DUSP 3.1.2(b) delete the words “or “ CPX ””.
2	In the definition of “Relevant Year” in DUSP 3.1.2(e), insert before the definition of First Relevant Year the following definition: “(0) The period beginning on 1 April 2011 and ending on 31 March 2012 (the “ Base Year ”)”
3	In the formula set out in DUSP 3.2.2, for the term “ CPX_0 ” substitute “ CPX_1 ”.
4	In the definition of $P_{i,t}$ in DUSP 3.2.2, delete the word “and”.
5	In the definition of $V_{i,t-2}$, for the full stop at the end of the definition substitute a semi-colon.
6	After the definition of $V_{i,t-2}$ in DUSP 3.2.2, insert the following two definitions: “ $P_{i,0}$ is the maximum price charged for sending a single <u>Large Letter</u> or <u>Relevant Packet</u> by <u>Second Class Post</u> in the <u>Base Year 0</u> ; and CPX_t is the <u>Consumer Prices Index</u> for the month of September immediately before the beginning of a <u>Relevant Year</u> (rounded to one decimal place).”

Annex 6

Consolidated version

UNOFFICIAL CONSOLIDATED VERSION OF DESIGNATED USP CONDITION 3 IF
MODIFIED AS PROPOSED.

This consolidated version of Designated USP Condition 3 as we propose to amend it is provided as an aid to understanding but is not the proposed legal instrument. In case of conflict, the modifications as set out in the Notification in Annex 5 take precedence.

- Deletions are marked in red struck-through text.
- Additions are marked in red.

**DESIGNATED USP CONDITION 3
SAFEGUARD CAP PRICE CONTROL FOR LARGE LETTERS AND RELEVANT
PACKETS**

3.1. Application, Definitions and Interpretation

DUSP 3.1.1	This designated USP condition (" DUSP Condition ") shall apply to the <u>universal service provider</u> .
DUSP 3.1.2	In this DUSP Condition—
	<p>(a) Basket means the services of sending <u>Large Letter</u> and <u>Relevant Packet</u> products by <u>Second Class Post</u> that the <u>universal service provider</u> currently provides;</p> <p>(b) "Consumer Prices Index" or "CPX" means the index of consumer prices compiled by an agency or a public body on behalf of Her Majesty's Government or a governmental department (which is the Office for National Statistics at the time of publication of this Notification) from time to time in respect of all items;</p> <p>(c) "Large Letter" means a letter weighing up to 750 grams that is no more than 25 millimetres thick and up to 353 millimetres in length and up to 250 millimetres in width.</p> <p>(d) "Relevant Packet" means any item greater than a <u>Large Letter</u> in dimensions but weighing no more than 2kg;</p> <p>(e) "Relevant Year" means one of the following periods:</p> <p style="color: red;">(0) The period beginning on 1 April 2011 and ending on 31 March 2012 (the "Base Year")</p>

	<p>(1) the period beginning on 1 April 2012 and ending on 31 March 2013 (the “First Relevant Year”);</p> <p>(2) the period beginning on 1 April 2013 and ending on 31 March 2014 (the “Second Relevant Year”);</p> <p>(3) the period beginning on 1 April 2014 and ending on 31 March 2015 (the “Third Relevant Year”);</p> <p>(4) the period beginning on 1 April 2015 and ending on 31 March 2016 (the “Fourth Relevant Year”);</p> <p>(5) the period beginning on 1 April 2016 and ending on 31 March 2017 (the “Fifth Relevant Year”);</p> <p>(6) the period beginning on 1 April 2017 and ending on 31 March 2018 (the “Sixth Relevant Year”);</p> <p>(7) the period beginning on 1 April 2018 and ending on 31 March 2019 (the “Seventh Relevant Year”);</p> <p>(f) “Second Class Post” means a service of sending an item by post where the <u>universal service provider</u> aims to deliver the item no later than the third working day after it was posted. For the purposes of this DUSP Condition it does not include services which are not universal services or which include charges in respect of additional registered, insured, tracked or recorded services;</p>
DUSP 3.1.3	<p>For the purpose of interpreting this DUSP Condition—</p> <p>(a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in DUSP 3.1.2 above and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the <u>Act</u>;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this DUSP Condition shall be construed accordingly; and</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this DUSP Condition were an Act of Parliament.</p>
3.2 Maximum price to be charged for specified services	
DUSP 3.2.1	This DUSP Condition specifies the maximum prices that the

	<u>universal service provider</u> shall be permitted to charge for the group of services within the <u>Basket</u> in each <u>Relevant Year</u> .
DUSP 3.2.2	<p>In each <u>Relevant Year</u> t the price of services in the <u>Basket</u> shall be set such that –</p> $\frac{\sum_i P_{i,t} V_{i,t-2}}{\sum_i V_{i,t-2}} \leq \left(\frac{\sum_i P_{i,0} V_{i,t-2}}{\sum_i V_{i,t-2}} \times X_t \right)$ <p>where –</p> $X_t = (1 + 53\%) \times \frac{CPX_t}{CPX_1 \text{ } CPX_0}$ <p>$P_{i,t}$ is the maximum price charged for sending a single <u>Large Letter</u> or <u>Relevant Packet</u> by <u>Second Class Post</u> in <u>Relevant Year</u> t; and</p> <p>$V_{i,t-2}$ is the volume of stamped mail delivered by the <u>universal service provider</u> in the twelve months to March in the year t-2 for service i as calculated by the <u>universal service provider</u> using a reasonable methodology which has been disclosed to <u>OFCOM</u>;</p> <p>$P_{i,0}$ is the maximum price charged for sending a single <u>Large Letter</u> or <u>Relevant Packet</u> by <u>Second Class Post</u> in the <u>Base Year</u> 0; and</p> <p>CPX_t is the <u>Consumer Prices Index</u> for the month of September immediately before the beginning of a <u>Relevant Year</u> (rounded to one decimal place).</p>
DUSP 3.2.3	Where the <u>universal service provider</u> makes a material change (other than to a charge) to any product or service which is subject to this Condition or there is a material change in the basis of the <u>Consumer Prices Index</u> , DUSP Conditions 3.2.1 and 3.2.2 shall have effect subject to such reasonable adjustment to take account of the change as <u>OFCOM</u> may direct to be appropriate in the circumstances. For these purposes a material change to any product or service which is subject to this DUSP Condition includes the introduction of a new product or service wholly or substantially in substitution for that existing product or service.
DUSP 3.2.4	The <u>universal service provider</u> shall record, maintain and

	supply to <u>OFCOM</u> in writing, no later than three months after the end of each <u>Relevant Year</u> , the data necessary for <u>OFCOM</u> to monitor compliance of the <u>universal service provider</u> with the requirements of this Condition.
DUSP 3.2.5	This DUSP Condition shall not apply to such extent as <u>OFCOM</u> may direct.
DUSP 3.2.6	The <u>universal service provider</u> shall comply with any direction <u>OFCOM</u> may make from time to time under this DUSP Condition.

Table of terms defined in the Act

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

<i>Defined term</i>	<i>Section of the Act</i>
<i>OFCOM</i>	<i>90</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>