



Statement of Charging Principles

Postal Services

Consultation

Publication date: 13 December 2011

Closing Date for Responses: 31 January 2012

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Section 1

Introduction

The context of this consultation

- 1.1 Under the Postal Services Act 2011 (“the Act”) Ofcom took over responsibility for regulating the postal sector on 1 October 2011. The Act allows us to impose an administrative charge on postal operators providing services within the scope of the universal postal service to meet costs incurred by us in carrying out our functions in relation to postal services. In order for us to impose an administrative charge we must publish and put in force a statement of the principles we are proposing to apply in setting charges for that year.
- 1.2 On 29 September 2011, we published the Statement of Charging Principles for Postal Services applying in relation to the period from 1 October 2011 to 31 March 2012, and any subsequent period of twelve months beginning on 1 April¹. This consultation sets out the changes to that statement that we propose will apply for the 2012/13 charging year (1 April 2012 to 31 March 2013), and any subsequent charging year, until we consider it appropriate to make a new statement or revise the statement that will be published following this consultation.
- 1.3 During the 2012/13 charging year, we would expect to undertake a review of the Statement of Charging Principles for Postal Services that will be published following this consultation and we may consider alternative methods for imposing an administrative charge on postal operators providing a service within the scope of the universal postal service. Therefore, this Statement of Charging Principles for Postal Services which we propose will apply from the next charging year (i.e. the charging year 2012/13), may be amended in future years.

The changes we are proposing in this consultation

- 1.4 We are proposing to make some amendments to the current Statement of Charging Principles for Postal Services so that it will be consistent with the Act rather than referencing the Postal Services Act 2000 licensing regime.
- 1.5 In particular, the current Statement of Charging Principles refers to:

“those postal operators which provide services in relation to which, had those services been carried out prior to 1 October 2011, it would have been required to hold a licence under the Postal Services Act 2000”.

Given that the licensing regime has now been replaced with a general authorisation regime and Section 43 of the Act allows Ofcom to impose charges on “*postal operators providing services within the scope of the universal postal service*”, we propose to substitute that reference with a reference to:

¹ ‘Postal regulation: Transition to the new regulatory framework’ – Annex 4 ‘Ofcom statement of charging principles’

“those postal operators which provide Letter Services that are provided as services within the scope of the postal universal services as defined in section 40 of the Act”.

- 1.6 We propose to define “Letter Services” as meaning:

“any of the services referred to in section 27(1) of the Act concerning a Letter or a Large Letter”.

- 1.7 We also propose to define “Letter” and “Large Letter” by referring to the specifications of dimensions and weight for letters and large letters adopted by the universal service provider.

- 1.8 The proposed amendments would have the effect of continuing to impose a charge on postal operators who provide postal services within the scope of the universal postal service consisting of letter services.

- 1.9 We propose to allow postal operators to pay the annual administrative charge by means of monthly payments where that annual charge is more than £75,000.

- 1.10 Finally, we propose to omit paragraph 9 of the current Statement of Charging Principles, which refers to the exceptional costs incurred as a result of integration of postal regulation into Ofcom’s existing operations in the period prior to 1 October. This is because such costs will have been charged before 31 March 2012.

Next steps

- 1.11 Following consideration of responses to this consultation, we plan to issue a revised Statement of Charging Principles for Postal Services before 1 April 2012, so that the revised statement will be in force before the start of the new financial year.

- 1.12 This document has a six week consultation period which we have extended by an additional week given the public holidays towards the end of this month. Interested parties are therefore requested to submit responses to this consultation to us by 31 January 2012.

Section 2

Legislative framework

2.1 The statutory provisions relating to the collection of administrative charges for services falling within the scope of the universal postal service are found in section 43 of the Act and Schedule 4 to the Act.

2.2 Paragraph 1 of Schedule 4 to the Act states that:

“If, at any time in a charging year, a postal operator provides a service within the scope of the universal postal service, the operator must, in respect of the service, pay to Ofcom the administrative charge (if any) that is fixed by Ofcom as applicable to the operator”.

2.3 References to the provision of “a service within the scope of the universal postal service” are to be read in accordance with Section 40 of the Act², which defines such postal service as including 3 categories of services:

- firstly, those services falling within the description of a service set out in the universal postal service order made by Ofcom under s.30 of the Act (the “UPS Order”);
- secondly, those services that would fall within the description of a service set out in the UPS Order, but for the fact that:
 - (i) collection and delivery are not provided on each of the days required under Section 31 of the Act; or
 - (ii) the service is not provided throughout the UK; or
 - (iii) the service is not provided at an affordable uniform price.
- finally, a service is also within the scope of the universal postal service if in the opinion of Ofcom the service is of a kind that, from the point of view of users of postal services, could be reasonably be said to be interchangeable with a service of a description set out in the UPS Order.

2.4 Paragraph 2 of Schedule 4 to the Act provides that:

“Ofcom may fix the administrative charge for a charging year only if-
(a) at the time the charge is fixed there is in force a statement by Ofcom of the principles that Ofcom are proposing to apply in fixing charges under this paragraph for that year; and
(b) the charge is fixed in accordance with those principles”.

² See Section 65(2)(b) of the Act.

2.5 In setting the principles, Ofcom must be satisfied that:

- the principles are likely to secure, on a year by year basis, that the aggregate amount of the charges payable to Ofcom is sufficient to meet, but does not exceed, the annual cost to Ofcom of carrying out certain functions as specified in paragraphs 2 of Schedule 4 to the Act ('Ofcom's Postal Services Functions'), on the basis of an estimate of costs;
- the charges are objectively justifiable and proportionate; and
- the relationship between meeting the cost of carrying out Ofcom's Postal Services Functions and the amount of the charge is transparent.

2.6 Before revising a statement of charging principles, Ofcom must undertake a consultation on the revised principles³. The way in which a statement of charging principles may be revised is by the publication of the revised statement in such manner as Ofcom consider appropriate for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it⁴.

2.7 The way in which a charge is to be fixed is by the publication, or giving of such notification as Ofcom consider appropriate, for bringing it to the attention of the persons who, in their opinion, are likely to be affected by it⁵.

³ Paragraph 3(6) of Schedule 4 to Act

⁴ Paragraph 3(1) of Schedule 4 to the Act.

⁵ Paragraph 3(1) of Schedule 4 to the Act.

Section 3

Draft Ofcom statement of charging principles

Statement of charging principles

- 3.1 This statement follows a consultation by Ofcom on the principles that Ofcom would apply in order to set annual administrative charges pursuant to the Postal Services Act 2011 ("the Act").
- 3.2 This statement was prepared under paragraph 7 of Schedule 9 of the Act and revised in accordance with paragraphs 3(6) and 3(7) of Schedule 4 of the Act. This statement applies in relation to the 2012-13 charging year (i.e. the period beginning 1 April 2012 and ending with March 2013) and any subsequent charging year (i.e. any subsequent period of 12 months beginning with 1 April).

Administrative charges

- 3.3 Administrative charges will be set at a level to ensure that Ofcom will recover the estimated cost incurred in carrying out its postal services functions as set out in the Act.
- 3.4 Administrative charges will be payable by those postal operators which:
 - 3.4.1 provide Letter Services that are provided as services within the scope of the postal universal services as defined in section 40 of the Act;
 - and
 - 3.4.2 generated turnover (excluding access payments in the case of postal operators other than the universal service provider) exceeding £10 million, in the preceding year beginning on 1 April, from Letter Services provided as services within the scope of the postal universal services as defined in section 40 of the Act
- 3.5 For the purpose of interpreting paragraph 3.4, the following definitions shall apply:
 - 3.5.1 "Large Letter" means any item larger than a Letter and up to length 353mm, width 250mm, thickness 25mm, and weighing no more than 750g, or any item complying with any future specifications of dimensions and weight for large letters adopted by the universal service provider from time to time;
 - 3.5.2 "Letter" means any item up to length 240mm, width 165mm, thickness 5mm, and weighing no more than 100g, or any item complying with any future specifications of dimensions and weight for letters adopted by the universal service provider from time to time;
 - 3.5.3 "Letter Services" means any of the services referred to in section 27(1) of the Act concerning a Letter or a Large Letter.

- 3.6 The charge payable by a particular postal operator identified in 3.4 above will be calculated by multiplying the total estimated cost of regulation by that operator's share of turnover expressed as a percentage of the total turnover generated by all operators identified in 3.4 above.
- 3.7 If the annual administrative charge as calculated in 3.6 above is more than £75,000 Ofcom will allow monthly payment of the fee. Payment is due on receipt of the notice of the amount due, served on the postal operator by Ofcom.

Attribution of costs

- 3.8 Each item of cost recorded in Ofcom's accounts is attributed to the activities within a sector that Ofcom regulates.
- 3.9 Direct costs of activities are recorded directly against a sector and indirect costs are added by apportionment. Indirect apportioned costs represent common costs which are spread over each of the direct activities on a fair, consistent and equitable basis using standard cost apportionment methods.

Over or under recovery of spend

- 3.10 The amounts due from postal operators will be collected annually in advance and any over or under recovery of expenditure arising in the charging year will be adjusted in the charge for the following charging year.
- 3.11 Amounts paid to the Postal Services Commission in respect of its last "relevant year" as defined in the conditions of licences issued by it under the Postal Services Act 2000 shall be taken into account for this purpose as though the sums paid, and the regulated activities to which they related, were sums paid to Ofcom in respect of Ofcom's functions under the Act.

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 31 January 2012**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/post-socp/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 socpconsult@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.
- Kat Vandersteene
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4901
- 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 a direct answer to the question which is listed at Annex 4. It would also help if you could 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 Kat Vandersteene on 020 7981 3728.

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 2012.
- 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

Consultation question

A4.1 Do you agree with our proposed changes to the current Statement of Charging Principles for Postal Services?