

9 September 2011

Chris Rowsell  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA

Dear Chris,

***Consumer Focus response to Ofcom's consultation *Postal regulation: Transition to the new regulatory framework****

Consumer Focus welcomes the opportunity to respond to Ofcom's consultation on the transition to the new regulatory framework. This consultation precedes the forthcoming vesting of the Postal Services Act 2011 which provides for the transfer of regulatory responsibility for UK postal services from Postcomm to Ofcom. Consumer Focus represents the interests of postal consumers and has built up substantial expertise in this area. We enjoyed a productive working relationship with Postcomm and we are pleased that there has been a transfer of relevant staff to Ofcom. We hope that Ofcom will allocate suitable resources to this area given the considerable regulatory changes that will take place in the short to medium term in the postal market. We look forward to working with Ofcom as it prepares for its new duties in the postal market.

Ofcom's published consultation represents a sensible transposition of the new legislation that will allow for an orderly transition to the new authorisations system. We are pleased that most of the concerns that we raised during the passage of the Postal Services Bill have been allayed, as important features of the current licensing regime will be protected in the shift to authorisations. These include mail integrity and hard-won consumer protections such as complaints handling and redress.

In particular, we are pleased that Ofcom intends to extend the consumer protection conditions so that they apply to all postal operators. This should ensure that the complaints handling requirements of the 3rd EU Postal Directive (2008/06/EC) can be fulfilled. This states that: 'Member States shall ensure that transparent, simple and inexpensive procedures are made available by all postal service providers for dealing with postal users' complaints'. Over the past year we have been working with Royal Mail to improve its complaints handling procedures and we are keen to see these improvements continue. Ofcom's recent experience in regulating telecoms complaints handling will be vital during implementation of the new postal regulatory regime.

Although Ofcom is proposing to transpose most of the existing licence conditions as initial authorisation conditions, it is planning to make some changes to clarify conditions and remove duplication. This includes removing licence conditions 18/8 (Royal Mail's licence/standard licence) which require licensees to provide Consumer Focus with information as requested. As Ofcom explains, Consumer Focus has comparable information-gathering powers under section 24 of the Consumers, Estate Agents and Redress Act 2007. We note that Ofcom is taking similar action with licence conditions 17/7 which require licensees to provide requested information to Ofcom; in this case these conditions duplicate Ofcom's information-gathering powers provided under the Communications Act 2003. However, Government policy is to abolish us and at the moment there is considerable uncertainty about what the future consumer landscape will look like. It is possible that Government will not retain specific information-gathering powers in independent consumer body(ies) in the future, and we are concerned that this could leave an information gap. We would therefore prefer that these powers be retained as an the authorisation condition until there is more certainty as to which body(ies) will have responsibility for Consumer Focus's role and associated duties and powers.

We see from the supplement to Ofcom's Annual Plan published alongside this consultation that it intends to start the required USO review with a call for evidence in November. Consumer Focus is in an ideal position to contribute to this review, having previously worked with Postcomm on a major piece of research into consumers' needs from the universal service. Since then we have conducted supplementary analysis of the findings from this research and intend to carry out further research in this area. We will be happy to liaise with Ofcom in the scoping of this work and share the results of these studies, as we believe it is in consumers' best interests, and the efficient use of public resources, if our future work on the nature and content of the universal service complements that being carried out by Ofcom.

We welcome the positive implications for postal consumers of Ofcom's wide experience of regulating across the communications sector. We will work with Ofcom to ensure that consumers' interests are at the heart of the regulatory structures that are established over the coming months.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'R. J. Hammond', written in a cursive style.

Robert Hammond  
Director of Postal Policy and Regulation