



Postal regulation: Transition to the new regulatory framework

Consultation

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Contents

Section		Page
1	Summary	1
2	Provisional designation of universal service provider	3
3	Approval of a redress scheme	4
4	Regulatory Conditions to apply from 1 October 2011	6
5	Charging principles	14
6	Information Gathering	15
7	Next Steps	16

Appendices		Page
1	Responding to this consultation	17
2	Ofcom's consultation principles	19
3	Consultation response cover sheet	20
4	Draft conditions and directions for consultation	
5	Draft Ofcom statement of charging principles	
6	Current Ofcom statement of general policy with respect to information gathering	

Appendices 4 to 6 are published separately.

Section 1

Summary

- 1.1 The Postal Services Act 2011 (“the Act”) received Royal Assent on 13 June 2011. It provides, amongst other things, for responsibility of regulation for postal services to move from the existing regulator, Postcomm, to Ofcom. It also replaces the existing licensing regime with a general authorisation regime. The general authorisation regime will come into effect on 1 October 2011.
- 1.2 As part of the transition, there are a number of things which Ofcom either must do, or has the discretionary power to do:
- We may provisionally designate a universal service provider;
 - We may approve a consumer redress scheme and require postal operators to be a member of that scheme;
 - We must, in effect, transpose the existing licence conditions into initial conditions to apply under the general authorisation, including, as appropriate consumer protection conditions;
 - We may prepare a statement of the principles that we are proposing to apply in fixing administrative charges¹ for that year;
 - We must prepare and publish a statement of policy on information gathering.
- 1.3 This document, in relation to each of the above, sets out for consultation our proposals:
- provisionally to designate Royal Mail as a universal service provider (section 2);
 - to re-approve the Postal Redress Service (POSTRS) and the consumer redress scheme criteria (section 3);
 - for the initial conditions (section 4);
 - for the charging principles (section 5); and
 - for information gathering (section 6).
- 1.4 Under the Communications Act 2003, we are required to carry out an impact assessment where a proposal in connection with the carrying out of our functions is “important”. A proposal is “important” if its implementation is likely to involve a major change in the activities carried on by Ofcom or have a significant impact on persons carrying on business in the markets we regulate, or the general public. We do not consider that any of the proposals in this consultation paper are “important” in this sense. The activities carried on by Ofcom are changing because of the Postal Services Act 2011 and not this consultation. We are not seeking to make any substantial changes to the regulatory regime. Most of the changes we are proposing are required by law.

¹ These are charges which Ofcom can recover from postal operators.

- 1.5 Interested parties are requested to submit responses to this consultation to us by 9 September 2011.
- 1.6 Following consideration of responses, we will make decisions in order to ensure that the above are in place with effect from 1 October 2011. These next steps are set out in greater detail in section 7.

Section 2

Provisional designation of universal service provider

Summary

- 2.1 The Act gives Ofcom a transitional power provisionally to designate one or more postal operators as universal service providers. Royal Mail is currently the designated universal service provider for postal services in the UK. We propose provisionally to designate Royal Mail as a universal service provider for the purposes of the Act.

Detail

- 2.2 Paragraph 3 of Schedule 9 of the Act gives Ofcom a power before the “appointed day”² provisionally to designate one or more postal operators as universal service providers. The “appointed day” for these purposes is 1 October 2011. Any such provisional designation takes effect from the “appointed day”.
- 2.3 The Act further provides that a provisional designation must be (a) notified to the person designated, (b) published 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 it, and (c) notified to the European Commission³.
- 2.4 A provisional designation ceases to have effect on the making of the first designation under section 35 of the Act, and, while it is in force, a provisional designation has the same effect as designation under section 35⁴.
- 2.5 Royal Mail is currently the designated universal service provider for postal services in the UK.
- 2.6 We consider it appropriate provisionally to designate Royal Mail as a universal service provider pursuant to Schedule 9, paragraph 3 of the Act, and therefore propose to do so, subject to responses to this consultation.

² The appointed day, as defined in Schedule 9 of the Act, means the day appointed under section 9(3) as the day on which the provisions of Part 3 come generally into force.

³ See Schedule 9, paragraph 3(2) of the Act.

⁴ See Schedule 9, paragraph 3(3) and 3(4) of the Act.

Section 3

Approval of a redress scheme

Summary

- 3.1 The Act gives Ofcom a power to impose a consumer protection condition on every postal operator, which may include a requirement that postal operators must be a member of a redress scheme approved by Ofcom.
- 3.2 The Postal Redress Service (POSTRS) is the redress scheme which is currently approved under the existing postal service regulatory regime. Ofcom proposes to approve POSTRS for the purposes of the Act. This approval will be pending a wider review of complaints-handling and redress.

Detail

- 3.3 The Consumers, Estate Agents and Redress Act 2007⁵ required Postcomm to approve a redress scheme for postal services and set out the criteria a scheme would have to meet to be approved. It also set out that the Secretary of State could make an Order setting out who was required to join the scheme. These powers have been broadly transferred to the Act.

Legal framework

- 3.4 The Act gives Ofcom a power to impose a consumer protection condition on (a) every postal operator, or (b) every postal operator of a specified description⁶. A consumer protection condition may require postal operators to be members of a redress scheme approved by Ofcom⁷.
- 3.5 Ofcom may approve a redress scheme in accordance with the provisions set out in Schedule 5 of the Act.
- 3.6 In deciding whether to approve a redress scheme, the Act specifies various matters to which Ofcom must have regard⁸, namely:
- the provisions of the scheme;
 - the manner in which the scheme will be operated;
 - the interests of users of postal services; and
 - principles which, in the opinion of Ofcom, constitute generally accepted best practice in relation to redress schemes, and which it is reasonable to regard as applicable to the scheme.
- 3.7 Ofcom must not approve a redress scheme unless:

⁵ The Consumers, Estate Agents and Redress Act 2007 can be found here: http://www.legislation.gov.uk/ukpga/2007/17/pdfs/ukpga_20070017_en.pdf

⁶ See section 51(1) of the Act.

⁷ See section 52(1) and 52(3) of the Act.

⁸ See Schedule 5, paragraphs 1(1) and 1(2) of the Act.

- membership of the scheme is open to all postal operators;
- the redress scheme must be able to require a postal operator to provide complainants with at least an apology, explanation, compensation payment, or any other action that an independent adjudicator (as defined in section 52(2) of the Act) may specify to be in the interests of the complainant;
- the scheme makes satisfactory provision for the following matters:
 - the matters about which complaints may be made (which may include contravention of a code of practice or other document);
 - the independent adjudicator's duties and powers in relation to the investigation and determination of complaints (which may include the power not to investigate or determine a complaint);
 - the enforcement of any requirement to provide redress imposed on a member of the scheme;
 - the acceptance and handling of complaints transferred from redress schemes which have had their approval withdrawn; and
 - the provision of information by the independent adjudicator to Ofcom, persons carrying out functions under other redress schemes that apply to postal operators, the National Consumer Council⁹, the Secretary of State, the Office of Fair Trading (for the purposes of any public consumer advice scheme supported by it), and persons who operate a public consumer advice scheme supported by the Office of Fair Trading, for the purposes of that scheme (currently, Consumer Direct).

Intention to approve existing redress scheme provider for the purposes of the Act

- 3.8 The Postal Redress Service (POSTRS) is a redress scheme currently approved by Postcomm. It is the only redress scheme in respect of postal matters which is so approved.
- 3.9 Ofcom considers that POSTRS meets the legal requirements set out above. Ofcom therefore proposes to approve POSTRS as an approved redress scheme for the purposes of the Act. This would ensure that a redress scheme remains in place during the transition from the current licensing regime to the new general authorisation regime, and the transfer of responsibility for postal regulation from Postcomm to Ofcom.
- 3.10 Once the new regime is in place, we will take stock of the existing arrangements for complaints-handling and redress in the postal sector. This will include consideration of whether to seek new applications for the provision of redress schemes in the postal sector. In the event that we do decide to seek new applications, anyone, including the current redress scheme provider, would be able to apply to be approved to provide a redress scheme under the Act. We will provide further information about the scope and timing of our proposed review of complaints-handling and redress, and seek views from stakeholders, as part of our annual planning process.

⁹ Usually known as Consumer Focus.

Section 4

Regulatory Conditions to apply from 1 October 2011

Summary

- 4.1 Under the transitional provisions set out in Schedule 9 of the Act, Ofcom is required to determine the regulatory conditions under the new general authorisation regime which are to apply with effect from the appointed day (1 October 2011).
- 4.2 Effectively, this entails transposing the existing conditions contained in postal operators' licences into conditions under the general authorisation regime. For a transitional period, these conditions are required to be substantially similar to the conditions which were previously contained in licences, except where Ofcom considers that a condition is no longer necessary.
- 4.3 In this section, we set out in summary how we propose to transpose the existing licence conditions into the new general authorisation regime. Full details of the proposed new conditions are attached at Appendix 4. Subject to consultation responses, these conditions will take effect on 1 October 2011.

Detailed proposals

Introduction

- 4.4 The Act received Royal Assent on 13 June 2011. The majority of the Act is expected to come into force on 1 October 2011, when the Act vests.
- 4.5 Part 3 of the Act reforms the regulatory regime for postal services. It provides, amongst other things, for responsibility for regulation of postal services to move from the existing regulator, Postcomm, to Ofcom. It also replaces the existing licensing regime with a general authorisation regime¹⁰.
- 4.6 As a result, persons will no longer require a licence to provide postal services, but will instead be generally authorised to do so, subject to compliance with any applicable conditions which Ofcom puts in place under the Act.
- 4.7 As part of the transition to the general authorisation regime, the Act requires Ofcom to determine what conditions are to apply to postal operators after 1 October 2011¹¹.

Types of conditions to apply from 1 October 2011

- 4.8 Under Part 3 and Schedule 9 of the Act, Ofcom has power to put in place a number of different types of condition with effect from the date on which the relevant provisions of the Act come into force. They include:
 - a) transitory conditions, and

¹⁰ See section 28(1) of the Act.

¹¹ See Schedule 9, paragraph 4(1) of the Act.

- b) consumer protection conditions (which are treated slightly differently, for the reasons set out below).

Initial conditions

- 4.9 In accordance with Schedule 9, paragraph 4(1) and 4(2), the “initial conditions” that Ofcom puts in place must be to substantially the same effect as the licence conditions which applied immediately before 1 October 2011, except where it appears to Ofcom that it is unnecessary to maintain a provision made by the existing licence conditions¹². The relevant licences for these purposes are the universal service provider licence¹³ which is held by Royal Mail Group Limited and the standard licences which are held by postal operators who are not required to provide the universal service but hold a licence¹⁴.
- 4.10 The initial conditions will apply as appropriate to universal service providers (currently Royal Mail) and other postal operators, who provide services which, had they been provided immediately before 1 October 2011, would have required them to hold a licence.
- 4.11 Initial conditions will either be transitory, or will take the form of one of seven of the types of regulatory condition provided for in the main part of the Act¹⁵. These seven types of regulatory condition are:
- designated universal service provider conditions,
 - universal service provider access conditions,
 - universal service provider accounting conditions,
 - general universal service conditions,
 - essential conditions,
 - general access conditions and
 - consumer protection conditions.

Transitory conditions

- 4.12 Schedule 9, paragraph 5 of the Act provides for a subset of the initial conditions, known as transitory conditions.
- 4.13 These are conditions which make provision for matters contained in licence conditions which (a) apply immediately before 1 October 2011, and (b) contain provision of a kind that would not otherwise be capable of being contained in a regulatory condition under Part 3 of the Act. In other words, they make provision for

¹² See Schedule 9, paragraphs 4(2) and 4(4) of the Act.

¹³ Royal Mail's licence can be found here: <http://www.psc.gov.uk/documents/1899.pdf>

¹⁴ References to the standard licence include sole traders and partnership licences. More information on the current standard licence can be found on Postcomm's website or here: http://www.psc.gov.uk/postallicencesandoperators/apply/licensing_framework

An example of a standard licence can be found here: <http://www.psc.gov.uk/documents/1865.pdf>

¹⁵ Part 3 sets out the seven types of regulatory conditions and what they can contain.

things which Ofcom will not, going forward, have the power to include in regulatory conditions under the Act in the future.

- 4.14 The purpose of permitting Ofcom to include such matters as applicable conditions for a transitional period is to provide regulatory certainty for the current licensees, and a smooth transition of regulation from Postcomm to Ofcom and from the licensing regime to the general authorisation regime.
- 4.15 Transitory conditions may remain in place until Ofcom makes the first universal postal service order¹⁶, from which point all transitory conditions will be deemed to be revoked.

Consumer protection conditions

- 4.16 As set out above, the Act gives Ofcom a power to impose consumer protection conditions. Consumer protection conditions apply to all postal operators, or all postal operators of a specified description¹⁷.
- 4.17 Unlike the other initial conditions, pursuant to Schedule 9, paragraph 4(3), consumer protection conditions do not have to be to substantially the same effect as current licence conditions.
- 4.18 This is to allow Ofcom to incorporate the consumer protection requirements which sit outside of the current licence conditions. The Consumers, Estate Agents and Redress Act 2007 required Postcomm to make regulations in relation to complaint handling and allowed the Secretary of State to make an Order requiring certain postal operators to be members of an approved redress scheme¹⁸. Ofcom now needs to bring the requirements set out in the Postal Services (Consumer Complaint Handling Standards) Regulations 2008¹⁹ and the requirement to be a member of an approved redress scheme into the consumer protection conditions allowed for under the Act.

How the initial conditions will be implemented

- 4.19 Schedule 9 paragraph 6 (2) of the Act provides that section 53 of the Act, which relates to the procedure for imposing, modifying or revoking regulatory conditions (amongst other things), applies to initial conditions.
- 4.20 Section 53 of the Act provides that general provisions about the imposition, modification or revocation of regulatory conditions are set out in Schedule 6 of the Act.
- 4.21 Schedule 6, paragraph 3(1) of the Act provides that the way in which a regulatory condition is to be imposed or modified is by the publication of a notification setting out the condition or modification.
- 4.22 Schedule 6 paragraph 3(3) of the Act provides that before imposing or modifying a regulatory condition, Ofcom must publish a notification:

¹⁶ Section 29 of the Act sets out the details of the universal postal services order.

¹⁷ See section 51 of the Act.

¹⁸ See section 4 for more detail on the redress scheme.

¹⁹ These regulations can be found here: <http://www.legislation.gov.uk/uksi/2008/2355/contents/made>

- stating that they are proposing to impose or modify the conditions specified in the notification;
 - setting out the effect of the condition or modification;
 - giving their reasons for making the proposal; and
 - specifying the period within which representations may be made to Ofcom about their proposal (such period to be at least a month).
- 4.23 Schedule 6 paragraph 3(5) of the Act provides that Ofcom may give effect, with or without modifications, to a proposal with respect to which they have published a notification. However we must have considered all representations about the proposal made to us within the specified period.
- 4.24 This document, including appendices, constitutes a notification for the purposes of Schedule 6 paragraph 3.

The conditions that we propose to impose with effect from 1 October 2011

- 4.25 The conditions that we are proposing to impose are set out in full in the table in Appendix 4. That table in the Appendix shows the following:
- the current text and proposed transposition of each condition in Royal Mail's licence;
 - the proposed transposition of each condition in other postal operators' licences;
 - the current text and proposed transposition of the regulations made under the Consumers, Estate Agents and Redress Act 2007;
 - a description of the category of condition under the Act into which each of the transposed conditions falls, including a note of where we consider a condition to be a transitory condition; and
 - a description of the type of postal operator to which the proposed condition would apply.
- 4.26 For the purposes of this notification, we have referenced each of the conditions both by reference to the current numbering in the existing licences, and by proposed new numbers.

The effect of the conditions we propose to impose

- 4.27 The Act requires that the initial conditions imposed with effect from 1 October 2011 must be to substantially the same effect as the conditions in the licences which are in place immediately before that date. The only exceptions to this are consumer protection conditions and any conditions that we consider to be unnecessary.
- 4.28 We consider that subject to those exceptions, the conditions that we have set out for consultation at Appendix 4 are to substantially the same effect as the existing licence conditions. We have set out in below an explanation of those cases where we consider an existing licence condition is unnecessary and the main areas where we have made changes that go beyond changes to definitions or minor typographical changes but still have substantially the same effect.

- 4.29 We note that under Schedule 6 paragraph 1, Ofcom may impose or modify a regulatory conditions only if satisfied that the condition or 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.
- 4.30 Postcomm recently carried out work to establish a new regulatory framework. As part of this work, Postcomm reviewed the licence conditions in place to assess whether each condition reflected the current statutory regime, appropriately related to Postcomm's duties, was up to date and was effective. Following that review, Postcomm amended various licence conditions. The Act allows Ofcom to rely on work carried out by Postcomm²⁰.
- 4.31 In light of the above, as well as (a) our obligation under the Act to ensure that regulatory obligations to apply with effect from 1 October 2011 are to be to substantially the same effect as conditions to which postal operators are already subject, and (b) our view, as set out above, that our proposals meet this requirement, we consider that our proposals meet the above criteria.
- 4.32 Where we consider an existing licence condition to be unnecessary, we have set out below our reasoning.
- 4.33 The consumer protection conditions do not have to be substantially similar in effect to existing licence conditions. This is to allow the customer protection arrangements which sit outside of the current licence conditions to be brought into the initial conditions.
- 4.34 The Postal Services (Consumer Complaints Handling Standards) Regulations 2008²¹ and the Postal Services Regulated Providers (Redress Scheme) Order 2008²² took effect in October 2008 following the passing of the Consumers, Estate Agents and Redress Act 2007 and several consultations. Postcomm has worked with postal operators and POSTRS (the postal redress scheme) since October 2008 to ensure that the new consumer protection arrangements were working effectively.
- 4.35 We propose to transpose the requirements of the complaint handling regulations and membership of the redress scheme as consumer protection conditions. As we are simply transposing obligations which are already imposed on operators, we consider that these are justifiable, non discriminatory, proportionate and transparent.

Changes we propose to make to existing licence conditions/consumer protection requirements

- 4.36 The initial conditions proposed in Appendix 4 reflect the current licence and consumer protection requirements as transposed into seven of the groups of regulatory conditions provided under the Act and transitory conditions.

²⁰ See Schedule 9 paragraph 12 of the Act.

²¹ These regulations can be found here: <http://www.legislation.gov.uk/ukxi/2008/2355/contents/made>

²² These regulations can be found here: <http://www.legislation.gov.uk/ukxi/2008/2267/contents/made>

4.37 We have made some minor drafting changes to clarify or correct matters which were potentially unclear, and we have removed text that we consider to be unnecessary or duplicative. The table at Appendix 4 explains how.

4.38 Our justification for considering conditions to be unnecessary is set out in the table below.

Licence type	Condition	Topic	Reason for considering unnecessary
Royal Mail	11	Promotion of effective competition	Ofcom has concurrent enforcement powers under the Competition Act 1998
Standard	5		Change of control provisions are inappropriate in a general authorisation regime
Royal Mail	12	Mergers, takeovers and change of control	Ofcom has information gathering powers
Standard	6		Change of control provisions are inappropriate in a general authorisation regime
Royal Mail	17	Provision of information to Postcomm	Ofcom has information gathering powers
Standard	7		
Royal Mail	18	Provision of information to the Council	The Council has information gathering powers
Standard	8		
Standard	9	Cessation of business	Inappropriate in a general authorisation regime
Royal Mail	19	Capital expenditure planning and reporting	Ofcom has information gathering powers
Royal Mail	20	Payments of amounts to Postcomm	Ofcom's administrative charges are collected under the Act (but see Appendix 4 for administrative charges in respect of the Council)
Standard	10		
Standard	11	Related party dealings	Inappropriate in a general authorisation regime

4.39 Where paragraphs within conditions impose obligations relating to the provision of information, we have for the most part considered them to be unnecessary, save where such obligations are also associated with a publication obligation, independent audit, or the creation of information that may not otherwise exist.

4.40 Where the effect of a direction could be incorporated into the text without substantial redrafting, we have sought to do so. However, in many cases we have simply stated

that directions issued by Postcomm shall, for the purposes of the condition, be deemed to have been issued by Ofcom. It will be necessary for us to issue certain new directions if the effect of the current conditions is to be preserved. Our proposals for these are included in the table, for consultation.

- 4.41 In Condition 2, we have added qualifying legislative petitions and addresses in order to comply with s.31 of the Act.
- 4.42 Condition 14 of Royal Mail's licence, and condition 4 of other operators' licences, amongst other things require operators to be party to the Postal Common Operational Procedures Agreement. The drafting of this agreement will no longer work under the new regulatory regime (for example, there will no longer be any "licensees"). We understand that Postcomm will seek to work with licensees to secure the appropriate amendments to the current agreement using existing change control procedures, which will avoid any need for them to sign a new agreement. Should this not be possible, however, it may be necessary for us to require postal operators to sign a new agreement and we therefore include with this consultation a proposed draft.
- 4.43 Condition 21 of Royal Mail's licence sets out the price control. A number of elements of the operative provisions of the price control will not be effective after 31 March 2012 because definitions cease to exist and without them elements of the calculation can no longer be performed. Having regard to Postcomm's work on the price control, which resulted in changes to the price control for the current year²³ and has been ongoing since with a view to a more fundamental review of determining what the regime should be after March 2012²⁴, and to our view that the price control condition is a coherent whole, we are consulting on our view that it will be to substantially the same effect if we expressly provide for the whole condition to cease to apply on 31 March 2012. Our review of the need for a price control for the period beyond 31 March 2012 is ongoing.
- 4.44 Our proposals for consumer protection conditions include a new condition, which gives effect to an obligation contained in Article 19 of the Postal Services Directive²⁵. Member States must ensure that transparent, simple and inexpensive procedures are made available by all postal service providers for dealing with postal users' complaints. This has the effect of extending regulation to operators which are not currently regulated. Our approach has been to copy the text of Article 19 precisely in the regulatory condition, so as to require no more than is required by EC law.

Our reasons for making the proposal

- 4.45 We are proposing to impose the conditions set out in Appendix 4 because we are required under Schedule 9 paragraph 4(1) to determine what regulatory conditions

²³ February 2011 Decision available at:

<http://www.psc.gov.uk/consultations/february2011decision/documents>.

²⁴ See for example 1 April 2011 consultation on initial proposals for the scope and form of regulation of postal services for 2012 and beyond, available at

<http://www.psc.gov.uk/consultations/2012regulatoryframework/regulatorysafeguards>

²⁵ Directive of the European Parliament and the Council of the European Union of 15th December 1997 (No. 97/67/EC) on common rules for the development of the internal market of Community postal services and the implementation of quality of service as amended by the Directive of the European Parliament and the Council of the European Union of 10th June 2002 (No. 2002/39/EC) with regard to the further opening to competition of Community postal services and the Directive of the European Parliament and of the Council of 20 February 2008 (No.2008/6/EC) with regard to the full accomplishment of the internal market of Community postal services.

are to apply to postal operators on and after the appointed day, which is 1 October 2011.

The period within which representations may be made to Ofcom about our proposal to impose conditions

- 4.46 The appointed day is to be 1 October 2011. Consequently, as set out in section 7 (next steps), we are inviting representations by 9 September 2011 in order to enable us to carry out the work in time. Following this, we will consider all responses received and publish a decision statement explaining our decisions alongside the finalised conditions.

Section 5

Charging principles

Summary

- 5.1 Ofcom has incurred and is incurring additional costs related to the integration of Postcomm into Ofcom. Schedule 4 of the Act sets out how Ofcom may recover administrative charges from postal operators to cover these costs.
- 5.2 In this section we set out how Ofcom intends to recover those costs from postal operators.

Detail

- 5.3 Schedule 4 of the Act sets out how Ofcom may recover administrative charges. Schedule 9, paragraph 7 makes provision for the recovery by Ofcom of administrative charges in relation to the first charging year.
- 5.4 Ofcom has incurred and is incurring additional charges related to the integration of Postcomm into Ofcom. In order to recover those costs, pursuant to Schedule 9 paragraph 7 Ofcom must prepare a statement of the principles that it proposes to apply in fixing administrative charges under Schedule 4 of the Act.
- 5.5 Postcomm has invoiced administrative charges for the charging year 2011/12. Balances remaining of monies received will pass to Ofcom when the Act vests.
- 5.6 We have set out in Appendix 5 of this document a short statement of the principles that we are proposing to apply in fixing administrative charges, including the recovery of the costs of integration of Postcomm. However, we intend to review the statement for the charging year from 1 April 2012.

Section 6

Information Gathering

Summary

- 6.1 The Act provides Ofcom with powers to require persons to provide it with information for various reasons, including information which Ofcom considers is necessary for the purposes of carrying out any of its functions in relation to postal services²⁶.
- 6.2 Before doing so Ofcom must publish a statement setting out our general policy for information gathering. As an interim step, Ofcom's current information gathering statement should be read as if it refers to postal matters.

Detail

- 6.3 Schedule 8, paragraph 14 of the Act requires Ofcom to prepare and publish a statement of their general policy for information gathering under paragraphs 1 or 3 of Schedule 8, and how we intend to use the information obtained under those paragraphs.
- 6.4 Where Ofcom makes or revises such a statement, it must publish the statement in such manner as Ofcom considers appropriate for bringing it to the attention of the person who, in Ofcom's opinion, are likely to be affected by it.
- 6.5 Ofcom has a similar duty under section 145 of the Communications Act 2003. This requires Ofcom to prepare and publish a statement of principles in relation to information gathering. Ofcom's current information gathering statement can be found at: http://stakeholders.ofcom.org.uk/consultations/info_gathering/?a=0. A copy of that statement is also attached at Appendix 6 to this consultation.
- 6.6 Ofcom intends in due course to prepare a consolidated statement of information gathering principles specifically to include information gathering under the Act.
- 6.7 In the interim, Ofcom's current information gathering statement, and in particular section 3 (which sets out Ofcom's policy) and section 4 (which sets out the uses to which Ofcom will put the information provided) should be read so as to refer and apply equally (as appropriate) to Ofcom's powers to require the provision of information under section 55 and Schedule 8, paragraphs 1 and 3 of the Act.

²⁶ See section 55 and Schedule 8 of the Act.

Section 7

Next Steps

- 7.1 In accordance with the relevant provisions of the Act, we are inviting any interested parties to make representations to us in relation to our proposals set out in this document and the Appendices thereto.
- 7.2 Responses should be submitted to Ofcom by 9 September 2011. Details at Appendix 1.
- 7.3 We will consider carefully all responses received, and will publish a decision on all the matters set out in this document, including the initial regulatory conditions, by 1 October 2011.

Appendix 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 9 September 2011**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeolders.ofcom.org.uk/consultations/postal-services/>, 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 Appendix 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 chris.rowsell@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.
- Chris Rowsell
Floor 4
Competition Group
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7783 4109
- 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 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 Chris Rowsell on 020 7783 4176.

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 Appendix.

- 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 by 1 October 2011.
- 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 Appendix 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

Appendix 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.

Appendix 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)

