



Consumer advocacy bodies:
Statutory Notification
of revocation
and replacement
of Consumer Protection
Condition 1

Publication date:

Notification
1 April 2014

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Section 1

Decision

- 1.1 On 27 March 2012 we published our Statement ‘Securing the Universal Postal Service: Decision on the new regulatory framework’ (the “March 2012 Statement”).¹ This set out our decision on the regulatory framework for the postal sector, including the imposition of Consumer Protection Conditions under section 51 of the Postal Services Act 2011 (the “Act”) in accordance with section 53 and paragraph 3 of Schedule 6 of the Act. The Conditions as made and notified on 27 March 2012 are available at Annex 8 of the March 2012 Statement (the “Consumer Protection Conditions”).
- 1.2 One of the Consumer Protection Conditions, Consumer Protection Condition 1 (“CP 1”) was modified by notification issued on 28 March 2013 with effect from 28 March 2013.²
- 1.3 On 5 December 2013, a draft statutory instrument under the Public Bodies Act 2011, the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (the “Order”), was laid before Parliament. The Order was made on 13 March 2014 to come into force on 1 April 2014 (SI 2014/631). It abolishes the National Consumer Council and transfers relevant functions to the National Association of Citizens Advice Bureaux, the Scottish Association of Citizens Advice Bureaux, and the General Consumer Council for Northern Ireland.
- 1.4 On 30 January 2014, we consulted on a proposed revocation and replacement of CP 1 to reflect the changes made by the Order and to clarify and amend the way in which Ofcom collects funds in respect of “qualifying consumer expenses”³.
- 1.5 After a review of the responses received, set out in section 2 of the Statement accompanying this Notification, we have now decided in accordance with section 53 and paragraph 3 of Schedule 6 to the Postal Services Act 2011 and pursuant to powers in section 51 of the Act, to revoke CP 1 and replace it with the version of CP 1 that is contained in Schedule 1.
- 1.6 Schedule 2 sets out the version of CP 1 on which we consulted, marked up to show the change we have made in light of consultation responses, in the version as we have made it.
- 1.7 The revised version of CP 1 replaces the previous published version notified on 27th March 2012 as modified on 28th March 2013, and takes effect when this notification is published.
- 1.8 Ofcom is satisfied that this revocation and replacement of CP 1 satisfies the general test in paragraph 1 of Schedule 6 to the Act and the requirements of section 51.

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

² <http://stakeholders.ofcom.org.uk/binaries/consultations/cpc1/statement/statement.pdf>

³ <http://stakeholders.ofcom.org.uk/binaries/consultations/amendments-dusp-cp/summary/condoc.pdf>

- 1.9 Copies of this Notice and the accompanying statement will be notified to the Secretary of State in accordance with paragraph 5 of Schedule 6 to the Act.

Signed by

A handwritten signature in black ink, appearing to read "Chris Rowsell", is written over a horizontal line. The signature is cursive and stylized.

Chris Rowsell
Competition Policy Director

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

1 April 2014

Schedule 1

New Consumer Protection Condition 1

CONSUMER PROTECTION CONDITION 1

PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES

1.1. Application, Definitions and Interpretation

CP 1.1.1	This consumer protection condition (" CP Condition ") shall apply to <u>regulated postal operators</u> .
CP 1.1.2	<p>In this CP Condition—</p> <p>(a) "Act" means the Postal Services Act 2011 (c.5);</p> <p>(b) "appointed day" means 1 October 2011;</p> <p>(c) "assessment year" means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) "calls relating to a regulated postal operator" means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> OFCOM will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) "consumer advocacy bodies" means <u>Citizens Advice</u>, <u>Citizens Advice Scotland</u>, and the General Consumer Council for Northern Ireland;</p> <p>(f) "public holiday" means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(g) "relevant year" means any year beginning on 1 April;</p> <p>(h) "relevant turnover" means turnover from <u>regulated postal services</u>;</p> <p>(i) "regulated postal operator" means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(j) "regulated postal service" means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>

CP 1.1.3	<p>For the purpose of interpreting this CP Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act⁴;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a day are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</p>
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1.2. Payments relating to qualifying consumer expenses

CP 1.2.1	A <u>regulated postal operator</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u> , shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the expenses described in CP 1.2.2.
CP 1.2.2	The expenses are the <u>qualifying consumer expenses</u> of the <u>consumer advocacy bodies and the Secretary of State</u> , likely to be incurred during the <u>relevant year</u> in respect of functions other than the consumer advocacy bodies' function of providing a <u>public consumer advice scheme</u> .
CP 1.2.3	The proportion will be calculated by multiplying the sum of the total expenses in <u>CP 1.2.2</u> by that <u>regulated postal operator's</u> share of <u>relevant turnover</u> expressed as a percentage of the total <u>relevant turnover</u> generated by all <u>regulated postal operators</u> .
CP 1.2.4	A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of <u>Citizens Advice and Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> .
CP 1.2.5	<u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the following calculation gives an amount greater than £100:

⁴ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

	<p>(a) take the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u>,</p> <p>(b) multiply it by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u>.</p>
CP 1.2.6	The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u> by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.
CP 1.2.7	The amounts payable under CP 1.2.1 in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which <u>charges</u> in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.
CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.9	The amount due under either or both of CP 1.2.1 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

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
<i>Citizens Advice</i>	65(1)
<i>Citizens Advice Scotland</i>	65(1)
<i>letter</i>	65(1)

<i>OFCOM</i>	<i>90</i>
<i>postal operator</i>	<i>27(3)</i>
<i>postal packet</i>	<i>27(2)</i>
<i>qualifying consumer expenses</i>	<i>51(4)</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>

Schedule 2

Informal mark up of the proposed version of Consumer Protection Condition 1 on which we consulted, to show the changes between that and the as-made version

This marked up version of CP 1 as we consulted on it is provided as an aid to understanding but is not the proposed legal instrument. Additions are marked in red.

CONSUMER PROTECTION CONDITION 1

PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES

1.1. Application, Definitions and Interpretation

<p>CP 1.1.1</p>	<p>This consumer protection condition (“CP Condition”) shall apply to <u>regulated postal operators</u>.</p>
<p>CP 1.1.2</p>	<p>In this CP Condition—</p> <p>(a) “access payments” means payments made to any other regulated postal operator for the conveyance of letters conveyed by the regulated postal operator from its customers to that other regulated postal operator;</p> <p>(b) (a) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(c) (b) “appointed day” means 1 October 2011;</p> <p>(d) (c) “assessment year” means the <u>relevant year</u> minus two years, beginning on 1 April;</p> <p>(d) “calls relating to a regulated postal operator” means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) “consumer advocacy bodies” means <u>Citizens Advice</u>, <u>Citizens Advice Scotland</u>, and the General Consumer Council for Northern Ireland;</p> <p>(f) “public holiday” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p>

	<p>(g) “relevant year” means any year beginning on 1 April;</p> <p>(h) “relevant turnover” means turnover from <u>regulated postal services</u> (in the case of postal operators other than the universal service provider, subtracting any access payments made in respect of regulated postal services);</p> <p>(i) “regulated postal operator” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(j) “regulated postal service” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>
<p>CP 1.1.3</p>	<p>For the purpose of interpreting this CP Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act⁵;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a day are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</p>

1.2. Payments relating to qualifying consumer expenses

<p>CP 1.2.1</p>	<p>A <u>regulated postal operator</u> that generated <u>relevant turnover</u> exceeding £10 million in the <u>assessment year</u>, shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the expenses described in CP 1.2.2.</p>
<p>CP 1.2.2</p>	<p>The expenses are the <u>qualifying consumer expenses</u> of the <u>consumer advocacy bodies and the Secretary of State</u>, likely to be incurred during the <u>relevant year</u> in respect of functions other than the consumer advocacy bodies’ function of providing a <u>public consumer advice scheme</u>.</p>

⁵ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

CP 1.2.3	The proportion will be calculated by multiplying the sum of the total expenses <u>in CP 1.2.2</u> by that <u>regulated postal operator's share of relevant turnover</u> expressed as a percentage of the total <u>relevant turnover</u> generated by all <u>regulated postal operators</u> .
CP 1.2.4	A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> .
CP 1.2.5	<p><u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the following calculation gives an amount greater than £100:</p> <ul style="list-style-type: none"> (a) take the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u>, (b) multiply it by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u>.
CP 1.2.6	The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in respect of their function of providing a <u>public consumer advice scheme</u> in the <u>relevant year</u> by that <u>regulated postal operator's share of calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.
CP 1.2.7	The amounts payable under CP 1.2.1 in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.

CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.9	The amount due under either or both of CP 1.2.1 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

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<i>postal operator</i>	27(3)
<i>postal packet</i>	27(2)
<i>qualifying consumer expenses</i>	51(4)
<i>universal service provider</i>	65(1) and Schedule 9 paragraph 3(3)