



Amendments to regulatory conditions DUSP 1.8 and CP 1 and minor amendments to other regulatory conditions

Amendments to post box reporting and relevant turnover for the calculation of qualifying consumer expenses

Statement

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Section 1

Reporting on the provision of access points

1.1 In our consultation we proposed to require Royal Mail to report annually to Ofcom on its provision of post boxes as required by DUSP 1.8.2(a) and 1.8.2(b). We proposed that this report should include:

- the percentage of users of postal services across the UK with a post box within 0.5 miles by straight line distance of their premises, including details of any system used and steps taken to produce this calculation by Royal Mail;
- the total number of post boxes UK-wide and per nation, including a comparison with the previous year where relevant; and the number of customer complaints received by Royal Mail that year in relation to the provision / location of post boxes.

Stakeholder responses

Royal Mail

1.2 Royal Mail broadly agreed with Ofcom's proposed changes. However, it suggested some revisions to better reflect operational practicalities or developments in the postal market. In summary:

Removal of reference to 805 metres

1.3 Royal Mail agreed with Ofcom's proposal to remove the reference to "805 metres".

Reporting requirements

Time taken to carry out analysis

1.4 Royal Mail stated that its Geographic Information System (GIS) is an integral part of its operation, used on a daily basis for many activities. It explained that to undertake the necessary calculations, the GIS cannot, within a short time period, run a programme to determine how many of each of the 29 million delivery points are within half a mile of at least one of 115,000 post boxes. This can therefore only be undertaken at periods of low usage, e.g. evenings and weekends.

1.5 Royal Mail estimated it would take approximately one month to provide a full report. During this time, the number of delivery points may change and/or the number of post boxes may alter due to removals or additions. It said that whilst there may be some variation in figures over a one month period, this is likely to be low and should not have a material impact on the data provided to Ofcom. Royal Mail therefore proposed that the annual report contain a caveat to that effect.

Year-on-year comparison

1.6 Royal Mail requested that Ofcom clarify that the requirement to include a comparison with the previous year will not apply in relation to pre-31 March 2014 data. It

considered that this was implied by Ofcom in paragraph 3.8 of the Consultation, which refers to such a comparison being made "where relevant".

Complaints data

- 1.7 Royal Mail said it received very few complaints in relation to post boxes and does not currently capture customer complaints data to the level of detail Ofcom proposes. In order to meet this condition for 2013/14, Royal Mail would need manually to review the complaints database to provide an estimate of the number of customer complaints in relation to the provision and/or location of post boxes (not including complaints regarding specified collection times). For 2014/15, Royal Mail said it would introduce a customer complaint category to capture the specific data required to meet this requirement. Royal Mail suggested that for 2013/14, it would provide Ofcom with this manually collected complaint data but that this information should not be published in order to avoid inconsistencies when comparing 2013/14 data with 2014/15 or beyond.

Consumer Futures

- 1.8 Consumer Futures supported the proposed annual reporting requirements but said additional information should be provided by Royal Mail for regulation to be effective. Consumer Futures said the annual report to be published by Royal Mail must provide sufficient information to enable Ofcom to:
- properly analyse post box density UK wide and per nation in England, Wales, Scotland and Northern Ireland;
 - ensure adequate oversight of the mechanisms put in place to protect the 2 per cent of delivery points not within 0.5 miles of a post box;
 - adequately monitor the level and pattern of post box changes through relocation, removal or installation; and
 - gather intelligence on consumer concerns around post box issues and assess the universal service provider's adherence to any notification and/or consultative requirement.
- 1.9 Consumer Futures suggested the following additional types of information that should be provided to Ofcom and what Ofcom's approach to monitoring of provision should be.

Number of delivery points more than 0.5 miles from a post box

- 1.10 Although Consumer Futures accepted that the precise location of post boxes is an operational matter for Royal Mail, it felt greater attention needs to be paid to the impact of post box network changes on this category of, largely rural, users.
- 1.11 Using information supplied by Royal Mail, Consumer Futures had used geographical analysis facilities to identify several areas with a significant number of consumers at delivery points outside of the 0.5 mile distance criterion. It considered that in each of these areas a single post box would suffice to bring all the delivery points within the 0.5 mile distance criterion. Consumer Futures considered that having access to information at a level of detail which allows analysis of the number/percentage of

delivery points outside coverage at the level of individual “Output Areas”¹, Postcode Districts etc. is essential to determine whether Royal Mail is meeting the reasonable needs of the 2 per cent of users that may lie outside the 0.5 mile distance criterion.

- 1.12 In Consumer Futures’ view, the existence of these areas of concern suggests that users’ reasonable needs outside the 0.5 mile distance criterion are not always being actively taken into account, and Consumer Futures would equally be concerned about future changes to the post box network in rural areas.
- 1.13 Consumer Futures suggested that Ofcom ensure Royal Mail has a process that allows users’ access needs in these areas to be actively considered.
- 1.14 Consumer Futures said it is working with Royal Mail to develop a suitable consultation process for notifying users of proposed changes to the network and expects Ofcom to monitor progress to ensure that a timely, robust and consumer-oriented consultation process is agreed by both parties.
- 1.15 It considered it unlikely that reliance on centralised customer complaint data will capture or provide sufficient information on any consumer concerns on post box provision. However, operation of a consultative process would ensure that Royal Mail can more easily collate information on the issues relating to post boxes based on:
- consumer complaints;
 - representations made by users and stakeholders including contacts from local politicians to respective External Relations staff within Royal Mail; and
 - consumer issues raised with respect to post box changes associated with the Post Office Network Transformation Programme. Pertinent information related to changes to external post boxes (as a result of local post office changes) should be considered by Royal Mail in evaluating consumer concerns and clear inter-business mechanisms between Post Office Limited (“POL”) and the Royal Mail should be established to facilitate this.

On-going monitoring

- 1.16 Consumer Futures expected Ofcom to conduct investigations where there was concern about whether Royal Mail met the density criteria, including the provision of reasonable access, as in its view significant areas across the UK are not safeguarded against changes to the post box network. It also considered that Royal Mail should be required to provide advance notice to Ofcom, the ‘consumer advocacy bodies’ and affected stakeholders of any large scale change programme of post box monitoring. Consumer Futures said it would continue to assess the impact of the density levels on users and draw compliance issues to Ofcom’s attention.
- 1.17 Consumer Futures also suggested that the access points report to be published by the universal service provider should include the information proposed by Ofcom and, in addition:
- number of delivery points UK-wide and per nation outside the 0.5 miles distance;

¹ Consumer Futures did not define ‘output areas’

- number of post boxes affected by exceptional circumstances and excluded from the density calculations (either in the post box report or prescribed collections exception report);
- geographic locations of post boxes moved, relocated or installed;
- confirmation that the local consultative process has been followed by Royal Mail for post box changes (removals and/or relocations) reporting on reasons for any exceptions; and
- number of customer contacts received by Royal Mail that year from notifications and/or consultations on post box changes.

Mail Competition Forum (MCF)

1.18 The MCF said it had no objections to the proposed changes to DUSP 1.8.

Ofcom's view

Reporting requirements

Time taken to carry out analysis

- 1.19 This requirement is intended to enable Ofcom to monitor Royal Mail's compliance with the UK-wide density obligation that requires 98% of delivery points to be within 0.5 miles of an access point and for Royal Mail to meet the reasonable needs of users (up to 2%) whose premises are not within 0.5 miles of a post box or other access point.
- 1.20 Royal Mail requested a caveat explaining the potential impact on the accuracy of its density calculation of the lengthy calculation process. Ofcom considers that it is for Royal Mail to determine how it goes about complying with the obligation. If Royal Mail is correct in its view that the impact of any changes to the number of delivery points or post boxes during the period within which it carries out the calculation is immaterial, Ofcom would not have any objection in principle to its reporting on that basis.

Year-on-year comparison

- 1.21 The access point reporting obligation by nation is intended to ensure that Ofcom is made aware of any significant changes in the total number of access points in one or more of the nations, which might indicate that Royal Mail is failing to meet the needs of customers within the 2% of delivery points not within 0.5 miles of an access point.
- 1.22 Royal Mail asked for confirmation that the "previous year comparison" will not apply in relation to data prior to 31 March 2014. We have made a small amendment to the wording of the condition as modified, to confirm that the 'previous year comparison' will not apply in relation to data prior to 31 March 2014.

Complaints data

- 1.23 The new obligation on Royal Mail to provide an annual report on the number of complaints regarding access point location is intended to enable Ofcom to identify potential non-compliance by Royal Mail in respect of its obligation to meet the reasonable needs of users in respect of its provision of access points or alternative arrangements. In particular, any marked increase in complaints may raise concerns that Royal Mail is not meeting the reasonable needs of users.
- 1.24 Royal Mail expressed concerns about the likely comparability of data collected using an ad hoc manual process and the new automated collection process for 2014/15 onwards and suggested that the manual collected data for 2013/14 should only be provided to Ofcom and not published. However, we do not consider that this negates the value of the manually collected data being published as originally proposed since we expect Royal Mail to use reasonable efforts to ensure that the manually collected data is reasonably accurate. We will compare the results for 2013/14 and 2014/15 to identify any particularly sharp changes over the period that might warrant further consideration. We do not consider that it would be appropriate to add a caveat to the actual condition.

Suggested additional reporting requirements

- 1.25 With regard to the additional information Consumer Futures suggested Ofcom require Royal Mail to report on, we consider these below:
- Number of delivery points UK wide and per nation more than 0.5 miles from the nearest post box – Ofcom does not require this information in order to monitor Royal Mail's compliance with DUSP 1.8.2(a) and 1.8.2(b) and it is not clear to us what benefit this data would provide. If we were to identify a need for this information we could formally require Royal Mail to provide the data on a case by case basis.
 - Number of post boxes affected by exceptional circumstances and excluded from the density calculations (either in the post box report or prescribed collections exception report) – this data will be provided by Royal Mail in the annual collections exceptions report and does not need to be reported as part of this condition.
 - Geographic locations of post boxes moved, relocated or installed – Ofcom does not need this information in order to identify Royal Mail's compliance with the obligation to provide a post box within 0.5 miles by straight line distance of at least 98% of delivery points nationally. If we identify concerns regarding compliance we can formally require Royal Mail to provide this data at any time.
 - Confirmation that the local consultative process has been followed by Royal Mail for post box changes (removals and/or relocations) reporting on reasons for any exceptions – Ofcom would expect Royal Mail to follow any local consultative process that it agrees on a bi-lateral basis with Consumer Futures. However, engagement in such a process is a matter between Royal Mail and Consumer Futures and not something which Ofcom considers necessary in order for Royal Mail to comply with the regulatory obligations that Ofcom is imposing with regard to access points. We do not therefore propose to adopt this suggestion.
 - Number of customer contacts received by Royal Mail that year from notifications and/or consultations on post box changes — Royal Mail will be required to report on the number of complaints received in relation to post box provision. Ofcom

considers that complaints data, as opposed to contact data (which will not necessarily reflect opposition to a post box change), is more likely to indicate the occurrence of consumer harm and a need for investigation into Royal Mail's compliance with its obligations.

- 1.26 We take the issue of Royal Mail's compliance with its regulatory obligations extremely seriously. If we became aware of evidence that Royal Mail may be failing to comply we would investigate as appropriate. The purpose of DUSP 1.8.2 is to ensure that all users in the UK are protected by either the density obligation or the obligation to provide reasonable access. We do not accept Consumer Futures' statement that significant areas across the UK are not safeguarded against changes to the post box network.

Consumer Futures' other proposals

Installation of additional post boxes

- 1.27 Consumer Futures said that it had identified a number of geographical areas where the installation of an additional post box could materially increase the number of delivery points situated within 0.5 miles of a post box. However, Consumer Futures provides no evidence that Royal Mail is not meeting its obligation to meet the reasonable needs of users in these particular areas. We understand that Royal Mail already provides guidance to its local managers regarding assessments of user needs with regard to the installation and removal of post boxes. We expect Royal Mail to take appropriate steps to ensure that it complies with its obligations under DUSP 1.8.2(b) and expect this to include processes to assess reasonable needs on the part of users not within 0.5 miles of a post box.
- 1.28 In the absence of evidence of non-compliance on the part of Royal Mail or consumer harm, Ofcom does not consider that it would be proportionate to adopt this additional requirement suggested by Consumer Futures.

Compliance with a notification and consultative process for post box changes and consumer complaint data

- 1.29 We are pleased to note that Consumer Futures is working with Royal Mail on this issue and can confirm we will monitor progress to help ensure that a timely, robust and consumer-oriented consultation process is agreed by both parties to ensure appropriate outcomes for both users and Royal Mail. We also welcome Consumer Futures' statement that it will use the resources at its disposal to monitor the potential impact on users of changes to the post box network and Ofcom will consider any evidence that Consumer Futures brings to our attention.

Conclusion on DUSP 1.8

- 1.30 We have made a small amendment to the wording of DUSP 1.8.2AA(b) on which we consulted, to confirm that the 'previous year comparison' will not apply in relation to data prior to 31 March 2014.
- 1.31 Our remaining amendments related to access points are unchanged from the proposals contained in our consultation and, as detailed in the consultation document, are intended to enable Ofcom to monitor Royal Mail's compliance with the UK-wide post box density obligation set out in DUSP 1.8.2(a) and 1.8.2(b).

- 1.32 We consider that our decision to amend DUSP 1.8 should have no significant impact on Royal Mail since it can already generate the majority of the data that will be included in the annual report it will provide to Ofcom. Further, the monitoring requirement will ensure that Ofcom can monitor Royal Mail's compliance with DUSP 1.8 effectively. We considered previously whether our proposals would have any impact on equality and concluded in Section 2 of our consultation document that they would not affect any particular group within society.
- 1.33 For DUSP 1.8 we consulted upon specific modifications to the condition but in implementing our proposals we have reproduced the whole text of the condition. Therefore, the revised version replaces all previously published versions and is the instrument as made, not simply an informal consolidated version. This makes no material difference to the substance of the changes. The revised version takes effect on 1 April 2014.

Section 2

Changes to references to the National Consumer Council, relevant turnover for the calculation of qualifying consumer expenses and a minor amendment to DUSP 1.10.6

2.1 In January 2014 we published our consultation proposing to:

- Replace all references to the National Consumer Council in the regulatory conditions with references to the “Consumer Advocacy Bodies” i.e. Citizens Advice, Citizens Advice Scotland and the General Consumer Council for Northern Ireland;
- Amend DUSP condition 1.10.6(b)(i) to replace the word “collection” with “delivery”; and
- Amend Consumer Protection condition 1 (“CP 1”) to improve the methodology for calculating the recovery from industry of the expenses of the consumer advocacy bodies.

2.2 This section summarises the three responses we received to the above proposals, our evaluation of them and our decisions.

Stakeholder responses

2.3 No respondents objected to our proposal to amend all postal regulatory conditions to remove references to the National Consumer Council and replace them with ‘Consumer Advocacy Bodies’ in line with the Public Bodies Order.

2.4 All respondents who commented agreed with our proposal to replace the word “collection” with “delivery” in DUSP 1.10.6(b)(i) for the reasons outlined in our consultation.

Proposed Amendments to CP1

Royal Mail

2.5 Royal Mail acknowledged the importance of the Consumer Advocacy Bodies (“CABs”) and accepted that it should pay a fair and reasonable proportion of their expenses that relate to postal issues.

2.6 Royal Mail noted that the 2014/15 Consumer Futures draft work plan outlined a large proportion of work considering the POL network, not just the mail products Royal Mail sells through POL. It noted that Royal Mail and POL became separate companies in April 2012 and therefore invited us to consider the appropriateness of assigning a proportion of CAB costs to POL in future.

- 2.7 In relation to the calculation of the proportion of CAB costs paid by postal operators, Royal Mail argued that as the market became more competitive it would not be appropriate to use postal operator turnover from two years before the charging year. It suggested Ofcom used up-to-date financial results so the proportion of charges attributable to postal operators more fairly reflected each operator's market share. It noted that there could be a retrospective adjustment mechanism after each year to adjust the proportions based on audited results.
- 2.8 Finally, Royal Mail invited us to consider allowing postal operators to make monthly payments for CAB costs if they exceed £75,000 per year in line with the Statement of Charging Principles ("SOCP") for postal services.

MCF

- 2.9 The MCF agreed in principle to our proposal to use the same type of turnover data to calculate CAB charges as we use to calculate Ofcom's administrative charges. However, it noted that not all postal operators had a financial year ending 31 March so data used by Ofcom at that time may not be audited. Furthermore, it stated that there would be no separate audit of "regulated" turnover in operators' accounted so the data would remain unaudited. It therefore invited us to consider using the data provided to us quarterly under section 55 and schedule 8 of the Postal Services Act 2011 to calculate "relevant turnover". Given the difference in the scale of postal operators it considered any 'inaccuracy' would be immaterial.
- 2.10 The MCF made the following comments and suggestions:
- In CP 1.1.2(h), it noted that access services never required a licence because of an exemption under section 7(2)(h) in the Postal Services Act 2000 and that access charges could outweigh revenue from other operators' regulated postal services. Therefore, if access payments are deducted from turnover of regulated services there may be no "relevant turnover". It suggested either retaining the same wording that refers to "excluding access payments" to remove any doubt or omitting it and relying on the fact that upstream access services are not regulated postal services;
 - In CP 1.2.2, 1.2.4 and 1.2.8, the MCF suggested that the carry forward of costs from a previous year should be clarified as being only those related to the function of providing a public consumer advice scheme;
 - In CP 1.2.7 and 1.2.8, the MCF noted that relevant payment provisions did not state what proportion of carry forward costs is borne by operators. It considered there to be an issue of potential underpayment and overpayment whereby a regulated postal operator that did not pay towards costs could have to bear the cost of an underpayment in the previous year where it was not required to make a payment. Equally it argued that operators should not be entitled to a "credit" in the subsequent year if there had been an overpayment in the previous year where they were not required to make a payment. It invited Ofcom to clarify the position and allocate the carry forward figures, whether they are costs or losses, among the relevant operators in that relevant year.

Ofcom's view

Removal of references to the National Consumer Council in all postal regulatory conditions

- 2.11 As noted in our consultation document, 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") abolishes the Council and amends section 51 of the Postal Services Act 2011 ("the Act"). References to the Council are replaced with references to the CABs; they are Citizens Advice, Citizens Advice Scotland or the General Consumer Council for Northern Ireland ("GCCNI").²
- 2.12 The change to the Act has effect from 1 April 2014.
- 2.13 We received no objections to our proposed amendments and will therefore amend all regulatory conditions to remove references to the National Consumer Council and replace it with references to the CABs. We are satisfied that, for the reasons outlined in our consultation, the proposed changes are necessary to ensure the postal regulatory conditions are aligned with the Act.
- 2.14 The statutory Notification of modifications to CP 1, 2, 3 and E 1 can be found in the documents accompanying this statement. The change is also included, along with the other changes discussed in this Statement, in the statutory Notification of the modification of DUSP 1, which is amongst those documents.

Amendment to DUSP 1.10.6(b)(i)

- 2.15 We received no objections to our proposed minor amendment to DUSP 1.10.6(b)(i) to correct an obvious error by replacing the word "collection" with "delivery".
- 2.16 We will therefore amend DUSP 1.10.6(b)(i) accordingly to ensure that the condition makes clear that the Christmas period reporting exemption applies to delivery times for deliveries made every day a delivery is required, rather than every day a collection is required. The statutory Notification of modifications to DUSP 1 can be found in the documents accompanying this statement.

Amendments to CP 1

POL

- 2.17 Under section 51(2)(c) of the Postal Services Act 2011, Ofcom has the power to recover qualifying consumer expenses from "postal operators". The term "postal operator" is defined in s 27 of the Act:

"(3) "Postal operator" means a person who provides—

- a) the service of conveying postal
- b) packets from one place to another by post, or

² 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, Schedule 1, 7 (4).

c) any of the incidental services of receiving, collecting, sorting and delivering postal packets.

(4) A person is not to be regarded as a postal operator merely as a result of receiving postal packets in the course of acting as an agent for, or otherwise on behalf of, another.”

2.18 We consider that POL is not a “postal operator” within the meaning of s 27(3) of the Act and is subject to the exemption in section 27(4) because it acts as an agent for Royal Mail when it provides its service of ‘receiving’ postal packets and it does not collect, sort or deliver postal packets.

2.19 As POL does not satisfy the definition of a “postal operator”, Ofcom does not have the power to recover qualifying consumer expenses from it.

Financial results

2.20 As stated in our consultation document, each year, Ofcom is informed by the Department of Business, Innovation and Skills (BIS) of the total amount we must collect on behalf of the consumer bodies listed in CP 1. However, in order to apportion the costs of the Council we need to calculate what percentage the share of turnover for Regulated Postal Operators (RPOs) is in relation to the total turnover generated by all RPOs. To do this we require a full year of accounts from regulated businesses.

2.21 To date, because Royal Mail has been the only RPO likely to exceed the £10 million turnover threshold in a single year it has borne the total costs of qualifying consumer expenses. However, in the future other RPOs may exceed the turnover threshold and we therefore considered in our consultation that we required a robust way of apportioning costs equitably, which requires knowledge of the relevant turnover of each RPO to calculate how much each RPO should be charged in accordance with CP 1.

2.22 We therefore proposed to align condition CP 1 with the post SOCP so the total qualifying consumer expenses would be calculated using the last but one 12 month period commencing on 1 April. We considered that this would ensure that the most reliable and robust data for a completed year is used to calculate charges.

2.23 We note from the consultation responses that more recent financial data may be available in a given year which could allow us to calculate the relevant market share of each RPO on an annual basis, rather than needing to use data from the last but one financial year. However, the points made in our consultation still stand. While more recent data may be available for some RPOs, it will not be available for all. For example, as noted in our consultation, Royal Mail does not publish its full year accounts for its regulated postal services until July in a given year. We would not, therefore, have a complete set of accounts to form the basis of our market share calculations for the most recent year.

2.24 We consider that the lack of a whole financial year’s data comprehensive data from all RPOs, in particular Royal Mail which is the main contributor RPO at present, would restrict our ability to robustly calculate the market share of each RPO and apportion costs equitably in time to issue an invoice for payment. We therefore consider it most appropriate to align CP 1 with the SOCP wherein the payable charge is based on the last but one 12 month period commencing on 1 April prior to the

Charging Year³ in question, because that would allow us to use the most reliable and robust data at that time to calculate charges.

Periodic payments

- 2.25 1.1 We accept that the SOCP allows operators to make monthly payments when Ofcom is recovering the cost of its own regulatory functions if charges exceed £75,000 a year.
- 2.26 1.2 The SOCP relates to charges for Ofcom's own administrative costs. We have a detailed understanding of what funds we require and when in order to operate. By contrast, when recovering costs for CABs we act merely as a conduit for payments, and have no insight into the underlying business needs to which they relate. The Secretary of State simply informs Ofcom annually on a specific date of the amount of funds he determines should be collected. Costs in recent years have been relatively stable so charges are predictable for stakeholders.
- 2.27 1.3 We would expect that if the consumer advocacy bodies were to receive funds on a phased basis rather than once a year, the amount to be collected may need to rise, and that the Secretary of State would therefore need to approach the quantification of "qualifying consumer expenses" in a different way.
- 2.28 1.4 For all these reasons, we do not consider it practical or appropriate for us to modify our proposals for CP1 so as to allow for phased payments.
- 2.29 We accept that the SOCP allows operators to make monthly payments when Ofcom is recovering the cost of its own regulatory functions if costs exceed £75,000 a year. In contrast to Ofcom's charges, in relation to which we have the flexibility to determine the timing of the payments we receive, when recovering costs for CABs we act merely as a conduit for payments. It is the function of the CABs and BIS to produce forecasts and determine what funds CABs will need from postal operators. Their forecast is provided to us annually on a specific date.
- 2.30 We consider that the current payment methods are fair and consistent because the costs for CABs are payable on a fixed date each year (30 June). Costs in recent years have been relatively stable so are predictable for stakeholders.
- 2.31 We therefore do not consider it appropriate to amend the drafting of our proposed CP 1 to allow for alternative payment methods

Definition of relevant turnover

- 2.32 CP 1.1.2(h) states that relevant turnover for operators other than the universal service provider is calculated subtracting access payments made in respect of regulated postal services. The wording was intended to aid stakeholders by reaffirming that access payments would not be considered in the calculation of "relevant turnover". However, as noted by the MCF, the current wording may not be helpful because access services never required a licence under s 7(2)(h) of the

³ Paragraph 1.6.2 of the SOCP defines 'Charging Year' as a twelve month period commencing on 1 April in a calendar year and ending 31 March in the immediately following calendar year.

Postal Services Act 2000 so the revenues they generate are already excluded from “relevant turnover” by virtue of the definition of ‘regulated postal service’ in CP 1.1.2(i).

- 2.33 We agree with the MCF that the wording of the condition could be clearer and have therefore amended 1.1.2(h) to state “relevant turnover means turnover from regulated postal services”.

Carry forward costs

- 2.34 In relation to the MCF’s requested clarification that “carry forward” costs be only those that relate to the function of providing a public consumer advice scheme, we have amended CP 1.2.8 to remove any doubt that amounts charged are based on expenses in respect of a public consumer advice scheme, by adding the text underlined below:

“CP 1.2.8 The amounts payable under CP 1.2.4 in a relevant year shall include the amount of the difference, if any, between the amounts charged to the regulated postal operator in the previous relevant year, based on estimates; and the amounts which would have been charged had the calculation been based on actual numbers of calls relating to that and other regulated postal operators and actual qualifying consumer expenses of Citizens Advice and Citizens Advice Scotland in respect of their function of providing a public consumer advice scheme. Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.”

- 2.35 Under or over recovery in the previous year is factored into the sum the Secretary of State asks us to recover from postal operators in any given year. The way in which costs are apportioned is set out in CP 1.2.3.
- 2.36 We consider that a separate system of apportioning under or over recovery to operators would be disproportionately complex given the number of operators involved and the relatively low charges. We note that the MCF describes potential errors in the calculation of charges for postal operators other than Royal Mail as “immaterial⁴.” We have no evidence to suggest that significant under or over payments are common in the recovery of CAB costs.
- 2.37 All postal operators could be affected by an under payment in a preceding year but any potential readjustments will be proportionate to their share of the market. Operators may equally benefit from an overpayment in a charging year for which they were not subject. For example, if there was an overpayment of £100,000 in 2012-2013 because of lower than forecasted expenditure, the budget for the following year 2013-2014 would be lowered by £100,000. All operators would benefit from the lower charge in that year, proportionate to their market share.
- 2.38 We have therefore not amended CP 1 to adjust for under or over recovery for operators who were not liable to pay CAB charges in the year where under or over payment occurred.

⁴ MCF response.

Other aspects of the drafting of CP 1

- 2.39 In our consultation we also proposed to take the opportunity to amend the drafting of the condition to make it easier to read. This was not intended to have any substantive effect on its meaning. Above, we have addressed comments made in consultation responses, and we otherwise remain of the view that the drafting changes are appropriate and transparent.

Conclusion

- 2.40 Following consultation we have made the following changes to postal regulatory conditions:
- Removed all references to the National Consumer Council in the regulatory conditions and replace it with a reference to “Consumer Advocacy Bodies” i.e. Citizens Advice, Citizens Advice Scotland or General Consumer Council for Northern Ireland;
 - Amended DUSP condition 1.10.6(b)(i) to replace the word “collection” with “delivery”; and
 - Amended CP 1 to improve the methodology for calculating the recovery from industry of the expenses of the consumer advocacy bodies;
 - Amended CP 1.2.8 to make clear that amounts payable are based on qualifying expenses of CABs in respect of their function of providing a public consumer advice scheme; and
 - Amended CP 1 to make clear that the definition of ‘relevant turnover’ means turnover from regulated postal services which excludes access payments.
- 2.41 The amendment to CP 1 does not substantially alter the charging regime or the amount payable by an RPO or when payment is due, it only alters the financial year Ofcom uses to calculate those charges. As noted in our consultation document, we consider that the proposed methodology is consistent with the way in which Ofcom collects money from RPOs to cover the cost of its regulatory activity. We note that the amendment will have an impact on Royal Mail insofar as it will require them to pay the associated costs for CABs for a year longer than it would otherwise have had to do, but note that given the current balance of the postal market it is likely that Royal Mail would, in any event, have continued to pay the majority of CAB costs. We therefore do not consider the impact on Royal Mail to be significant. Furthermore, we do not consider that the amendment will have a significant impact on consumers.
- 2.42 As outlined in our consultation document, we did not carry out a detailed impact assessment on the changes to consumer advocacy institutions because we consider the changes reflect the Act and are necessary to ensure the regulatory conditions are consistent with it.
- 2.43 For DUSP 1, CP2, 3, and E1 we consulted upon specific modifications to those conditions but in implementing our proposals we have reproduced the whole text of the conditions. Therefore, the revised versions replace all previously published versions and are the instruments as made, not simply informal consolidated versions. This makes no material difference to the substance of the changes. These revised versions take effect on 1 April 2014.

- 2.44 For CP 1, the attached document revokes the previous version and replaces it. The revised version takes effect on 1 April 2014.