



9th February 2018

CWU Response to Ofcom's Proposed Annual Plan 2018/19

Introduction

1. The Communication Workers Union (CWU) is the largest union in the communications sector in the UK, representing approximately 192,000 members in the postal, telecoms, financial services and related industries.
2. The CWU remains concerned that regulation in post and telecoms is too heavily focused on promoting competition in the pursuit of lower prices and cost cutting. Although this generally makes services cheaper, it harms citizens and consumers by constraining investment which undermines quality and accessibility.
3. In the postal sector, unregulated low cost parcel delivery competition has grown rapidly on the back of poor labour standards, poverty pay and bogus self-employment. Many parcel services are failing customers through poor quality because they are not subject to minimum standards. This threatens a race to the bottom on jobs and service standards in the regulated postal sector. Intensive competition in the most profitable areas of the market also weakens the economics of the universal postal service.
4. In the telecoms sector, competition has brought lower prices, but 1.1 million households still cannot access a 10Mbit/s broadband connection and the UK is falling behind other nations on 4G mobile coverage and full fibre networks. Ofcom should address this by giving operators the pricing flexibility and regulatory stability they need to justify network investment. Regulation must also fully account for the costs of the additional jobs, skills and training needed to build and maintain a world class digital network for the UK.
5. The CWU repeats our call for Ofcom to introduce a fundamental shift in emphasis towards raising minimum quality standards and incentivising investment for the benefit of all stakeholders. This includes workers in the sector and users of communication services with less market power, such as those living in hard to serve areas. There should be a clear strategy to improve services in rural areas which are less well served than urban areas; and in Wales, Scotland and Northern Ireland, all of which are less well served than England.

Ofcom's goals and highlights for 2018/19

Supporting investment in network infrastructure

6. We welcome Ofcom's objective to support investment in network infrastructure, but we are concerned that the focus on promoting competition through lower prices will limit the scope for investment. As we have said in our response to Ofcom's Wholesale Local Access Market Review, the emphasis on reducing wholesale prices could move Openreach's returns below the estimated cost of capital, putting future network investment at risk.¹
7. Openreach has recently announced its intention to rollout a fibre to the premises (FTTP) connection to 3 million homes and businesses by the end of 2020. In order to deliver this it will be recruiting and training 3,000 field engineers during 2018.² Openreach has also said it may be possible to extend its plan to 10 million premises by the mid 2020s. However, this would rely on a number of regulatory changes, including a framework that moves away from lower pricing to encourage network investment.³
8. It is crucial that the additional resources needed to deliver network upgrades and service improvements are fully reflected in Ofcom's charge control modelling. This must include the costs of secure jobs, decent labour standards and proper training, all of which are fundamental to delivering high quality services. Any weakening of pay and conditions for employees will inevitably be detrimental to recruitment, retention, productivity and service quality.

Improving mobile coverage

9. The National Infrastructure Commission recently reported that the UK lags badly behind our global competitors for mobile services, ranking 54th in the world for 4G coverage last year.⁴ It said that the UK is being held back by poor mobile phone connectivity, and called for urgent and radical action from Ofcom and the Government to tackle this issue ahead of new mobile spectrum being auctioned and 5G technology being rolled out.⁵ Against this backdrop, Ofcom must ensure the right regulatory framework is in place to incentivise and facilitate long term infrastructure investment from mobile operators.
10. As with fixed telecoms, intensive competition in the mobile sector is unlikely to bring the best outcome for investment. A recent study based on 33 OECD countries finds that a hypothetical four-to-three merger in the mobile sector would boost capital expenditure by 19.3% at the operator level, and urges policy makers to consider investment more seriously when weighing up their decisions.⁶

Monitoring the effectiveness of the framework for post

¹ CWU Response to Ofcom Wholesale Local Access Market Review, 9th June 2017

² Openreach Aim FTTP Broadband for 3 million premises in 8 UK Cities, ISP Review, 1st February 2018

³ Openreach fibre plan for 10m premises coming 'before Christmas', the Register, 13th November 2017

⁴ Connected Future, National Infrastructure Commission Report, December 2016, p.3

⁵ Urgent plan needed to tackle deplorable mobile services, National Infrastructure Commission, 18th December 2017

⁶ Mobile telecoms consolidation, University of Cambridge Judge Business School, 7th August 2017

11. We recognise the need for Ofcom to monitor Royal Mail's performance on efficiency, quality of service, the financial performance of the universal service network, and competition in parcels and letters. This should support Ofcom in fulfilling its primary statutory duty to secure the universal postal service, helping to identify and address any problems at an early stage.

Royal Mail's performance on efficiency

12. We continue to call on Ofcom not to set unreasonable efficiency expectations for Royal Mail, and to recognise that Royal Mail already faces sufficient market challenges that will spur efficiency. As we have stated in previous submissions, we are concerned that the combined effects of pressure for ever-greater cost-cutting and competition are putting us on a path that threatens future provision of the universal service.
13. We are particularly concerned that Ofcom should not benchmark Royal Mail's cost efficiency against unregulated, low cost parcel delivery operators who are not subject to minimum quality of service standards or the high fixed costs of delivering the Universal Postal Service.
14. Ofcom has previously suggested that secure, full time jobs or the payment of a decent wage are an obstacle to efficiency at Royal Mail.⁷ We reject this position and assert that the opposite is in fact the case, with secure well paid jobs creating a more efficient, productive workforce. Equally, the CWU has jointly agreed efficiency and productivity measures with Royal Mail in recognition that being efficient is important to the success of the business and its ability to provide secure employment on good and conditions in future.

Monitoring consumers' experiences in the parcels market

15. We support Ofcom's intention to monitor consumers' experiences in the postal sector, but we believe this must include more detailed analysis of the unregulated parcels sector, which is notorious for quality of service failures. Research has found that service levels from some firms are dire, with parcels misdelivered or left in bins and under cars. Customers usually have no choice about the delivery firm used if they buy from a retailer, and no direct relationship with the delivery firm through which to complain or be compensated for failures.⁸ As we have said in previous submissions, we believe that Ofcom should be examining both quality of service and customer satisfaction in parcels in order to make an informed decision on the best approach to regulation in this area.⁹
16. We also repeat our call for Ofcom to introduce minimum quality standards in the growing parcels market to bring much needed service improvements for customers. The act of levelling up quality of service standards in parcels through regulation would create better labour standards, and these two factors would be mutually reinforcing.

⁷ Review of the Regulation of Royal Mail, Ofcom, 25th May 2016, see in particular paragraphs 4.66, 4.67 and 4.70

⁸ Yodel tops list of worst parcel delivery firms (again), Moneysavingexpert, 27 Jan 2017

⁹ CWU Response to Ofcom Review of the Regulation of Royal Mail, 3rd August 2016

17. The surge in demand for parcel delivery in recent years has seen the emergence of many new and expanding courier companies. Unlike Royal Mail, these companies do not have to comply with standards of service or consumer protection, and so they are able to operate using very low cost employment models. The majority rely on self-employed 'Owner-Drivers' who are denied basic employment rights and are responsible for their own taxes, insurance, and vehicle maintenance. This business model has been exposed as highly exploitative and is currently being investigated by the HMRC as potentially unlawful. Recent tribunals have ruled against City Sprint, Excel, and Addison Lee on employment status, finding their couriers should be classed as workers. Other cases are ongoing including one brought by the GMB for couriers in Hermes.
18. The poor labour standards that exist in the unregulated postal sector also threaten jobs, pay and conditions in the regulated postal sector. The CWU and Royal Mail have been engaged in a protracted industrial dispute for over 10 months, after the company made a series of proposals which would have materially worsened our members' pay and working conditions. The company's rationale for its proposal was largely based on commercial pressures and the need to cut costs, with competition from parcel operators being a significant contributory factor.
19. The CWU and Royal Mail have now reached a negotiators agreement after our members showed their overwhelming support for the union in an industrial action ballot. We believe that Ofcom has an important role to play in ensuring a more level playing field for postal competition. This will help to reduce the risk of a race to the bottom on labour standards and any associated risk of industrial action. The negotiators agreement between the CWU and Royal Mail includes a new joint commitment to improve regulation in the postal sector. It states that both parties agree that Royal Mail Group does not operate on a level playing field partly because regulation is not effective in ensuring the wider industry provides quality to its customers and workers. Royal Mail and the CWU have committed to work closer in coordinated, joint and separate activity to remove these barriers. This includes working together to lift employment standards to ensure people in the UK are offered reasonable and decent terms and conditions and contracts of employment (especially in the postal and logistics sectors).

Delivering Ofcom's goals across the UK

20. We welcome Ofcom's objective to deliver its goals for citizens and consumers across all nations and regions of the UK, taking into account their various differences and recognising the further devolution to Scotland, Wales and Northern Ireland over the past year. It is important that Ofcom continues to work with stakeholders in each nation to understand their particular needs and to address these effectively.
21. The problems of providing fixed broadband, mobile and postal services in rural and remote areas falls disproportionately within Wales, Scotland and Northern Ireland. For example, 9% of premises in Wales and Scotland cannot access 10Mbit/s broadband, compared with 5% of premises in England.¹⁰ It is also important to note that in rural

¹⁰ Connected Nations 2017 Report, Ofcom, 15th December 2017

areas of all nations, including England, mobile and fixed network coverage is lower than in towns and cities.

22. We call on Ofcom to set the optimum regulatory framework to support the delivery of universal, high quality broadband, mobile and postal services across all nations and regions of the UK. This should include a focus on extending mobile and full fibre broadband coverage; improving network speeds; and supporting network build, quality and resilience through skills, training and secure employment.

For further information on the view of the CWU contact:

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