



Annual Plan Team, Strategy and Policy Team  
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**Proposed Annual Plan 2019/20**  
**- Mail Competition Forum (MCF) Response**

The MCF is a forum which represents the interests of many of the leading mail and parcel operators who compete fiercely upstream with both one another and with the incumbent Designated Universal Service Provider, Royal Mail. The objective of the MCF is to support the development of conditions in the UK for fair, vibrant and sustainable competition to Royal Mail within a stable and undistorted market.

Having read the consultation on Ofcom's annual plan and noted that one of Ofcom's three high-level, long-term goals is to "*Promote competition and ensure that markets work effectively for consumers*", we have the following comments:

1. The MCF welcomes Ofcom's proposed work on cost modelling of Royal Mail's delivery network and cost allocation between letters and parcels but believe that it could go further. Ofcom says that "this work will support our assessment of Royal Mail's efficiency", but we see this as only assessing whether Royal Mail's costs are allocated correctly to its existing operational model.

We believe that Ofcom should also consider, in assessing Royal Mail's efficiency, whether Royal Mail should be adopting different operational models to reduce costs - but are choosing not to do so. Many other operators, for instance, have separated parcel and letter delivery networks whereas Royal Mail has chosen to continue with a combined network. There may also be cases where Royal Mail could encourage a finer level of sortation by downstream access customers or operators (e.g. to walk sequencing plans) but has chosen not to so as to enable the allocation of the costs of their sortation equipment used for Retail services onto downstream access services.

We are disappointed that Ofcom is not proposing to use its assessment of Royal Mail's efficiency to set targets and potential penalties if Royal Mail doesn't achieve them.

We strongly believe that as an effective monopoly without price controls there is little incentive for Royal Mail to improve its efficiency when it can simply increase prices to compensate for lost revenue if it fails to meet its own modest efficiency improvement aim.

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The views expressed in this letter represent the general views of the Mail Competition Forum and do not necessarily represent the particular position of any individual member organisation.



We only have to look at the significant price increases of up to 10% that have been announced for this year as proof that this is happening. In the absence of viable, scalable alternative letter delivery networks the time is right to consider other regulatory options to protect consumers of postal services and ensure the continuation of the USO.

In the Telecomms market Ofcom is proposing to protect consumers from “*harmful pricing practices*” yet is reluctant to apply simple measures that would benefit consumers in the postal market by protecting them from unnecessarily high price increases in future.

2. The MCF expects Ofcom to not only be looking at Royal Mail’s cost modelling and allocation but also ensuring that Royal Mail is not using cash generated by the USO to develop its parcels business. Revenues from USO services should not be subsidising cheaper, contract parcels for retailers.

In order to promote competition and benefit consumers, we believe Ofcom should undertake a thorough review of the parcels market to determine which parts are already competitive and which parts are captive, and how the captive parts of the parcels market could be opened to competition (including through downstream access) to provide more choice and potentially lower prices for consumers.

3. The annual plan states that Ofcom “*will monitor consumers’ experiences in the postal sector*” and from the Annual Monitoring update on the postal market we note that Ofcom “*run two separate surveys to track use of and attitudes to post, one focused on residential consumers and the other focused on small and medium enterprise (SME) business customers*”.

We would suggest that, where appropriate, such user research by Ofcom was coordinated with that being done by Citizens Advice, to avoid overlap and duplication.

However, the MCF is surprised that Ofcom does not include users of bulk mail in these surveys, since their spend on Royal Mail’s bulk mail services volumes underpins the viability of the Universal Service.

We believe that Ofcom needs to include the views of bulk mail users to get a balanced and realistic view from all postal “consumers”.

4. The MCF is also disappointed that there appears to be no activity in Ofcom’s annual plan for 2019/20 that relates to a number of issues that were submitted to Ofcom as a Schedule of Concerns last year. These concerns included:

#### **Royal Mail Wholesale blocking new service requests to benefit Royal Mail’s retail business**

In spite of Ofcom explicitly stating in 2017 in their Review of the Regulation of Royal Mail that Royal Mail needed to carry out a review of the process “*to ensure it functions effectively for both Royal Mail and Access operators*” no new processes are yet in place and little, if any, meaningful progress has been made in fundamental areas such as the principles for cost recovery, access requests in non-mandated areas and retail / wholesale development equivalence. In the short term this is restricting competition, but



the longer-term fear is that, by continuing to deny customers new Wholesale services, any innovation – particularly for the growing lightweight and tracked parcels and large letter segments - will be confined to Royal Mail's own retail services and Wholesale services will become increasingly irrelevant to customers.

### **Preferential and non-equivalent terms for Royal Mail retail customers**

It is still more demanding (and potentially costly) for customers to use Downstream Access services than to use Retail services, due to more stringent requirements and penalties. It is not a "level playing field" and there are still instance of Royal Mail acting in a way that is blatantly discriminating in favour of their Retail business. The Christmas incentive, for instance, was initially launched as only for Retail customers. Royal Mail did subsequently open it up to Wholesale customers but Royal Mail Retail had already had the opportunity to talk to customers about it.

### **Ability to impose unfair and unreasonable conditions without restraint**

Royal Mail introduced the right to change contract terms unilaterally in 2013. The only means of preventing a unilateral change from coming into effect is to file a formal complaint or Access Contract dispute. This requirement is so demanding and expensive that it is rarely used, meaning that the introduction of unfair and unreasonable terms continues to be a feature of access services.

### **Unfair exploitation of universal service**

We believe that it is time to review the scope of the Universal Service to ensure that it is the minimum required to meet current and future (not past) customer needs and to ensure that Royal Mail is not able to abuse its status as the supplier of the Universal Service (for instance exemption from VAT on mail services paid for using a franking meter) to gain unfair competitive advantage.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Paterson", written over a light blue horizontal line.

Ian Paterson  
MCF Secretary