

2nd March 2022

CWU Response to Ofcom's Review of Postal Regulation

Introduction

1. The Communication Workers Union (CWU) is the largest union in the communications sector in the UK, representing just under 187,000 members in the postal, telecoms, financial services and related industries. We are the recognised trade union for around 130,000 non-managerial staff in Royal Mail.
2. The following submission sets out the CWU's response to Ofcom's Review of Postal Regulation consultation.¹ As we said in response to Ofcom's Call for Inputs², we believe **postal regulation must focus on securing the future sustainability of the universal postal service through growth and innovation rather than cost cutting and scaling back services**. The CWU and Royal Mail have been implementing changes we agreed in 2020, which are based on growth and not decline.³
3. **The CWU is seriously concerned that Ofcom's proposals will hold back this crucial growth agenda by preventing the universal postal service from adapting** in a market that is already highly competitive. In particular, the proposal to exclude tracking under the Universal Service Obligation (USO) would benefit Royal Mail's competitors at the expense of the USO and postal users. **We believe the evidence shows that tracking should now be permitted within the scope of the USO** to ensure the universal service remains relevant in a rapidly evolving market.
4. **We are also extremely concerned that Ofcom has ignored the CWU's evidence regarding labour market exploitation in the unregulated parcels sector.**⁴ Ofcom has a principle duty to further the interests of citizens and consumers. This should involve addressing all issues that impact on the quality of postal services, including low cost business models that exploit and mistreat delivery workers through false self-employment and poverty pay.

¹ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, accessed at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/228970/Consultation-Review-of-postal-regulation.pdf

² Review of postal regulation, call for inputs, Ofcom, 11th March 2021: https://www.ofcom.org.uk/data/assets/pdf_file/0024/215664/call-for-inputs-review-of-postal-regulation.pdf

³ The CWU (2020) – RMG and CWU Key Principles Framework Agreement (Pathway to Change), 22nd December 2020; Available at: <https://www.cwu.org/news/rmg-cwu-key-principles-framework-agreement-the-pathway-to-change/>

⁴ CWU response to Ofcom's review of postal regulation – call for inputs, 20th May 2021, see paras 65 – 71, accessed at: <https://www.cwu.org/wp-content/uploads/2021/07/CWU-Response-to-Ofcom-Royal-Mail-Regulatory-Review-CFI-20-May-2021.pdf>

Summary of key points

Approach to regulation

- We support Ofcom's proposal to maintain Royal Mail's current commercial and operational flexibility to help secure the universal service, but we believe Ofcom must go significantly further on measures that will enable the growth and evolution of the universal postal service.

Financial sustainability

- We recognise that the universal postal service must be financially sustainable, but this must be delivered with an emphasis on growth rather than cost efficiencies if the universal service is to be properly maintained and keep pace with changing user needs.

Efficiency

- We strongly oppose Ofcom's proposal for an additional requirement on Royal Mail to set and report against a five-year efficiency expectation and for Ofcom to monitor performance against those expectations. This risks prioritising cost cutting over investment and innovation, which would threaten the scope and quality of the universal service along with postal jobs and terms and conditions of employment.
- Royal Mail has consistently delivered efficiency improvements over more than a decade, and already has multiple incentives to improve its efficiency levels without further regulatory measures.
- We support Ofcom's proposal not to reintroduce price controls or to impose binding efficiency targets on Royal Mail, which would threaten the future financial sustainability of the USO.

USO letters regulation

- We welcome Ofcom's proposal to retain the current quality of service standards for Royal Mail under the USO.

Parcels market regulation

- It is extremely regrettable that Ofcom has not addressed or even acknowledged the CWU's serious concerns about the mistreatment of workers in the unregulated parcels sector. Ofcom cannot reasonably continue to ignore this problem given the connection between employment standards and service quality. We repeat our call on Ofcom to help address this issue by levelling the playing field on mail integrity and consumer protection, whilst also pushing for more powers and duties in this area.
- It is not reasonable for Ofcom to make direct comparisons on customer satisfaction between Royal Mail and Amazon, which as Ofcom points out is also a retailer. Ofcom should be doing everything possible to ensure that Royal Mail - as the universal service provider with high fixed costs and stretching quality of service targets - can compete effectively with Amazon and other parcel operators.
- We disagree with Ofcom's proposal not to extend the scope of Essential Condition 1 on mail integrity to other parcel operators to reduce the risk of parcels loss or damage.

- We believe that Ofcom's proposal to extend some complaints handling procedures to other parcel operators and to require parcel operators to better meet the needs of consumers with disabilities represents an initial step in the right direction.
- However, we do not believe these measures go nearly far enough and it is not sufficient to rely on voluntary guidance for parcel operators in relation to complaints handling. There should be rules in place to ensure parcel companies take all necessary steps to deal with customer complaints effectively and to provide proper redress for customers when things go wrong.

USO parcels regulation

- We strongly disagree with Ofcom's proposal not to introduce tracked products into the scope of the universal service. Tracking in the USO would deliver better outcomes for customers and ensure the USO evolves with user expectations. It would also help to secure the financial sustainability of the universal service by creating a more level playing field and helping Royal Mail to offset the decline in letter revenues.
- Ofcom's C2X parcels consumer research clearly demonstrates that users value tracking, and we believe that Ofcom's decision not to include tracking is inconsistent with its own findings.
- We are disappointed that Ofcom has not proposed to increase the delivery frequency requirement for USO parcels (i.e. no increase from 5 days to 6 days a week) as this would strengthen the universal service and help to meet demand for parcels.
- We support Ofcom's proposal to maintain the requirements on Royal Mail to provide USO services for parcels weighing up to 20kg.

Access for bulk mail

- It is welcome that Ofcom is not proposing to extend access regulation to small parcels or other bulk letter services (e.g. business reply mail), as this would adversely impact Royal Mail's revenues and the security of the universal service.
- It is also welcome that Ofcom has decided not to impose price controls on access charges.
- However, it is disappointing that Ofcom has not agreed to exclude Fulfilment Large Letters (FLLs) from access regulation, as these are treated more like a parcel than a letter.

Wider developments

- We believe Ofcom should take a stronger lead on environmental, social and governance issues. It is extremely disappointing that there is no mention of Ofcom pushing for more powers and duties on labour and environmental standards in the postal sector as called for by CWU.

CWU's response to Ofcom's questions

Section 2: Approach to regulation

Question 2.1: *Do you agree with Ofcom's proposed regulatory approach for regulating postal services over the next 5-year period (2022-2027)? If not, please explain the changes you think should be made, with supporting evidence.*

5. We support Ofcom's proposal to maintain Royal Mail's current commercial and operational flexibility. However, we disagree with Ofcom's proposal to "enhance the regulatory framework" by holding Royal Mail to account for the achievement of its planned efficiency savings. This places the emphasis for sustainability on cost cutting when the universal service is heavily reliant on revenue growth to be financially sustainable. We urge Ofcom to shift the emphasis towards commercial flexibility for Royal Mail and to use the regulatory framework to actively encourage the growth, diversification and evolution of the universal postal service.

Section 3: Financial sustainability

Question 3.1: *Do you agree with our proposed approach to sustainability of the universal service? Please substantiate your response with reasons and evidence.*

6. We welcome Ofcom's proposal to "continue to allow Royal Mail considerable commercial flexibility" to help support the long-term financial sustainability of the universal service. However, we are concerned that this commercial flexibility does not go anywhere near far enough. For example, Ofcom's decision not to include tracking in USO First and Second Class parcels limits Royal Mail's scope to compete on a level playing field and to maximise its revenue generating opportunities in this area.
7. The regulatory framework must provide sufficient commercial flexibility for Royal Mail to offset the rapid decline in letter volumes which has accelerated during the Covid-19 pandemic. Ofcom notes that the revenue effect of this volume decline was offset in part by price rises and a switch to more expensive products such as Tracked.⁵ The growth in overall parcel volumes represents an opportunity for Royal Mail to offset the decline in letter revenues, and Royal Mail is rebalancing its operations to reflect the changes in volume mix between letters and parcels. Regulation must allow Royal Mail to maximise the potential of these opportunities to help secure the financial sustainability of the universal service.

Section 4: Efficiency

Question 4.1: *Do you agree with our proposal to maintain the historic approach but with the additional requirement on Royal Mail to set and report against a five-year expectation?*

⁵ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, p.22 accessed at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/228970/Consultation-Review-of-postal-regulation.pdf

Please substantiate your response with reasons and evidence.

Question 4.2: *Do you agree with our proposals in relation to the monitoring and publication of the efficiency expectations prepared by Royal Mail? Please substantiate your response with reasons and evidence. Please substantiate your response with reasons and evidence.*

8. No, we disagree with the proposals outlined in both these questions. The CWU opposes Ofcom's plans to strengthen its approach to efficiency and to hold Royal Mail to account on this. Rather than helping to secure the postal USO, we believe this will increase pressure for further cost cutting which will put the scope and quality of the universal service at risk.
9. Royal Mail already has numerous efficiency incentives, including intense competitive pressures and high expectations from shareholders on investment returns. Ofcom's proposal for an additional requirement on Royal Mail will introduce an unnecessary burden, resulting in excessive pressure to cut costs which will undermine the economics of the universal service and its future sustainability.
10. As we said in our response to the CFI, Royal Mail has delivered and continues to deliver substantial efficiency gains with the cooperation of its workforce and the CWU, and we do not believe Ofcom is giving Royal Mail sufficient credit for this.⁶
11. The CWU has agreed internal productivity measures in Royal Mail that will continue to drive efficiencies. This is reflected in Royal Mail's latest annual report which refers to the Pathway to Change Agreement of December 2020, stating that *"The agreement with the CWU gives us a platform for future growth, and the means to achieve productivity benefits of 3% plus this year. In 2021-22, more than £100 million in benefits are linked to effective execution and delivery of benefits associated with the agreement...We should deliver a 3% plus productivity benefit this year"*.⁷

Section 5: USO letters regulation

Question 5.1: *Do you agree with our proposed approach of maintaining the current regulatory safeguards of the safeguard cap, high quality of services standards, and requirements on access to universal services? Please substantiate your response with reasons and evidence.*

The safeguard cap cost pressures should be offset with mechanisms in other areas

12. As we said in our response to the CFI, we are concerned that not giving Royal Mail any more headroom in the price cap on second class letters means that this cannot be used as a lever for financial sustainability. This approach risks undermining the universal service, especially in view of letter volume decline. Ofcom's decision to retain the existing price caps on second class mail until March 2024 will help to ensure prices are

⁶ CWU response to Ofcom's review of postal regulation – call for inputs, 20th May 2021, see paras 17 - 21, accessed at: <https://www.cwu.org/wp-content/uploads/2021/07/CWU-Response-to-Ofcom-Royal-Mail-Regulatory-Review-CFI-20-May-2021.pdf>

⁷ Royal Mail plc annual report and financial statements 2020-21, accessed at: https://www.royalmailgroup.com/media/11465/rmg_ar2020-21.pdf

affordable, which we agree is an important objective. However, the cap will inevitably bring financial pressures for the universal service and this reinforces the case for introducing changes (such as tracking in the USO) that offset these pressures and support the growth of the universal service.

High quality of service standards depend on growth and investment

13. We support Ofcom's proposal to maintain the current quality of service standards in USO services. We agree that quality of service targets help to ensure users receive the service promised, and that their mail will arrive on time. However, Ofcom must also recognise that maintaining a high quality of service relies on having in place a properly funded workforce capable of delivering the universal service to the required standard. This will rely on enabling Royal Mail to grow its revenues in new areas to offset letter volume decline, rather than focusing too heavily on cost efficiencies which would risk undermining quality of service standards.

Question 5.2: Do you agree with our proposal to not impose further regulatory requirements on Royal Mail in relation to Redirection pricing, following implementation of its improved Concession Redirection scheme? Please substantiate your response with reasons and evidence.

14. As we said in our response to the CFI, we agree that the redirection service remains an important part of the USO and that this should be an affordable service. **We support Ofcom's proposal not to impose a new requirement on Royal Mail to provide a discounted residential redirection service** to financially vulnerable customers, on the basis that Royal Mail's Concession Redirection service has been revised to help meet the needs of financially vulnerable customers.

Question 5.3: Do you have any further evidence on other issues raised in this section?

15. No.

Section 6: Parcels market regulation

Question 6.1: Do you agree with our assessment of the parcels market, namely that it is generally working well for consumers, but improvements are needed in relation to complaints handling and meeting disabled consumers' needs? Please substantiate your response with reasons and evidence.

16. **No, we disagree with Ofcom's provisional conclusion that the parcels market is working well for customers**, and we believe new standards and safeguards for postal users are urgently needed. We do agree that improvements are required in relation to complaints handling and meeting disabled consumers' needs, but these must be more robust and based on clear regulations rather than a voluntary code of practice.

Mail integrity conditions should be extended to all parcel operators

17. Intense competition combined with the low cost of entry and use of 'gig economy' employment models by unregulated parcels operators has created a race to the bottom

on cost and quality in the parcels market. This makes it impossible for Royal Mail to compete on a level footing in this area. Ofcom's expectation in 2017 that unfettered competition would resolve the problems of poor service quality has not transpired, and we are concerned that Ofcom continues to take this view despite considerable evidence of market failure.⁸

18. As we said in response to the CFI, the evidence points to an urgent need to introduce regulations in the parcels sector to protect mail from damage, theft, loss and interference.⁹ Against this background **we are extremely concerned that Ofcom has decided not to extend Essential Condition 1 on mail integrity to parcel operators other than Royal Mail.** Extending minimum mail integrity and consumer protection requirements to other operators would help to level the competitive playing field and bring important improvements to quality of service standards across the parcels sector.
19. Consumer group respondents to Ofcom's CFI said the parcels market is not working as well as it should, and the recently published Citizens Advice consumer work plan for 2022/23 reports that **1 in 5 (21%) people have a delivery issue every single week.**¹⁰ Ofcom's own research has also identified notable service related problems. For example, Ofcom's B2C (Business to Consumer) parcels consumer research found that 64% of parcel receivers had experienced at least one delivery problem, whilst Ofcom's C2X (Consumer to Anywhere) parcels research found that at least 50% of senders had experienced a problem.¹¹ Ofcom's B2C parcels consumer research found that in the last three months, 16% of respondents had experienced 'parcel was not delivered' and 10% 'goods in packaging were damaged.'¹²

There is a clear need to address poor service amongst unregulated parcel operators

20. Ofcom's C2X parcels consumer research found that satisfaction amongst senders for Royal Mail is higher than the average for other suppliers. Most people (89%) were satisfied with Royal Mail, compared with only 72% for other operators.¹³

⁸ In March 2017, Ofcom published a statement following its Review of the Regulation of Royal Mail, in which it concluded that sufficient mail integrity measures were already in place to maintain quality of service for non-universal service parcels, and that no further regulation was necessary (Ofcom, statement 1st March 2017, paras 6.10 – 6.21), available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/97863/Review-of-the-Regulation-of-Royal-Mail.pdf

⁹ CWU response to Ofcom's review of postal regulation – call for inputs, 20th May 2021, see paras 72 - 78, accessed at: <https://www.cwu.org/wp-content/uploads/2021/07/CWU-Response-to-Ofcom-Royal-Mail-Regulatory-Review-CFI-20-May-2021.pdf>

¹⁰ The Citizens Advice consumer work plan 2022/23, February 2022, p.28, accessed at: <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/v3%20Consumer%20work%20plan%202022-23.pdf>

¹¹ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, para 6.55, p.113

¹² Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, para 6.179, p.139

¹³ C2X parcels Consumer Research 2021, P.13, accessed at: https://www.ofcom.org.uk/_data/assets/pdf_file/0031/229288/c2x-parcels-consumer-research.pdf

21. Ofcom's B2C research found that net satisfaction rates with deliveries varied by company, with Amazon scoring the highest at 89%, compared with Royal Mail at 80%, whilst Yodel and Hermes scored lowest at 61% and 57% satisfaction respectively.¹⁴

Amazon is not an appropriate comparison to make with Royal Mail

22. **It is not reasonable for Ofcom to make direct comparisons on customer satisfaction between Royal Mail and Amazon, which as Ofcom points out is also a retailer.** This makes Amazon an outlier in the postal market that can achieve its customer satisfaction ratings in a way that Royal Mail and other delivery operators cannot replicate.

23. **Amazon is amongst the worst of operators in its treatment of its workforce and its environmental impact** because it relies heavily on underpaid sub-contractors driving their own, mostly non-electric vehicles.¹⁵ However, unlike Hermes and Yodel, these poor standards have not led to poor customer service ratings according to Ofcom's B2C research. This may be because as a blended retailer and delivery operator that automatically tracks the progress of all its items from the warehouse to the customer, Amazon has full oversight and control of the retail transaction and delivery process, making it easier to resolve customer complaints. It is also likely to be because when an Amazon parcel is damaged, stolen or goes missing either in transit or from someone's doorstep, Amazon generally replaces the item free of charge with little or no proof required of the customer. Aside from being extremely inefficient, wasteful and harmful to the planet, there is no doubt this will have a favourable effect on Amazon's satisfaction ratings.

24. It is worth noting that although Amazon has the highest net satisfaction score of all the operators in Ofcom's B2C research, the same research finds that Amazon and Hermes were the delivery companies most likely to be contacted about issues in the past three months. This suggests a problem with poor quality of service, which Amazon deals with through tracking and replacement of lost items at no cost, enabling it to maintain its high satisfaction rating.

25. **These differences between Amazon and other operators should be properly acknowledged and accounted for in Ofcom's research with relevant adjustments made before drawing comparisons of the kind in Ofcom's report.** Furthermore, **it is wrong for Ofcom to compare Royal Mail with Amazon's customer satisfaction ratings whilst at the same preventing Royal Mail from introducing tracking facilities in the USO**, given that Amazon's unrestricted use of tracking will be a contributing factor to its ability to score highly on customer satisfaction.

26. **Ofcom should be doing everything possible to ensure that Royal Mail - as the universal service provider with high fixed costs and stretching quality of service targets - can**

¹⁴ 2022 review of postal regulation: B2C parcels consumer research, produced by Yonder for Ofcom, January 2021, p.15 accessed at: https://www.ofcom.org.uk/_data/assets/pdf_file/0032/229289/b2c-parcels-consumer-research.pdf

¹⁵ Couriers delivering for Amazon 'earn as little as £1.83 an hour and speed to hit targets', Mirror, 13th February 2021, accessed at: <https://www.mirror.co.uk/news/uk-news/couriers-delivering-amazon-earn-little-23496372>

compete effectively with Amazon and other parcel operators. Instead, it seems Ofcom expects Royal Mail to deliver the universal service with regulatory restrictions on its offering whilst also cutting its costs to a level more comparable with unregulated, non-USO providers who can pick and choose where they operate, do not have to meet minimum standards, and impose surcharges in harder to reach areas. This prioritises competitive interests ahead of the universal postal service, which appears to be in direct conflict with Ofcom's primary statutory duty to carry out its functions in a way that will secure the provision of a universal postal service.

27. **We also note that Ofcom's research is based on a small sample size** of only 2019 respondents from which results for over nine operators are drawn. This makes Ofcom's findings considerably less robust than the **research from Citizens Advice, based on 6,000 respondents for five operators, which found that Amazon does not perform significantly better than Royal Mail** in any area of customer experience.¹⁶

Labour standards and the impact on customer service

28. As we said in our response to the CFI, we believe that **the unregulated parcels market is failing its own workforce, and that this has a detrimental impact on customers.** It is **extremely disappointing that Ofcom has not addressed this problem or even acknowledged that the CWU raised this issue as a genuine major concern, supported by evidence.** There is an urgent need to address false self-employment, poverty pay, extreme labour market exploitation, and abysmal health and safety standards in the unregulated parcels sector.
29. Tackling labour market exploitation will help to address poor service standards in the parcels market, as there is undoubtedly a connection between employment conditions and service standards. Citizens Advice has found evidence of a link between driver pressure and poor consumer outcomes.¹⁷ As the Citizens Advice work plan 2022/23 states: **"..the market is structured around the needs of retailers and parcel delivery companies. This has created a high pressure and high workload environment for parcel delivery drivers, in turn negatively affecting consumers"**.¹⁸
30. We reject the position Ofcom has previously taken that it has no powers to tackle this issue because it has no remit for employment standards. **Ofcom has a responsibility to ensure the postal market serves citizens and consumers and if customers are being failed because of exploitative employment practices then this should automatically become an issue for Ofcom.**

¹⁶ Parcels league table, Citizens Advice, 24th November 2021, accessed at:

<https://www.citizensadvice.org.uk/about-us/our-work/policy/policy-research-topics/post-policy-research-and-consultation-responses/post-policy-research/parcels-league-table/>

¹⁷ Sorry we missed you, how pressure on delivery drivers impacts consumer outcomes for parcel delivery, Citizens Advice, July 2021, accessed at:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Post%20and%20Telecoms/How%20pressure%20on%20delivery%20drivers%20impacts%20consumer%20outcomes%20for%20parcel%20delivery.pdf>

¹⁸ The Citizens Advice consumer work plan 2022/23, February 2022, p.28, accessed at:

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/v3%20Consumer%20work%20plan%202022-23.pdf>

31. **Ofcom should address labour market exploitation in the first instance by levelling the regulatory playing field on mail integrity and customer complaints handling procedures.** This will help to raise investment and standards across the sector as a whole, which will in turn address the race to the bottom on pay and conditions of employment. Ofcom should also consider what additional amendments could be made to the postal regulatory framework to drive up standards in the parcels market. Beyond this, as we said in our last submission, **Ofcom should push for more powers and duties on employment standards if these do not exist at present.**¹⁹

Question 6.2: Do you agree with our assessment of the consumer issues in relation to complaints handling and our proposed guidance? Please substantiate your response with reasons and evidence.

32. **We agree with Ofcom that improvements in complaints handling are needed, but we do not believe Ofcom’s proposed voluntary guidance will be adequate to address the problem.** Ofcom has concluded that parcel operators ‘*need to make substantial improvements in customer service and complaints handling*’. We fully support this assessment, but substantial improvements will not be made without regulatory requirements accompanied by enforcement action. Ofcom must move to introducing such changes at this stage if any real progress is to be expected in this area.

33. Evidence of parcel delivery failures demonstrates that the existing consumer protection measures for users of parcel services are inadequate. Resolver has reported that although a customer’s contract is with the retailer rather than the delivery company, lots of the complaints they see revolve around how hard it is to contact the delivery firm to arrange a collection or redelivery.²⁰ Ofcom’s C2X parcels research found that participants had more inconsistent experiences with the complaints-handling processes of parcel operators other than Royal Mail. The consensus amongst participants appeared to be for all operators to be covered by the same complaints standards.²¹

34. At present, Consumer Protection Condition 3 (CP3) imposes minimal requirements on the majority of operators, whilst requiring strict processes and procedures for Royal Mail. Other providers must simply ‘*establish...inexpensive procedures for dealing with complaints of consumers of postal services*’ while Royal Mail must meet a range of requirements in the provision of this service such as the ability to complain orally or in writing; they must make a record of complaints received; respond to the complainant within a given timescale; publish their complaints handling procedure; and publish a consumer complaints report each year. The Universal Service Provider must submit this information to Ofcom.²²

¹⁹ CWU response to Ofcom’s review of postal regulation – call for inputs, 20th May 2021, see para 6

²⁰ Dodgy delivery service? Find out how to get that package on track, resolver news, 16th June 2020, accessed on 5th May 2021 at: <https://news.resolver.co.uk/package-deliveries-your-rights/>

²¹ C2X parcels Consumer Research 2021, P.13

²² Consumer protection condition 3: Complaints handling and redress, Ofcom, accessed on 5th May 2021 at: https://www.ofcom.org.uk/_data/assets/pdf_file/0014/8321/con3.pdf

35. We believe there is a strong case for Ofcom to level the playing field in this area and extend CP3.3 to all parcel delivery companies so that all parcel operators have to provide an effective complaints handling and redress service. This should include the requirement to publish an annual complaints report and to submit this information to Ofcom.

Question 6.3: Do you agree with our assessment of the issues faced by disabled consumers in relation to parcel services and our proposed new condition to better meet disabled consumers' needs? Please substantiate your response with reasons and evidence.

36. We agree with Ofcom's assessment of the issues faced by consumers with a disability in relation to parcel services, but we are not convinced that Ofcom's proposed solution is robust enough to address the problem.

37. We support the introduction of a new condition to require parcel operators (including Royal Mail) to publish policies and procedures for how the specific needs of consumers with a disability will be met, including how delivery staff on the ground will act on their delivery requests.

38. However, we are concerned that Ofcom is proposing not to specify detailed requirements of what an operator must do to meet the needs of consumers with a disability. This means there will be no minimum requirements set, there will be no industry standard, and parcel operators will be free to treat this as a tick box exercise and do the bare minimum. We are also concerned that there is no mention of how the Condition will be monitored and enforced in practice.

Section 7: USO parcels regulation

Question 7.1: Do you agree with our proposal not to include tracking facilities within First and Second Class USO services? Please substantiate your response with reasons and evidence.

39. No, we disagree with Ofcom's proposal not to include tracking facilities within USO services. This will give unregulated operators a competitive advantage at the expense of the universal postal service. It will also prevent the universal service from growing and evolving to meet changing user needs. We agree with the Post Office that preventing tracking in the USO risks 'fossilising' the universal service when it needs to remain relevant. Preventing tracking in the USO will be detrimental to postal users, particularly those with less market power who rely exclusively on the universal postal service, including those in harder to reach areas. Ofcom has a clear duty to prioritise the interests of such users rather than placing them at a disadvantage by excluding them from services that the majority of users now expect as standard.

Ofcom's own research justifies the inclusion of tracking in the USO

40. Ofcom's rationale for excluding tracking in the USO appears to be based on a selective use of evidence and we do not believe it properly reflects the high value customers place on tracking facilities presented in Ofcom's own research. For example, Ofcom's

C2X parcels consumer research report finds that 72% of senders agree ‘increasingly I expect to track the delivery progress of something I send’.²³ The same proportion (72%) of senders agree ‘when I am receiving a delivery, I try to use tracking information to plan when I am in’. 74% of marketplace sellers said that ‘increasingly, people expect to be able to track the delivery progress of items they have bought from smaller online sellers’.

Ofcom’s three tracking issues combined have the highest share of importance at 21%

41. **We are concerned that Ofcom’s C2X research does not properly measure the relative importance of tracking against other issues because it divides tracking into three separate categories.**²⁴ If these three tracking related issues were combined into one category, tracking would become the factor with the highest share of importance at 21%. This appears to contradict the C2X research analysis that ‘delivered with care’ (19%), ‘proof of delivery’ (16%), and ‘lowest price’ (16%) are the three factors with the highest share of importance for respondents.²⁵ It also calls into question Ofcom’s assessment that proof of delivery may be more important to users than the addition of tracking facilities to First and Second Class parcels.²⁶

Tracking is high in importance for consumers in the B2C parcels market

42. Ofcom’s B2C research found that tracking is amongst the top four most important delivery factors for customers from a list of 16 tested factors.²⁷ At 9.8% share of importance, tracked delivery had only a marginally lower share than the other top three factors of ‘ability to rely on parcel arriving on time’ (10.6%), ‘low or no delivery charge’ (10.0%), and ‘careful handling of package’ (9.9%).

Excluding tracking from the USO would disadvantage remote users

43. The inclusion of tracking facilities in the USO will ensure that the universal postal service keeps pace with market changes. It will also mean that those who rely entirely on the universal service will not be placed at a disadvantage because they have no access to a tracked service at a reasonable price. This includes postal users in more remote areas of the UK who are liable for a surcharge when using any other operator than Royal Mail. For those users to be excluded from the benefits of tracking, which Ofcom’s own research so clearly demonstrates is highly valued by the majority of users, is plainly against the principles of universal service provision. Allowing tracking in the USO would also provide more choice and value for money for all postal users.

²³ C2X parcels Consumer Research 2021, P.12, accessed at:

https://www.ofcom.org.uk/data/assets/pdf_file/0031/229288/c2x-parcels-consumer-research.pdf

²⁴ These categories include ‘tracking information on stage and day of delivery’ (9%), ‘real time tracking on progress’ (8%), and ‘notification of expected delivery window (8%)’.

²⁵ C2X parcels Consumer Research 2021, accessed at:

https://www.ofcom.org.uk/data/assets/pdf_file/0031/229288/c2x-parcels-consumer-research.pdf

²⁶ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, para 7.20, p.151

²⁷ 2022 review of postal regulation: B2C parcels consumer research, produced by Yonder for Ofcom, January 2021, p.14 accessed at: https://www.ofcom.org.uk/data/assets/pdf_file/0032/229289/b2c-parcels-consumer-research.pdf

The market is not already providing tracking at competitive rates for all

44. We note that competing parcel operators were against the inclusion of tracking in the USO, saying that the market was already supplying tracking.²⁸ However, due to the adding of surcharges when delivering to harder to reach areas, it is clear that non-USO operators are not supplying tracking for all users at competitive rates. This demonstrates that the market is not delivering for all postal users and that this represents a clear reason to include tracking in the USO.

Tracking will not adversely impact C2X competition, which is already highly developed

45. We strongly disagree with Ofcom's view that the inclusion of tracking in the USO could adversely impact the emergence of competition in the C2X segment.²⁹ The C2X market is already highly developed with substantial choice available to customers following nearly two decades of postal liberalisation. Ofcom's own research demonstrates this, with its C2X research finding that "73% of marketplace sellers had used a supplier other than Royal Mail in the last 12 months"³⁰ and "63% of C2X senders had used a supplier other than Royal Mail in the last 12 months, suggesting they will choose the service that best matches with their needs when sending different parcels."³¹

Tracking in the USO would help to improve services for customers

46. It is also important for Ofcom to consider that the use of tracking in the USO would help to identify customer service failures in the postal network which will in turn benefit customers through improved service levels. There is no doubt that if Royal Mail was permitted to introduce tracking for USO parcels, Royal Mail would be in a far better position to raise its customer satisfaction ratings.

The proposal to exclude tracking is not justified by the USO VAT exemption

47. We do not believe it is reasonable for Ofcom to justify the exclusion of tracking in the USO by reference to the VAT exemption for first and second class services, including parcels, under the USO. We also disagree that Royal Mail would have a 'price advantage' or there would be an 'unlevel playing field in the emerging market' in this area if tracking was permitted in USO services.³²

48. On the contrary, the VAT exemption levels the playing field by reflecting the fixed costs incurred by Royal Mail of delivering the universal postal service, which are not incurred by any of its competitors. The exemption also recognises the important social role played by the universal service. Ofcom appears to overlook this point, presenting the exemption as a competitive advantage to Royal Mail rather than making clear its purpose of helping to meet the costs of delivering an essential public service.

²⁸ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, para 7.9, p.148, accessed at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/228970/Consultation-Review-of-postal-regulation.pdf

²⁹ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, see p.158

³⁰ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, see para 6.41, p.108

³¹ Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, see para 7.41, p.158

³² Review of Postal Regulation, Consultation, Ofcom, 9th December 2021, see paras 7.48 and 7.49, p.159

Question 7.2 Do you have any further evidence or views on other issues relating to USO parcels regulation? Please substantiate your response with reasons and evidence.

USO parcel deliveries should be extended to six days a week

49. We are disappointed that Ofcom has not proposed to increase the delivery frequency requirement for USO parcels (i.e. no increase from 5 days to 6 days a week). As we said in our response to the CFI, we believe there should be an extension of the USO to cover parcel delivery six days a week. This would help to meet increased demand for parcels whilst also strengthening the universal service and making six day letter delivery more efficient.³³

USO parcels weight limit should be maintained

50. We support Ofcom's proposal to maintain the requirements on Royal Mail to provide USO services for parcels weighing up to 20kg, as reducing the weight limit could be detrimental to customers. As we said in our response to the CFI, the requirement for Royal Mail to collect and deliver parcels up to 20kg under the USO is important in meeting the needs of citizens and consumers. Reducing the weight limits for USO parcels would reduce the scope of the USO and make services more costly for customers. Currently the market is not providing a reliable and affordable service at this parcel size in all parts of the country, and high charges are being imposed by courier companies for non USO services in some areas.

Section 8: Access for bulk mail

Question 8.1: Do you agree with our proposals on the scope of access regulation? Please substantiate your response with reasons and evidence.

Question 8.2: Do you agree with our proposals on access price regulation? Please substantiate your response with reasons and evidence.

Question 8.3: Do you agree with our approach and proposals for the non-price terms of access regulation? Please substantiate your response with reasons and evidence.

51. As we said in our response to the CFI, we are concerned about the high level of access competition and the impact that this may have on the financial sustainability of the universal service in a declining letters market.

52. We said we believe that any move towards expanding the products included in Royal Mail's mandatory access requirements would impact its revenues further. In particular, **there should be no mandation of parcels in the access regime as this would seriously jeopardise investment in the network and could undermine the sustainability of the USO.**

53. We therefore support Ofcom's proposal not to extend access regulation to small parcels or other bulk letter services (e.g. business reply mail), as this would impact on Royal Mail's revenues. It is also welcome that Ofcom has decided not to impose price controls

³³ CWU response to Ofcom's review of postal regulation – call for inputs, 20th May 2021, see paras 59

on access charges. However, we disagree with Ofcom's proposal not to exclude Fulfilment Large Letters (FLLs) from access regulation. These items are treated more like a parcel than a letter in Royal Mail's operations as they require manual sortation, and therefore we believe that they should be excluded from access regulation for the same reason as small parcels are excluded.

Wider developments

54. As we said in our response to the CFI, we consider that in light of growing concerns of citizens, consumers and investors in relation to environmental issues and employment standards, Ofcom must take a lead on addressing these issues within the postal sector.
55. **We called on Ofcom to push for more powers and duties if necessary to help prevent a race to the bottom on labour, consumer and environmental standards within the postal sector.** It is extremely disappointing that Ofcom has not made any such proposals. Ofcom's vague commitment to "*work with Government and the postal sector as needed to help meet the UK's net-zero carbon target*" displays a lack of action or planning in this area and does not demonstrate the kind of vision or direction required to address the delivery sector's impact on the environment.³⁴
56. Citizens Advice recently noted in its work plan 2022/23 that the parcel market and consumers' appetite for home delivery is having a negative impact on the environment.³⁵ As the postal regulator, Ofcom should have a responsibility to proactively address this issue. Ofcom could begin by incentivising investment in electric vehicles to help reduce the carbon emissions being generated by a highly competitive market in which multiple operators deliver to the same addresses. Royal Mail is unusual amongst postal operators in investing significantly in its fleet of electric vehicles. Ofcom should support such an approach by ensuring that Royal Mail's electric vehicle costs are not treated as cost inefficient. Ofcom should also explore ways of encouraging investment in low carbon initiatives across the postal sector as a whole.

For further information on the view of the CWU contact: ✂

³⁴ The Dirty Delivery Report; counting the carbon cost of online shopping, money.co.uk, 3rd November 2020, accessed at: <https://www.money.co.uk/guides/dirty-delivery-report-2020>

³⁵ The Citizens Advice consumer work plan 2022/23, February 2022, p.28, accessed at: <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/v3%20Consumer%20work%20plan%202022-23.pdf>