

Changing the USO to include RM's tracked services

The Universal Service Order (USO) does not prevent Priority Services or Standard Services from having tracking. The USO was amended in 2013 to delete the wording that these services “do not have a tracking facility”.

It is hence unclear why RM are arguing for the “prohibition on USO tracking” to be removed, when the USO has no such prohibition.

However, DUSP 1.6.1(a) & (b) do require that RM (as the designated Universal Service Provider) provides Priority Services and Standard Services that “do not include provision of a tracking facility”.

“tracking facility” means a facility enabling a sender to monitor the progress of a postal packet through the postal network

It would seem that it is a change to DUSP1, not the USO, which RM could be arguing for – but they are not.

In the MCF's response to the Consultation on the Review of Postal Regulation, it said:

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.

The MCF said in its response to the Call For Inputs that it was not convinced that any change to bring tracking for First Class / Second Class services within the scope of the Universal Service Order (USO) was warranted and we set out our case for this.

We said that by not making tracking a USO requirement and leaving DUSP1 unchanged, Ofcom would ensure that RM continues to offer non-tracked, standard First Class/Second Class services - while we believed it is very likely that RM would continue to offer tracked First Class/Second Class services as a commercial decision, without being under regulatory obligation. Leaving the USO and DUSP1 as they are would hence mean customers will continue to have the choice of tracked and untracked services.

We also pointed to the clear impact on competition if tracking were added to the USO requirements and/or allowed for these services by DUSP1, because of the VAT-exemption which would result.

We therefore support Ofcom's proposal not to include tracking facilities within First and Second Class USO services.

Since the Call For Inputs, Ofcom has conducted further consumer research and found “high levels of satisfaction with Royal Mail's existing services” and “people who use Royal Mail's First or Second Class services (which do not include tracking) said that these services have most of the features they were looking for.” Further, Ofcom found that adding tracking to the product design of the standard First or Second Class service did not enhance the mean scores for customer satisfaction.

Ofcom has also closely examined the market place for tracked services, in which several operators compete with RM.

RM already has significant market power in lightweight parcels and including tracking in the USO would give further dominance to one operator, making it potentially impossible for other operators to compete against a VAT-exempt price. This could result in a *de facto* monopoly in this market

segment and loss of competition in part of the parcels market may lead to poorer quality of service for consumers, with reduced incentive for higher standards or service innovations.

There is no clear evidence to warrant adding to the USO something which the competitive market is already providing. The purpose of the Universal Service is to ensure that, regardless of market developments, users can access affordable services which meet their reasonable needs at affordable prices. There is no evidence that users cannot do that now.

We believe all of this assessment by Ofcom supports Ofcom's conclusion that tracking should continue to be a required feature of the Special Delivery Guaranteed product, while retaining the requirement that the First and Second Class services should not include tracking facilities.

The MCF has not changed its position on this and would reiterate the points made.

To pick up on a point made in our Consultation response:

“by not making tracking a USO requirement and leaving DUSP1 unchanged, Ofcom would ensure that RM continues to offer non-tracked, standard First Class/Second Class services - while we believed it is very likely that RM would continue to offer tracked First Class/Second Class services as a commercial decision, without being under regulatory obligation. Leaving the USO and DUSP1 as they are would hence mean customers will continue to have the choice of tracked and untracked services.”

- we'd like to add that, as far as we're aware, RM's Tracked services are not available 'over the counter' at Post Offices and RM has no plans to change that.

We believe this supports the argument for not making any change to the existing regulations, as it is vital that basic postal services for social and SME users are always available at Post Offices and any change that could lead to RM removing or making it more difficult or more expensive to use non-tracked services would be a major degradation of the core, USO services.

As MCF has said, we do not see any prospect of RM ceasing to offer Tracked services as they do now, as a commercial decision, so it is vitally important to retain the obligation on RM to offer untracked services that all users are easily able to access.

In its response to the Consultation, RM makes the following arguments and the MCF's comments in rebuttal follow each point:

“Royal Mail needs to be able to do the same and provide all consumers and SMEs with an affordable, one-price-goes-anywhere, fully tracked service”

- RM already does this, so adding Tracking to the USO will not mean any change. Making tracking part of the USO could mean RM stops offering the existing USO untracked services

“Ofcom continuing its policy of not allowing us to offer tracking in the USO will lead to a rapid migration away from USO services.”

- This isn't an argument for adding Tracking to the USO; if volume does move away from the USO, it does not necessarily mean RM will lose revenue, RM's USO services and non-USO Tracked services already compete with other operators' services.

“Tracking unlocks greater visibility to support quick, effective and transparent complaint handling and dispute resolution. These are areas of the parcels market Ofcom has identified and called out as requiring improvement, and yet it is refusing to allow USO customers to benefit from tracking. Tracking also provides the platform to better support disabled customers through greater control and transparency on progress through the network (including allowing for inflight redirections and alternative delivery days).”

- RM has not explained how “Tracking unlocks greater visibility to support quick, effective and transparent complaint handling and dispute resolution”, or provided any information to support his assertion.

Complaints made to RM by consumers are (very largely) about late delivery, loss or damage – none of which would be given “greater visibility” from tracking an item at stages in its journey and when RM already provides for USO services a free Proof of Posting and (for an extra charge) proof of delivery and date of delivery through Signed For and Delivery Confirmation.

RM is also under USO and DUSP1 requirements to provide a Registered and insured service, including tracking, which it does with Special Delivery.

- Ofcom’s proposals to require delivery operators to allow additional measures for disabled consumers are about recipients, not posters – changing DUSP1 to allow tracking of Priority and Standard services is not relevant. An ability of recipients to request features such as inflight redirection and alternative delivery are dependent on the recipient having the tracking ID code, which typically means they have used on-line shopping to make a purchase and chosen to have the item delivered using a Tracked service – that will not be affected by changing DUSP1 to allow tracking of Priority and Standard services.

“Contrary to Ofcom’s concerns, the provision by competitors of consumer parcel services in the UK is already well established, and there is no evidence that suggests that, if we were to offer tracking on USO services, it would drive out or materially undermine that competition.”

- Yes, competition in consumer parcel services is established (and has been developing), but that competition would be very severely damaged if RM’s Tracked services became VAT-exempt (as they would if DUSP1 were changed)

“Of critical importance is that, the market is not delivering for customers in deep rural and remote areas of the UK: this is exactly where the USO is designed to step in. The market does not provide an affordable, one-price-goes-anywhere tracked product throughout the UK.”

- The USO (and DUSP1) already require RM to provide an affordable, one-price-goes-anywhere tracked product: Special Delivery
- RM also already provides this with its Tracked services – is RM saying that Special Delivery and its Tracked services are unaffordable? Ofcom, when reviewing User Needs and the USO, have not come to any view that Special Delivery is unaffordable.
- If other operators’ offers means they surcharge for deep-rural and remote areas / don’t offer next day, that merely means RM’s Tracked services offer the benefit of same-price-anywhere and next day delivery and compete on that basis – which must be an important market advantage to RM, if these features are of “critical importance”

“Removing the outdated prohibition on USO tracking could enhance competition”

- No, it is very much the opposite – making Tracking part of the USO would severely damage competition, because of the VAT advantage RM would gain

“in C2X, competition in this segment is strong. Other C2X carriers have large scale, national networks enabled by their presence in the B2C segment. Allowing us to offer tracking in the USO is unlikely to harm competition.”

- What competition there is in C2X would be severely damaged were RM’s Tracked services to become VAT-exempt

“VAT exemption: We recognise that other parcel companies do not benefit from the VAT exemption. However, as set out in our response to question 7.1 on tracking, the VAT exemption is

in place to contribute to the cost of providing the USO. Our analysis has demonstrated that it only partially offsets the cost that we incur and therefore does not provide a material competitive advantage. Moreover, some customers of C2X services, and in particular larger sellers over online marketplaces, are VAT registered, and therefore effectively face an ex-VAT price from other operators.”

- The VAT exemption for USO services is not there “to contribute to the cost of providing the USO”. The reason some products and services are VAT exempt is to recognise the need for consumers to be able to use basic products and services without the additional (and to them recoverable) cost of VAT.
- The purpose of the USO and DUSP1 is to ensure that the provision of some basic postal services is protected through a requirement on the Designated Universal Service Provider.
- In all markets, ‘public necessity’ products/services are VAT-exempt, while other products/services are VATed; it is the same in the postal market, where USO services are VAT exempt.
- While some customers of C2X services may be VAT registered (and so can recover the VAT charges on those services), the clear majority are not VAT registered so would have a significant reason to use RM’s Tracked services, were they to become VAT-exempt, leading to a significant distortion in a competitive market.
- RM (and Oxera) have conveniently failed to recognise the impact on competition of RM’s Tracked services becoming VAT-exempt
- Gaining the significant commercial advantage of VAT-exemption for its Tracked services is the only real reason why RM is arguing for the change to the USO
- At the same time, RM has blocked customer requests for a Tracked Access service, to unfairly protect its commercial position by restricting competition
- RM is also arguing for ‘fulfilment large letters’ to be taken out of the Access mandate, to end the customer choice currently available and materially improve its competitive position in a market (lightweight goods fulfilment) where it already has a dominant position.
- If the USO were to be changed to allow tracking, that could only be if:
 - (a) the VAT-exemption on lightweight ‘parcels’ were removed; or
 - (b) Ofcom required RM to offer Tracked Access services.