

# Royal Mail plc

**Response to Ofcom's Review of Postal Regulation - Consultation,  
December 2021**

Royal Mail Submission

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Confidential information which has been redacted is indicated by: [✂]

**Public version**



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## Executive Summary

1. Royal Mail wants to be the UK's most trusted, reliable and customer-focused delivery company. We remain committed to the universal, affordable, one-price-goes-anywhere nature of the Universal Service. These are the foundation stones of this much cherished service.
2. Ofcom recognises that *"the postal market is undergoing an unprecedented period of uncertainty and significant change as the market continues to transition towards parcels and away from letters, against the backdrop of the Covid-19 pandemic."*<sup>1</sup> Yet, in the face of these changes, its proposed solution for the next five years is to stick with the regulatory status quo on our commercial flexibility. This is a mistake.
3. We urge Ofcom to reconsider this approach, particularly on tracking and USO flexibility more broadly. The Universal Service must be allowed to adapt to life in the 21st century. This will be an ongoing journey. As we set out in our half year results, given the significant changes we see in the market, we believe the best way to ensure that the USO meets customer needs is to rebalance our UK business model more towards parcels. As demand for letters reduces, Ofcom's User Needs Review suggests that our customers are open to change. As customer needs change, so must we. We will engage with Government and Ofcom further on this area.
4. Royal Mail needs Ofcom to support us on this journey by removing the handcuffs on innovation and delivering a better customer experience. As it currently stands, its proposals are inconsistent. For example, Ofcom rightly focuses on complaint handling and disabled customers in its review. The parcel industry, as a whole, needs to raise the consumer bar to a consistently high level. But, Ofcom is refusing to remove the prohibition on tracking in the USO. For USO customers, tracking is a vital enabler to improving the customer experience through greater visibility and control.
5. Regulatory change can ensure the postal Universal Service stays relevant for future generations. We want to provide the products and services that customers actually want in line with their changing needs. To do this, we need a flexible regulatory framework that enables innovation. Otherwise Ofcom will be responsible for depriving USO customers of new services and innovations in a digital age.
6. We have identified a number of areas for change through this regulatory review, grouped under three key themes below:

**Theme 1 – We need a flexible regulatory framework that enables innovation and allows Royal Mail to meet changing consumer needs.**

### Tracking in the USO

7. Tracking is offered as standard by all parcel operators. That's because it is what consumers want and need. 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. We already scan all barcoded USO items through the network and so have the capability to offer tracking for USO customers and Ofcom should welcome and support this. Ofcom continuing its policy of not allowing us to offer tracking in the USO will lead to a rapid migration away from USO services.
8. 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).

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<sup>1</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.17.

9. Ofcom's own consumer research demonstrates that tracking is the most important factor when choosing a parcel operator. In its C2X research, Ofcom sub-divides tracking into three features: tracking information on stage and day of delivery; real time tracking on progress; and notification of expected delivery window. When combined, tracking is the most important factor to customers when sending parcels at 21% versus proof of delivery at 16%. Ofcom fails to aggregate these features resulting in the incorrect conclusion that tracking ranks lower in importance than proof of delivery. These findings regarding the importance of tracking for consumers are supported by Royal Mail's own consumer research and the experience of marketplaces, including [§].
10. 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. Competitors already have the relevant infrastructure in place to offer consumer parcel services as a result of their bulk and return offerings, such as pick up and drop off (PUDO) networks and collections on delivery, which reduces barriers to entry and expansion. There was no material impact on competitors when we introduced Delivery Confirmation on USO parcel services in 2017, and indeed competition has only grown since then.
11. 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. Competitors surcharge delivery to, and collection from, deep rural and remote areas of the UK and often fail to provide a next day service. Customers in Northern Ireland as well as the highlands and islands across the UK should expect the same service as customers in urban areas. For example, Hermes charges an additional 'location charge' of £2.40 to send a parcel to Northern Ireland and only offers a 2 to 4 day service, not next day. Removing the outdated prohibition on USO tracking could enhance competition by providing more consumer choice, innovation and value for money and the protection of all customers, not just those in easy to serve areas.

### **Special Delivery**

12. On Special Delivery, the current 1pm specification is an outdated 'one-size-fits all' approach. We need delivery times that are convenient for both customers and SMEs. We propose two delivery times – by 1pm and by 6pm. This would remove £[§]m in costs by avoiding costly inefficient diversions resulting from the current 1pm option, which many customers simply do not want, as the recipient is unlikely to be in.

### **Proof of delivery**

13. On proof of delivery, we firmly believe that a photo-only option, and where specifically needed a photo and signature option, meets consumer needs to provide evidence from the recipient. This approach has become standard among parcel operators and supports efficient delivery as well as effective dispute resolution processes. Technology and consumer preferences have moved on from a simple signature. It may have been right when the regulations were written, but we need much greater flexibility to meet changing customer needs now that we can provide photos, GPS data and other technologically-enabled proofs of delivery (e.g. one-time-PIN or mobile device authentication).

## **Theme 2 - Clarity on efficiency and financial sustainability.**

### **Financial sustainability**

14. Ofcom's current framework is short sighted and demonstrably failed when tested in the early days of the pandemic when it became apparent that Ofcom had no effective tools to support the Universal Service. Ofcom focusses inappropriately on viability not sustainability. Our proposed additional equity

metrics and tramline approach addresses this oversight. We urge Ofcom to reconsider our proposals in this area.

### **Efficiency**

15. We have all the incentives we need to be efficient. If additional action is required, Ofcom should review whether our efficiency ambition is within a reasonable range. Reporting against metrics set at the start of a five-year period will become a burdensome and increasingly irrelevant exercise. This is harking back to a traditional utility style regulation not appropriate in the postal industry. The postal industry moves too quickly. Ofcom should rely on our medium-term market guidance to provide insight into our efficiency ambitions rather than relying on traditional utility style regulatory tools.

### **Environmental sustainability**

16. There are growing demands from customers, the Government, shareholders and the public at large for progress on climate change. Ofcom's principal duty under section 3 of the Communications Act 2003 includes furthering the interests of citizens. Ofcom could play a role in promoting environmental sustainability and could support the transition to a low-carbon economy across the postal industry.

### **Theme 3 – Mandate downstream access services only where necessary.**

17. We agree with Ofcom's conclusion that the access framework is working well, with access operators holding over 70% of retail bulk mail volumes. We also agree with Ofcom's finding that the parcel industry is competitive and welcome Ofcom's proposal not to widen the access mandation to include parcels.
18. We are, however, perplexed by Ofcom's proposal decision not to remove fulfilment large letters from the access mandation - its own evidence and analysis suggests it should have gone further. Contrary to Ofcom's view, we can readily identify and extract fulfilment large letters due to existing content control processes and supply chain differences. Moreover, there is little evidence to suggest that this would in any way hinder customer choice, and hamper one-stop shopping, for mailers, such as banks.

## Summary of regulatory positions

Below we provide a short summary covering our specific regulatory positions for each of Ofcom's questions in its consultation. We provide more details and evidence to support these positions in the chapters below aligned to Ofcom's individual questions:

### Ofcom's Question

### Royal Mail's Response

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#### Theme 1 – We need a flexible regulatory framework that enables innovation and allows Royal Mail to meet changing consumer needs

**Question 6.1:** Do you agree with our assessment of the parcel 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.

We support Ofcom's overarching conclusion that the parcel market works well and is driving benefits for consumers. Ofcom's findings reflect those set out in the Oxera report submitted as part of our Call for Inputs response.

However, Ofcom has understated the level of competition in B2C small parcels and C2X. The evidence supports that:

- in B2C small parcels, Royal Mail no longer retains a material competitive advantage.
- 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.

Ofcom should therefore change its position in both fulfilment large letters (see our response to question 8.1) and tracking (see our response to question 7.1).

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**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.

No. We disagree with Ofcom's proposal not to include tracking facilities within First and Second Class USO services for a number of reasons:

- Ofcom's own consumer research shows that tracking is the most important factor when choosing a parcel operator.
  - Tracking is also a vital enabler to a better customer experience. It unlocks greater visibility to support quick, effective and transparent complaint handling and dispute resolution. These are issues Ofcom has identified in the parcels market yet it is refusing to allow USO customers to benefit from tracking.
  - The market is not delivering for customers in rural and remote areas of the UK. That is exactly where the USO is designed to step in. The market does not provide a one-price-goes-anywhere tracked product throughout the UK. Competitors surcharge in more rural and remote areas of the UK and often fail to provide a next day service.
  - A modern, 21st Century USO requires tracking to remain relevant and sustainable. In the UK, tracking is offered as standard by all parcel operators because it is what consumers demand. We also have the capability to offer tracking to all USO parcels customers. It would allow us to simplify our product set, which is what consumers want and need from the USO.
  - The strategic direction of marketplaces is towards requiring tracking. Ofcom continuing its policy of not allowing tracking in the USO will therefore lead to a rapid migration away from USO services. This accelerates the reduction of revenues collected from USO services. It leads to a greater reliance on non-USO (commercial) revenue streams to support the high fixed costs of the USO which in turn undermines its long-term prospects.
  - There is no evidence that suggests that if Royal Mail were to offer tracking on USO services, it would drive out or materially undermine competition. We commissioned Oxera to undertake an independent analysis of the C2X market and how tracking in the USO would affect competitive dynamics therein. Oxera find that competition in the C2X market is strong and allowing tracking in the USO will be unlikely to harm competition.
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## Ofcom's Question

## Royal Mail's Response

**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 VAT exemption is in place for services in the 'public interest'. Royal Mail's analysis shows that we incur a c.£[X]bn net cost delivering our 'public postal services' obligations, which already includes the impact of the VAT exemption on USO and access products.
- Finally, Ofcom has not recognised the extent of stakeholder desire for tracking in its review of responses to its Call for Inputs. We believe that Ofcom may have given too much weight to theoretical, unproven, competition concerns, while underestimating the benefits consumer would get from tracking in USO in reaching its conclusion on tracking. It also does not appear to have engaged some of the largest UK online marketplaces (including [X]).

No. We are surprised that Ofcom has not taken this opportunity to reduce prescriptive regulation, enabling greater innovation. In particular:

- Special Delivery: We propose two delivery times - retaining the current 1pm guarantee for those who need it while introducing a 6pm option. It would avoid costly inefficient diversions and meet customer needs.
- Proof of Delivery: Technology and consumer preferences have moved on from a simple signature. We need much greater flexibility now that we can provide photos, GPS data and other technologically-enabled proofs of delivery (eg one-time-PIN or mobile device authentication). We firmly believe that a photo-only option, and where specifically needed a photo and signature option, meets consumer needs to provide evidence from the recipient.

We are also disappointed that Ofcom is not re-evaluating the level of the safeguard caps. We do not believe that affordability is a concern for the overwhelming majority of Stamp users, even those on low income.



## Ofcom's Question

## Royal Mail's Response

**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.

Yes. Royal Mail, unlike other parcel operators, is already regulated on how customer complaints and redress are handled. Royal Mail supports Ofcom's desire to ensure the parcel industry, as a whole, ups its game to a consistently high level.

We make the following key points on Ofcom's proposed approach and guidance:

- Tracking underpins the most effective complaints process
- Consistent oversight, measurement and reporting is vital
- Ofcom's guidance must ensure positive consumer outcomes

**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.

Yes. Royal Mail is committed to ensuring that postal services are accessible to all consumers including disabled consumers. Ofcom should take into account three key issues when considering the imposition of a new condition.

- Tracking underpins a better experience for disabled customers and supports item specific instructions
- Scope must be managed carefully to ensure costs are proportionate
- Ofcom must provide sufficient time for effective rollout

**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.

Yes. Royal Mail welcomes Ofcom's proposal not to impose further regulatory requirements in relation to Redirection pricing. Royal Mail has worked hard, investing heavily in Redirection products, and has undertaken significant consumer research to ensure that Redirection products meet the needs of customers.

**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.

Yes. The current five day parcel USO requirements should be retained. The current USO requirements on Royal Mail up to 20kg should be retained.

## Ofcom's Question

## Royal Mail's Response

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

Ofcom's current approach to meters regulation should be retained.

## Theme 2 - Clarity on efficiency and 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.

We agree with Ofcom that parts of its framework, such as the definition of the Reported Business and the 5-10% EBIT margin, remain appropriate for the next regulatory cycle. But, changes to the monitoring framework are required in order for Ofcom to effectively identify when sustainability issues may arise. Therefore, we ask that Ofcom implements our proposal as set out in our Call for Inputs response for the inclusion of (1) equity metrics; (2) tramlines and (3) guidance on the actions Ofcom may take to remedy financial sustainability concerns.

We don't agree that Ofcom should require Royal Mail to provide annual five-year confidential forecasts. Instead, we ask that Ofcom uses (1) our medium-term market guidance (when this has been issued) and the confidential business plan or forecast that supports it and (2) subsequent three-year confidential annual business plans that update the financial forecast. The timing of the medium-term guidance will be dependent on when Royal Mail has sufficient clarity on our medium-term strategy to communicate it to the market. Timelines for requirements for provision of more detailed financial information should flow from this date. They need to take account of the Statutory reporting cycle, ensuring the requirements are proportionate and do not put an unreasonable burden on Royal Mail. We ask that Ofcom discuss the appropriate timelines for announcing relevant information with us before any final decision is taken to ensure any requirements are proportionate and achievable.

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## Ofcom's Question

**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? 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.

## Royal Mail's Response

We agree with Ofcom that it is appropriate to maintain its historic approach to monitoring efficiency. We already face all the incentives we need to be efficient. Ofcom recognises we have significant incentives to do so.

We don't agree that Ofcom should require the publication of a regulatory five-year efficiency expectation. This regulatory intervention is unnecessary as (1) there is already significant transparency around our expectations; (2) Ofcom's proposals are too technical to support public scrutiny; and (3) there is no evidence from Ofcom showing why this intervention is proportionate or demonstrating that the benefits outweigh any costs.

There is a better and more coherent alternative. Instead, Ofcom could hold Royal Mail to account for achieving targets we have necessarily outlined to the market (for example at a Capital Markets Day presentation), then the metrics, associated plans and information – and the tracking – will remain relevant and wholly appropriate.

We believe that we have delivered on efficiency where we can but accept that there is more to do. If Ofcom view additional measures as necessary – beyond relying on our market guidance - it should give serious consideration to our proposal to set out whether it views the efficiency ambition in our business plan as within a reasonable range.

As we have set out in our answer to Question 4.1, we believe we have a better and more coherent alternative – namely to rely on the market guidance for the UK Business. As part of developing our medium-term guidance, we will need to identify and provide appropriate key metrics demonstrating our efficiency expectations. Ofcom should use these metrics.

## Ofcom's Question

**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.

## Royal Mail's Response

There are growing demands from customers, the Government, shareholders and the public at large for progress on environmental sustainability. Yet, the regulatory framework remains silent on this. Ofcom could support the decarbonisation of the postal industry. In the short-term, this could involve collecting data from companies and publishing a league table to help consumers choose the most sustainable delivery options based on carbon emissions per parcel. In the longer term, Ofcom must explore how best to integrate environmental performance into the regulatory framework.

For our views on the 5-year settlement period (2022-2027) period, please see our response to Q7.1 covering tracking in the USO.

## Theme 3 – Mandate downstream access services only where necessary

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

We welcome Ofcom's proposal not to widen access regulation to include parcels – the parcels market is already highly competitive. We also agree with Ofcom's proposal not to impose access to other points in the network – there is no evidence to support such a move.

However, we do not agree with Ofcom's proposal not to remove fulfilment large letters from access regulation. Ofcom's own evidence and analysis leads to the conclusion that it should have suggested this. Fulfilment large letters are in effect small parcels and subject to the same competitive conditions. Failure to remove unnecessary regulatory restrictions now could have a detrimental impact on the development of E2E competition including the incentives for technical developments and innovation in this area.

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

Yes. We welcome Ofcom's decision not to impose any price control on access services. The current access framework has been effective in facilitating the growth of access, with access operators holding over 70% of retail bulk mail volumes. We are supportive of Ofcom's statement that replacing it with either a direct price control or price cap on access carries a significant risk of regulatory failure.

However, we are disappointed that Ofcom has not taken the opportunity to consider making changes to the regulatory margin squeeze control (USPA6). We believe these modifications would benefit customers by facilitating increased competition for large bulk mail contracts. We would therefore welcome engagement with Ofcom so we can build its confidence in making these important amendments.

### Ofcom's Question

**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.

### Royal Mail's Response

Yes. We are supportive of Ofcom's proposal not to expand any of the non-price terms of access regulation. The existing regulations already allow Ofcom to address any industry concerns and any changes in this area would only serve to reduce the commercial flexibility which ensures all parties can respond with agility to industry developments and ultimately generate the best outcomes for our access customers and the users of mail services.

# **Theme 1**

**We need a flexible regulatory framework that enables innovation and allows Royal Mail to meet changing consumer needs.**

## Parcels market assessment (Q6.1)

**Ofcom 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.**

### Overview

We support Ofcom's overarching conclusion that the parcels market *"works well overall, and that competition is driving benefits for consumers."*<sup>2</sup> We expect competition to intensify further and consumers to continue to benefit over the coming years.

Ofcom intends that the regulatory framework will remain in place until 2027. Ofcom should take a forward-looking view for regulating parcel services, taking into account how the market and competition will likely continue to develop over the period. In particular:

- **B2C small parcels:** We are pleased Ofcom found that *"competition is growing for the smaller bulk parcels."*<sup>3</sup> However, we believe the evidence shows that Royal Mail no longer retains a material competitive advantage. To that end – as we set out in our response to question 8.1 (Access) - we are perplexed by Ofcom's proposed decision not to remove fulfilment large letters from the access mandation;
- **C2X:** We believe Ofcom's position that Royal Mail *"still retains significant competitive advantages"*<sup>4</sup> overstates our competitive position. As shown in the accompanying Oxera report, competition in this segment is strong and allowing us to offer tracking in the USO will be unlikely to harm competition. Other C2X carriers have large scale, national networks enabled by their presence in the B2C segment. This shows no signs of abating. Of the four reasons that Ofcom cites for Royal Mail's competitive advantage - habit, loyalty and trust; large network; economies of scale and scope; and the VAT exemption - we believe the differences between us and other parcel operators is much smaller than Ofcom sets out.

We believe the evidence supports Ofcom changing its position in both fulfilment large letters and tracking.

### Context

**We support Ofcom's conclusion that the parcels market *"works well overall, and that competition is driving benefits for consumers."***<sup>5</sup>

- 1.1 The UK has the most competitive and dynamic parcels sector in Europe. The COVID-19 pandemic has fuelled further growth and competition the sector. According to Apex Insight's European Parcels Market Report, total internet retail sales in Europe reached €525bn in 2020, from €424bn in 2019, up by nearly a quarter in one year. Since 2015, the year on year growth has averaged 17.6% per year. The highest level of internet retail is in the UK, where average spend per head was approximately €2,600 in 2020, up from €1,900 in 2019. This is a c37% increase.<sup>6</sup> Ofcom's Annual Monitoring report found that total parcel volumes in the UK increased by 48% year-on-year, to 4.2 billion items in 2020-21.<sup>7</sup>

<sup>2</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Box on Page 94.

<sup>3</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.29.

<sup>4</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.44.

<sup>5</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Box on Page 94.

<sup>6</sup> Apex Insight, European Parcels Market Insight Report 2021, Slide 5.

<sup>7</sup> Ofcom, Annual Monitoring Update on Postal Services – 2020-21, Page 25, Para 4.13.

- 1.2 The findings from Ofcom’s assessment of the UK parcels market closely reflect those set out in the Oxera report we submitted as part of our Call for Inputs (CFI) response. In particular, in terms of the level of competition in the market, Oxera found that *“it is a highly competitive sector where numerous end-to-end operators have challenged and continue to challenge Royal Mail across a full spectrum of segments.”*<sup>8</sup> And in terms of competition leading to good consumers outcomes, Oxera found that *“the parcels industry is dynamic and effectively competitive, working to the benefit of consumers.”*<sup>9</sup> This is a view shared with other parcel operators, who generally view the parcels sector as working well for consumers.<sup>10</sup>

## **B2C segment**

### **We are pleased Ofcom found that “there is competition across the B2C segment”<sup>11</sup>**

- 1.3 We agree with the overall findings from Ofcom’s assessment of competition across this segment. Ofcom’s findings are largely in line with those set out in Oxera’s market analysis of the parcel delivery industry in the UK. As we set out in our CFI response, our market share have been falling in this area. Our share of B2C volumes declined by [X] percentage points from 2016-19 (and [X]pp since 2013-19). In 2019-20, Royal Mail’s volume share in B2X was c. [X]% (and only c. [X]% in revenues).<sup>12</sup>
- 1.4 Competition is strong across all types of deliveries. Ofcom has recognised that different parcel operators have tailored their products to meet different customer needs. Some operators focus on basic, low cost delivery, while others offer a faster, premium service. Carriers offer the full spectrum of services - next day and later than next day; premium and economy; small and light; and large and heavy.<sup>13</sup>
- 1.5 We are pleased Ofcom has recognised the impact that investment, innovation and capacity have had and continue to have on competition in the segment. The customer experience has improved, benefiting from increased flexibility, speed, choice and lower prices. The increase in demand is providing entry and expansion opportunities to all parcel operators. Investment levels are high, as operators boost capacity, introduce automated parcel hubs, and improve processes to reduce unit cost and keep prices competitive. Carriers have also innovated to remain competitive, improving product and delivery options to differentiate themselves and win share.
- 1.6 We believe Ofcom’s consultation underplays the extent to which Amazon Logistics has disrupted the industry economics. Ofcom correctly recognises that Amazon developed its position as a major parcel operator through vertically integrating its delivery services with its position as a large online retailer.<sup>14</sup> However, since it entered the sector in 2013, it has grown to become the second largest B2X carrier, achieving a volume share of [X]% in 2019-20.<sup>15</sup> It has diverted significant volumes away from both Royal Mail and other carriers. In addition to providing delivery services to its retail arm, Amazon Logistics now also delivers on behalf of third-party Amazon Marketplace retailers. It does this not only for sales made over the Amazon Marketplace but also increasingly sales by those retailers on other platforms, marketplaces or their own websites. We also understand that Amazon Logistics is now looking to supply parcel services to entirely independent third parties - i.e. parties who do not have any connection with the Amazon Marketplace - and could extend this offering to consumers. We therefore expect Amazon Logistics to continue to have a disruptive effect and significant impact on competition in the B2C segment over the coming years.

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<sup>8</sup> Oxera, Parcels Market Report, May 2021, Page 2.

<sup>9</sup> Oxera, Parcels Market Report, May 2021, Page 4.

<sup>10</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.48.

<sup>11</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.29.

<sup>12</sup> Oxera, Parcels Market Report, May 2021, Table 4.1 and 4.2.

Please note, B2C losses have been partially compensated by B2B gains.

<sup>13</sup> Oxera, Parcels Market Report, May 2021, Page 3.

<sup>14</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.25.

<sup>15</sup> Oxera, Parcels Market Report, May 2021, Page 4.



**We welcome that Ofcom is not proposing to extend the mandated access regime to include parcels.**

- 1.7 As explained in our response to question 8.1 on access, we welcome Ofcom’s proposed decision not to widen the access regulation to include parcels. Extending access regulation to parcels carries the risk of weakening competition and would be contrary to supporting effective competition in the parcels market.

### **Small B2C parcels**

**Ofcom has found that “competition is growing for the smaller parcels”<sup>16</sup> However, we believe the evidence shows that Royal Mail no longer retains a material competitive advantage.**

- 1.8 Ofcom’s consultation set out that Royal Mail previously had a commercial advantage in delivering small parcels, as they could be delivered using the same network that delivers USO parcels and letters. However, this position has “eroded over time” as competition in this segment has grown.<sup>17</sup> The evidence presented across both Ofcom and Oxera’s market assessments suggest that small parcels are increasingly competitive. However, we believe the competitive environment Royal Mail and other carriers are exposed to – summarised below – means Ofcom should have gone further and found that Royal Mail no longer retains any material competitive advantage. In particular:

- **Expansion into small parcels** - Several parcel operators have expanded their service offering into small parcels. This allows them to compete for all types of parcel customer. Hermes, Yodel and DPD have all introduced small parcel products which compete with Royal Mail;
- **Excess capacity** – Excess capacity across the sector for much of the year means parcel operators can deliver additional volume – including small parcels - at relatively low cost. This puts downward pressure on prices across the sector;
- **Amazon Logistics** – Amazon has developed its own delivery network to deliver parcels of all sizes, large and small. It is able to insource significant volume through vertically integrating its delivery services with its position as the UK’s largest online retailer. It also delivers small parcels on behalf of other retailers. Amazon’s entry into the segment has shifted the competitive dynamic for all parcel operators;
- **Specific operator strengths** – Different parcel operators have different business models, each with specific strengths. Royal Mail relies on its foot delivery network to deliver small parcels cost-effectively.<sup>18</sup> Other operators have other advantages which allow them to compete for small parcels with Royal Mail. For example, Amazon Logistics benefits from its upstream integration, while Hermes and Yodel benefit from their cheaper and more flexible employment models;<sup>19</sup>
- **Delivery density** – Continued volume growth across the sector across a number of years – which was then further fuelled by the COVID-19 pandemic – has enabled parcel operators to increase the scale of their networks. With time, this has supported better delivery density and reduced unit cost. It has been an important facilitator for parcel operators to broaden the customers and products that they can profitably serve, including delivering smaller parcels.

- 1.9 The increasingly competitive nature of the small parcels segment described above is supported by our decline in market share in this area. As set out in Oxera’s parcels market assessment, while Royal Mail currently delivers the majority of letter-boxable items - estimated at [X]% in 2019 - we believe our share has declined by over [X]pp since 2016.<sup>20</sup>

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<sup>16</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.29.

<sup>17</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.28.

<sup>18</sup> Royal Mail also has additional cost of providing the Universal Service, which other operators are not subject to. Further information on this, can be found in paragraph 1.55.

<sup>19</sup> Oxera, Parcels Market Report, May 2021, Page 5.

<sup>20</sup> Includes an estimate of Amazon Logistics’ volumes.

1.10 From a forward-looking perspective, we expect competition across this segment to intensify further. Online retail sales are highly likely to continue to grow allowing other parcel operators to further increase in scale and density. Continued innovation will improve products and reduce unit costs - as they have done historically – creating opportunities for profitable expansion. Operators are constantly contesting all types of B2C contracts as a result.

**We are perplexed that Ofcom has not proposed to remove fulfilment large letters from access regulation.**

1.11 As we set out in our response to question 8.1 on access, Ofcom’s own evidence and analysis leads to the conclusion that it should have removed fulfilment large letters from access regulation. Ofcom recognises that fulfilment large letters are used to send goods and that they are more akin to small parcels, both in terms of their packaging and the competitive conditions they are subject to. It relies on complexity with differentiating between fulfilment and correspondence large letters as a defence for the status quo, and suggest that removing fulfilment large letters may hamper customer choice and convenience. We disagree with both counts and believe they should have been removed from access regulation.

### **C2X segment**

**Competition in the C2X segment is already well established. Other carriers have large scale, national networks enabled by their presence in the B2C segment.**

1.12 We are pleased Ofcom has recognised that *“competition in the C2X segment has been growing in recent years”* and that it *“expect competition to continue to develop”*.<sup>21,22</sup> This closely aligns with our position in our CFI response. However, Ofcom also notes that Royal Mail *“still retains significant competitive advantages”*.<sup>23</sup> We believe this overstates the competitive position. Competition in this segment is already strong.

1.13 Ofcom cite four reasons why *“Royal Mail continues to have a strong position in C2X”*<sup>24</sup> Namely: habit, loyalty and trust; large network; economies of scale and scope; and the VAT exemption. We do not believe the evidence provided by Ofcom in each of these areas when considered in the round gives Royal Mail a material competitive advantage over other operators. In particular:

- **Habit, loyalty and trust:** Firstly, the extent to which a customer trusts a parcel carrier is within the control of each parcel carrier. It is perfectly valid for a carrier who customers trust to have a commercial advantage. If customers’ trust in other operators is lower than the trust they have in Royal Mail, it is up to other parcel operators to improve their service. Royal Mail’s objective is to own trust at the doorstep. Secondly, the increasing use of online platforms and sales over marketplaces is breaking down the prevalence of habit and loyalty. Customers are able to compare a range of products and prices online. The buoyant returns industry means customers are also likely to have used an alternative operator or pick up and drop off (PUDO) location other than a Post Office to make a return. Royal Mail’s incumbency advantage from habit and loyalty has diminished and will continue to diminish over the duration of the next regulatory period;
- **Large network:** Other parcel carriers – through parcel shop networks - have utilised newsagents, convenience stores, supermarkets, petrol stations, pharmacies, retail shops and lockers across the country to act as customer PUDO points and get parcels into their networks. Ofcom notes that these parcel shop networks *“tend to have lower coverage in rural areas compared to urban areas”* in comparison to the Post Office, meaning customers may find it difficult to access alternative providers.<sup>25</sup> However, we believe that other parcel operators have commercial freedom to strike

<sup>21</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.39.

<sup>22</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.44.

<sup>23</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.44.

<sup>24</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Sub-heading, page 106.

<sup>25</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.38.

deals at further locations and improve their service in these rural areas if they wish. Furthermore, Royal Mail no longer has an exclusivity agreement with the Post Office. Again, other parcel carriers are therefore able to strike deals with Post Office and access their network. There has also been an increase in doorstep collections for consumer parcels, with vans often delivering within the locality or even delivering to the same address;

- **Economies of scale and scope:** Other operators in the C2X segment also have large scale, national networks. Driven by their presence in the B2C segment, they deliver to the vast majority of addresses in the UK. We do not believe Royal Mail has any commercial competitive advantage. On the contrary, the USO means that Royal Mail is required to deliver to areas of the country that other carriers don't have to. We must incur additional costs. We are also required to offer our C2X products on a universal basis, which does not apply to other operators;
- **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.

1.14 As we set out in our CFI response, innovation continues at pace across the sector, including at Royal Mail.<sup>26</sup> Amazon in particular is dictating the services that customers expect. USO consumers should also benefit from these innovations in the same way that Ofcom expects USO consumers benefit from efficiency driven by competition.

1.15 We believe the differences between us and other parcel operators is much smaller than Ofcom sets out. Over recent years there has been business model convergence resulting in the differences between B2X and C2X diminishing over time.

#### **Allowing tracking in the USO will not distort competition.**

1.16 As we have set out in our response to question 7.1 on tracking, we believe Ofcom should allow tracking in the USO. Firstly, we strongly believe that Ofcom has misinterpreted the key findings from its consumer research, as tracking comes out as both important and a key need for consumers and SMEs. And secondly, we have commissioned Oxera to independently analyse the C2X market and how tracking in the USO will affect competitive dynamics. It shows that competition is strong and allowing tracking in the USO will be unlikely to harm competition.

#### **Regulatory ask**

1.17 We support many of the findings from Ofcom's market assessment. However, we believe Ofcom's findings on B2C small parcels and C2X have understated the level of competition. Royal Mail no longer retains a material competitive advantage in B2C small parcels. Competition in C2X is strong and unlikely to be harmed by allowing tracking in the USO. We believe the evidence supports Ofcom changing its position in both the regulatory requirement for us to offer access for fulfilment large letters (see our response to question 8.1) and continuing to prohibit us from offering tracking in the USO (see our response to question 7.1).

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<sup>26</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, March 2021. Para 6.3 to 6.5.

## Tracking in the USO (Q7.1)

**Ofcom 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.**

### Overview

No. We disagree with Ofcom's proposal not to include tracking facilities within First and Second Class USO services. Tracking should be allowed on large letters and parcels.

We want to be the number one choice for our customers by providing the services that they need and want. We should be able to offer all USO customers – consumers and SMEs – an affordable, one-price-goes-anywhere, fully tracked service. This will allow USO customers to have greater visibility and control over their parcels.

Ofcom's own consumer research shows that tracking is the most important factor when choosing a parcel operator. In its C2X research, Ofcom sub-divides tracking into three constituent parts: (1) tracking information on stage and day of delivery; (2) real time tracking on progress; and (3) notification of expected delivery window. To enable a fair and accurate comparison with other factors, these elements of an overall tracking service should be aggregated. When these three features - all of which are features of tracking - are aggregated, it is clear that tracking is the most important factor to customers when sending parcels at 21% versus proof of delivery at 16%. Ofcom fails to do this leading to the incorrect conclusion that tracking ranks lower in importance than proof of delivery.

Ofcom also says it wants to improve complaint handling and dispute resolution in the parcels industry as well as services for disabled customers. Tracking is a vital enabler to a better customer experience. It unlocks greater visibility to support quick, effective and transparent complaint handling and dispute resolution. It 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). Accordingly, it is unclear why Ofcom is proposing to retain the prohibition on tracking, when it clearly helps achieve Ofcom's wider aims to improve the customer experience.

The market is not delivering for customers in rural and remote areas of the UK. That is exactly where the USO is designed to step in. The market does not provide a one-price-goes-anywhere tracked product throughout the UK. Competitors surcharge to deliver to, and send from, more rural and remote areas of the UK and often fail to provide a next day service. Customers in Northern Ireland as well as the highlands and islands across the UK should expect the same service at the same price as customers in urban areas. For example, Hermes charges an additional 'location charge' of £2.40 to send a parcel to Northern Ireland and only offers a 2 to 4 day service not next day.<sup>27</sup> Ofcom's view that the market is generally meeting the needs of users for tracking services does not reflect the available evidence.

A modern, 21st Century USO requires tracking to remain relevant and sustainable. In the UK, tracking is offered as standard by all other parcel operators because it is what consumers demand. We also have the capability to offer tracking to all USO parcels customers. It would allow us to simplify our product set, which is what consumers want and need from the USO. Ofcom's current proposal acts as a barrier to achieving this. Given the strategic direction of marketplaces towards requiring tracking – and the low margin, high operational gearing of the Universal Postal Service – a five year framework that stops us modernising could undermine the finances of the USO and be very damaging.

<sup>27</sup> Sub 1kg standard parcel from London to Northern Ireland, as of 24 Feb 2022.

There is no evidence that suggests that if Royal Mail were to offer tracking on USO services, it would drive out or materially undermine competition. We commissioned Oxera to undertake an independent analysis of C2X services and how tracking in the USO would affect competitive dynamics. Oxera find that competition in the C2X segment is strong, and is likely to remain so, even if we offered tracking on our USO items. Oxera demonstrate that C2X services have been built off the back of a competitive and growing B2X segment that has led to the development of a number of expansive PUDDO and logistics networks that allow other operators to serve C2X customers at low marginal cost.

Universal Postal Providers in other countries have the same VAT exemption for Universal Services with tracking allowed on basic USO products. The VAT exemption is in place for services in the 'public interest'. Royal Mail's analysis shows that we incur a c.£[><]bn net cost delivering our 'public postal services' obligations, which already includes the impact of the VAT exemption on USO and access products.

Finally, Ofcom has not recognised the extent of stakeholder desire for tracking in its review of responses to its Call for Inputs. We believe that Ofcom may have given too much weight to theoretical, unproven, competition concerns, while underestimating the benefits consumer would get from tracking on USO services. It also does not appear to have engaged some of the largest UK online marketplaces (including [><]). This regulatory settlement is intended to last for a five-year period. Ofcom must ensure they have given proper consideration to how key players needs will change in the future.

## Context

- 1.18 We want to be the number one choice for our customers by providing the services that they need and want. We should be able to offer all USO customers – consumers and SMEs – an affordable, one-price-goes-anywhere, fully tracked service. This will allow USO customers to have greater visibility and control over their parcels.
- 1.19 The first sentence of Ofcom's draft workplan rightly recognises: *"Throughout society, we are increasingly relying on the UK's communications networks for the way we live, work, shop and use public services – from video calls with loved ones to remote working, enjoying ultra-high-definition films and programmes, or tracking parcels being delivered to our homes (emphasis added)."*<sup>28</sup> Royal Mail also wants every household in the UK and every business whether small, medium or large, to be able to participate in the e-commerce revolution, including in relation to parcel tracking.
- 1.20 But Ofcom's provisional decision to not remove the prohibition on allowing us to offer tracking in the USO will achieve the opposite of this. Instead of supporting this societal need by simply removing an outdated prohibition, it is preventing customers of universal parcel services from benefitting from tracking. Ofcom itself recognises that *"the postal market is undergoing an unprecedented period of uncertainty and significant change as the market continues to transition towards parcels and away from letters, against the backdrop of the Covid-19 pandemic."*<sup>29</sup> Yet, in the face of these changes, its proposed solution for the next five years is to stick with the regulatory status quo on our commercial flexibility. This is a mistake.
- 1.21 To regain relevance and stay sustainable, the Universal Service must be allowed to adapt to life in the 21<sup>st</sup> century. We want to provide the products and services that customers actually want in line with their changing needs. We therefore urge Ofcom to reconsider its position on allowing us to provide tracking on USO services, otherwise it will be responsible for depriving USO customers of new services and innovations in a digital age. This seems contrary to Ofcom's principal statutory duty to *"further the interests of citizens and consumers."*<sup>30</sup>

<sup>28</sup> Ofcom, Ofcom's proposed plan of work 2022/23, December 2021, Para 1.1.

<sup>29</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.17.

<sup>30</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 2.8.

**Ofcom’s own consumer research shows that tracking is the most important factor when choosing a parcel operator.**

1.22 We urge Ofcom to review the conclusions of its consumer research. We believe that it has erred in its interpretation of the key findings, which do not support the conclusions it has drawn from them. This is for the following reasons.

1.23 First, Ofcom argues that “[tracking] is not high priority for users compared to other features such as proof of delivery.”<sup>31</sup> This conclusion is incorrect in the light of Ofcom’s actual findings. Ofcom’s research shows that tracking is in fact the most important feature for parcel customers. In its research, Ofcom has sub-divided tracking into three constituent parts:

- tracking information on stage and day of delivery;
- real time tracking on progress; and
- notification of expected delivery window.

1.24 An overall tracking service would incorporate all of these constituent parts (alongside inflight options). Yet Ofcom does not aggregate these features to reach a conclusion on the importance of such a service to customers. Instead, Ofcom assesses the importance of each constituent part separately. This has led to the incorrect conclusion that tracking ranks lower in importance than proof of delivery. In fact, tracking in total (i.e. when each constituent element of a tracking service is combined) accounts for 21% of importance, whilst proof of delivery is only 16%.

**Figure 1.1: Ofcom MaxDiff analysis<sup>32</sup> - Tracking subdivided into three core elements**

Important factors when deciding how to send a parcel (MaxDiff analysis)

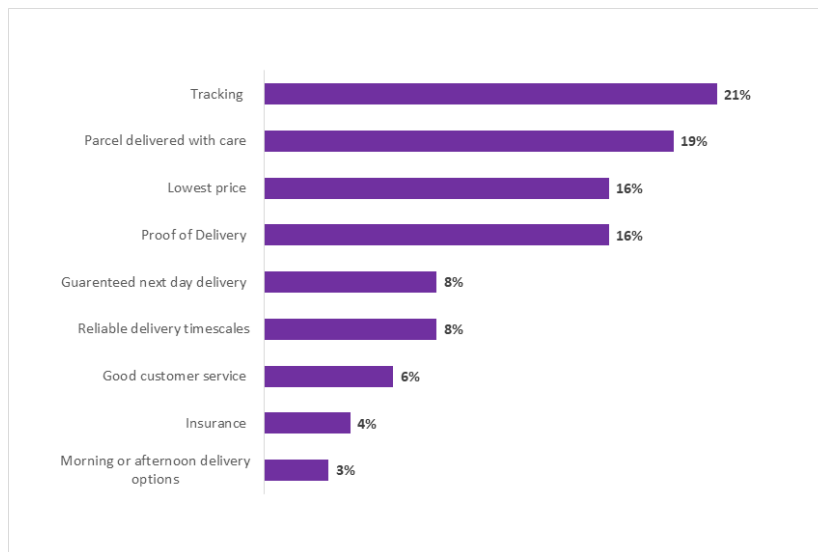
	England	Scotland	Wales	Northern Ireland	All Sellers	All Non Sellers
Parcel delivered with care	18%	21%	20%	22%	16%	23%
Proof of delivery	16%	15%	16%	18%	16%	16%
Lowest price	16%	13%	14%	14%	16%	16%
Tracking information on stage and day of delivery	9%	9%	9%	9%	9%	9%
Reliable delivery timescales	8%	8%	8%	7%	8%	8%
Guaranteed next day delivery	8%	7%	7%	6%	8%	7%
Real time tracking on progress	7%	8%	8%	9%	8%	7%
Good customer service	6%	6%	6%	6%	6%	5%
Insurance	5%	5%	4%	3%	5%	3%
Notification of expected delivery window	4%	5%	4%	4%	4%	4%
Morning or afternoon delivery options	3%	3%	3%	2%	4%	2%

<sup>31</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.30.

<sup>32</sup> Ofcom, Review of postal regulation, Consultation, December 2021, B2C parcels consumer research page 63.



**Figure 1.2: Ofcom MaxDiff analysis - Tracking aggregated<sup>33</sup>**



- 1.25 Second, Ofcom argues that: *“Our research suggests satisfaction with the current First and Second Class USO services is high, and for most users of these services there does not seem to be a strong need for the addition of tracking facilities.”*<sup>34</sup> That position is inconsistent with Ofcom’s own research.<sup>35</sup> All the data collected by Ofcom consistently shows consumers - whether sending or receiving - state that tracking (including other features related to tracking such as notifications and the ability to request inflight redirections) is important. This aligns with our own independent research. Ofcom’s 2021 Parcels research shows a strong level of expectation that tracking is available and agreement it is useful when sending and receiving parcels.<sup>36</sup> There are also higher levels of disagreement with statements that tracking is not needed or is only relevant in specific circumstances.
- 1.26 Third, Ofcom argues that: *“There is a minority of users for whom adding tracking is highly valued, and more generally, tracking is a feature that is becoming increasingly important to users, particularly marketplace sellers. However, around half said they would not pay a small amount extra for tracking facilities.”*<sup>37</sup> This wrongly conflates willingness to pay with importance. Citizens Advice found in its independent research that when sending and receiving a parcel, only 4% of consumers say that tracking isn’t important.<sup>38</sup> It also found that almost half (49%) of consumers said the ability to track their parcels is very important to them and listed tracking amongst the three most important attributes of a delivery service (alongside parcels arriving when they are supposed to and low prices). Moreover, there is some willingness to pay for tracking and given that consumers are not usually asked to pay separately or specifically for tracking as a feature by competitors, expectation or knowledge of pricing would be minimal.
- 1.27 The evidence – when read correctly – provides strong evidence that users consider tracking to be a necessary feature of the Universal Service which is not being met wholly by the market and should indeed be regarded as a ‘hygiene factor’. Ofcom’s findings to the contrary are not supported by its own consumer research.
- 1.28 Finally, Ofcom’s findings contradict research from Royal Mail, Citizens Advice and its own Communications Consumer Panel (CCP) – the statutory consumer panel for the UK communications sector. The CCP published research in April 2021 – *Delivering satisfaction? Meeting service users’ needs for parcel services in the pandemic* - which concluded that parcel users have a range of needs

<sup>33</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Figure 7.3. Please note, we have aggregated the three tracking related categories.

<sup>34</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.30.

<sup>35</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.22.

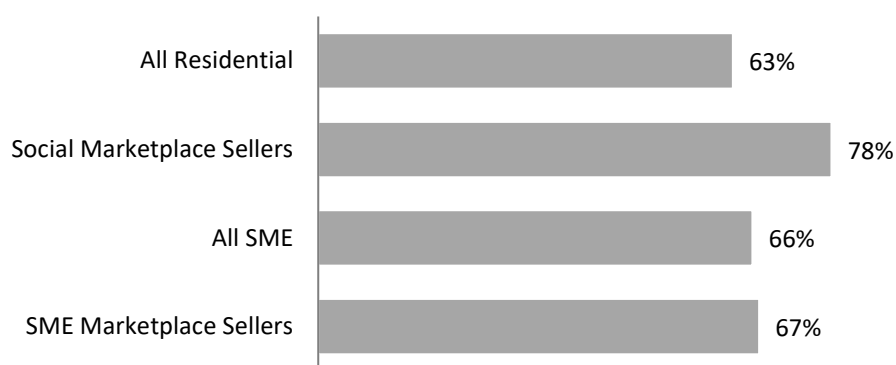
<sup>36</sup> Ofcom, C2X Parcels Consumer Research 2021, Produced by: BVA BDRC and Jigsaw Research Fieldwork, July/ August 2021.

<sup>37</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.30.

<sup>38</sup> Citizens Advice, Response to Ofcom’s call for inputs, May 2021, Para 9.17.

including the option for tracking: “in particular for offering confirmation of delivery or that a parcel is nearby, but also to provide estimated delivery time slots.”<sup>39</sup> Similarly, Royal Mail’s research indicates that 63% of residential, 78% of social marketplace sellers and 67% of SME marketplace sellers would find it very or fairly appealing to have the option of tracking large letters or parcels sent First or Second Class in the UK with Royal Mail.<sup>40 41</sup> Again, Ofcom’s proposal appears to be inconsistent with this wider evidence base.

**Figure 1.3: How appealing would it be to have the option of tracking large letters or parcels that you send First or Second Class in the UK with Royal Mail? (% Very/Fairly Appealing)**



**Tracking is a vital enabler to a better customer experience. It supports quicker, more effective and transparent complaint handling as well as acting as a platform to support disabled customers.**

- 1.29 Ofcom itself identifies certain consumer issues in the parcel market that it is proposing to address through regulation. It rightly focuses on complaint handling and disabled customers in its review. We believe that tracking in the USO would help with Ofcom’s aim here. It helps improve consumer outcomes for addressing complaints and delivering to disabled customers. Ofcom does not appear to have considered either of these factors, both of which provide a strong justification for allowing tracking on USO services.
- 1.30 Tracking unlocks many of the benefits that Ofcom is seeking to achieve. It provides the foundation for: (1) greater visibility for customers on our performance to support a quick, effective and transparent complaints process and dispute resolution; and (2) greater control for those customers who need special arrangements made in delivery, including disabled customers.
- 1.31 In terms of complaint handling, central to an effective process is the ability to quickly understand and resolve a complaint. The ability to track a parcel throughout its journey gives a consumer greater visibility of where their item is and when it will be delivered. This in itself reduces the number of queries, as customers do not need to call to query where a parcel is, if they can see the parcel is coming. Moreover, if something goes wrong, tracking supports a quick, effective and transparent complaints process and dispute resolution as the customer can tell the Customer Service Agents the last update received on where the item is in the pipeline and so they together can quickly identify any issues and resolve the complaint.
- 1.32 The benefits of tracking on customer satisfaction is supported by research. Royal Mail’s consumer satisfaction survey found that, on a like-for-like basis, consumers who have actively tracked a parcel are significantly more satisfied ([><]%) that they are able to get in touch with Royal Mail to resolve any issues/problems than consumers who have not actively tracked a parcel ([><]%).<sup>42</sup> This has also been acknowledged by third party stakeholders. Citizens Advice notes that if an item goes missing in

<sup>39</sup> CCP, Delivering satisfaction? Meeting service users’ needs for parcel services in the pandemic, April 2021, para 1.

<sup>40</sup> Marketplace sellers defined as “Not selling as a primary source of income”.

<sup>41</sup> Illuminas, User Needs Research Findings: Residential, November 2019, Page 42

<sup>42</sup> Royal Mail, Customer satisfaction survey Q3 2021/22, based on customers who are extremely, very or fairly satisfied.



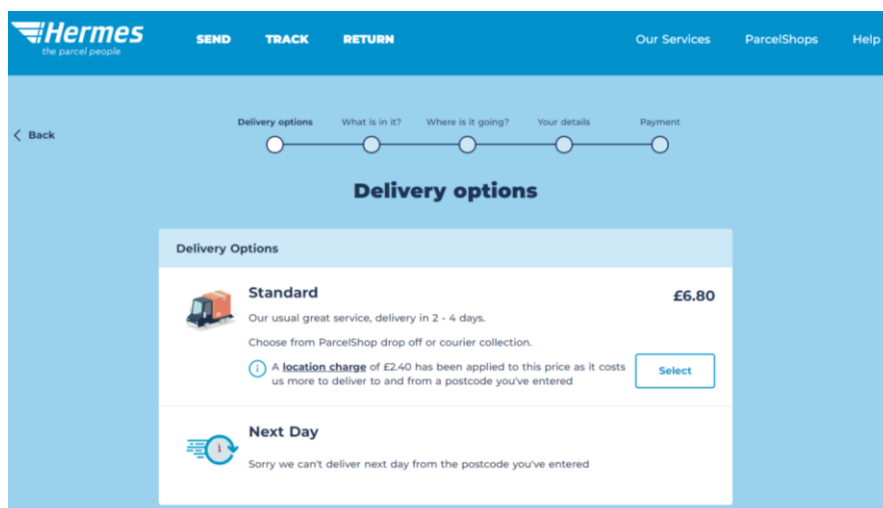
transit, tracking can provide “evidence of a failure of service such as items arriving late or being delivered to the wrong address making it easier for consumers to gain redress.”<sup>43</sup> They also note that for consumers or small businesses sending parcels, tracking can be essential in effective dispute resolution, including making it easier to identify cases of fraud. Further, as noted by Ofcom, Tracked parcels are “less at risk of being lost or stolen.”<sup>44</sup>

1.33 Tracking also underpins a better experience for disabled customers. It provides the customer with greater control and transparency on progress through the network. This can lead to better outcomes for disabled customers. For example, on our Tracked products, we provide inflight options that aren’t available on our standard 1c and 2c USO parcels. These include leave with a neighbour, safeplace or deliver on another day. We are also starting to scope additional options so that disabled customers, who know a parcel is coming through tracking, are able to send disability-specific instructions to the person delivering the item like wait longer or knock louder. Disabled customers will therefore receive a suboptimal solution without tracking in the USO.

**The market is not delivering for customers in rural and remote areas of the UK. That is exactly where the USO is designed to step in.**

1.34 Ofcom concludes that “the market generally meets the needs of most users for tracking”.<sup>45</sup> However, competitors do not provide an affordable, one-price-goes-anywhere tracked product throughout the UK. They surcharge to deliver to, and send from, deep rural and remote areas of the UK and often fail to provide a next day service. Customers in Northern Ireland as well as the highlands and islands across the UK should expect the same service at the same price as customers in urban areas. This is precisely the situation that the Universal Service is intended to prevent. For example, Hermes charges an additional ‘location charge’ of £2.40 to send a parcel to Northern Ireland and only offers a 2 to 4 day service not next day.<sup>46</sup> Given the expected material migration of parcels towards tracking, it is clearly unfair that customers in remote areas may not be able to benefit from this at the same price as everyone else. That is what the one-price goes anywhere Universal Service was designed to address.

**Figure 1.4: Postcode in Northern Ireland - Hermes surcharge and delivery times for a standard parcel**



1.35 This evidence is consistent with Ofcom’s own recognition that there is regional variability in the availability and/or pricing of tracking services. In the circumstances, Ofcom’s view that the market is generally meeting users’ needs for tracking services is incorrect in the light of the available evidence.

<sup>43</sup> Citizens Advice, Ofcom CFI response, May 2021, Page 94.  
<sup>44</sup> Ofcom, Review of the Regulation of Royal Mail, Statement, March 2017, Para 6.10.  
<sup>45</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.63.  
<sup>46</sup> Sub 1kg standard parcel from London to Northern Ireland as of 24 Feb 2022.

In addition, inclusion of tracking within the USO would ensure that these services are available to all users.

- 1.36 Furthermore, Ofcom has a statutory duty to take into account in its decisions the views and interests of those who live in different parts of the UK. To support the effective delivery of this duty, it has National Advisory Committees that provide advice on the interests and opinions of people living in the Nations and Regions of the UK as well as CCP – the statutory consumer panel for the UK communications sector. Yet, Ofcom’s position that the market is generally meeting users’ needs is contrary to the advice provided by these bodies.
- 1.37 For example, Ofcom’s Advisory Committee for Scotland stated in its response to the CFI: *“If Royal Mail truly wish to be world class, then a pursuit of a transparent end to end system of item tracking should be introduced.”*<sup>47</sup> In addition, CCP’s research concluded that parcel users have a range of needs including the option for tracking *“in particular for offering confirmation of delivery or that a parcel is nearby, but also to provide estimated delivery time slots.”*<sup>48</sup> It further notes that: *“For those in more rural locations, it was often reassuring to know where your parcel was at all times.”*<sup>49</sup>
- 1.38 Finally, one of Ofcom’s seven themes for the next financial year (2022-23) is getting everyone connected: *“We want to make sure people and businesses can access communications services, and that nobody is left behind as services evolve.”*<sup>50</sup> Ofcom’s position that regional variability in the availability and/or pricing of tracking services is acceptable runs contrary to this theme.<sup>51</sup>

#### **A modern, 21st Century USO requires tracking to remain relevant and sustainable.**

- 1.39 Ofcom states that one of its objectives is for postal users to *“continue to have access to simple, affordable and reliable parcel services that meet their needs.”*<sup>52</sup> We agree that our product portfolio needs to be simplified. We have recently undertaken a significant review of our products with the aim of aligning them more closely to our customer needs, under a three tier structure.
- 1.40 The continued prohibition of tracking in the USO acts as a barrier to achieving this. Under Ofcom’s current proposals we will be required to have a more complex product portfolio, [X].

#### **Figure 1.5: [X]**

[X]

- 1.41 If we were allowed to offer tracking on USO services, we would [X].
- 1.42 But, simplifying our products is only part of the story. We have invested significantly in modernising our network. We have invested heavily in IT and parcel automation. This is transforming how we run the operation, becoming more efficient, but also providing us with much better insight on what’s happening to individual parcels. Tracking provides more consumer choice, innovation and value for money. USO consumers, like other customers, should be able to benefit from our investment in parcel automation and product simplification.
- 1.43 By not allowing us to offer tracking in the USO Ofcom are disadvantaging USO customers. We have already invested heavily in barcoding automation and scanning. [X].
- 1.44 Ofcom’s prohibition also causes significant customer confusion. As Ofcom is aware, we have launched a Royal Mail App for customers to access information about Royal Mail services and their parcels. This includes being able to access Delivery Confirmation information and Electronic Proof of Postage. However, at the moment, when a customer inputs a parcel barcode reference number for a USO

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<sup>47</sup> The Advisory Committee for Scotland, Ofcom CFI response, May 2021, Page 7.

<sup>48</sup> CCP, Delivering satisfaction? Meeting service users’ needs for parcel services in the pandemic, April 2021, para 1.

<sup>49</sup> CCP, Delivering satisfaction? Meeting service users’ needs for parcel services in the pandemic, April 2021, para 4.1.

<sup>50</sup> Ofcom, Ofcom’s proposed plan of work 2022/23, February 2022, Para 1.21.

<sup>51</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Page 156 to 157.

<sup>52</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Page 146.

parcel prior to the delivery event, we are unable to provide any useful information despite it being available in our systems, as shown the screenshot example below.

**Figure 1.6: Second Class USO Parcel example**

**Track your item**


Your reference number\*

0508F8AE727

**Track your delivery**

An update will only be provided when we attempt to deliver your item

[Need help with your reference number?](#)

 Cymraeg

- 1.45 Further, given the strategic direction of marketplaces towards requiring tracking (including [§<]) – and the low margin, high operational gearing of the Universal Postal Service – a five year framework that stops us modernising could undermine the finances of the USO. As set out in our CFI response, if we are not able to offer tracking on our USO parcel services, marketplaces will direct the sellers to purchase parcel services elsewhere, and this will impact the financial position of the Reported Business.
- 1.46 Ofcom has a duty to have regard to the financial sustainability of the Universal Service. While the pandemic has led to a rapid growth in parcel traffic, significant headwinds remain. These include ongoing structural decline in letters, rising inflation and a challenging transformation agenda. While we agree that there is more to do on efficiency, that is only part of the answer to our future financial sustainability. Revenue growth is also essential as Ofcom has itself recognised. Regulatory barriers to product and service innovation put undue pressure on revenues.
- 1.47 Ofcom continuing its policy of not allowing tracking in the USO will lead to a rapid migration away from USO services. This accelerates the reduction of revenues collected from USO services. It leads to a greater reliance on non-USO (commercial) revenue streams to support the high fixed costs of the USO which in turn undermines its long-term prospects. Royal Mail may be able to mitigate a portion of this impact in Reported Business revenues by offering tracking outside of the USO on a commercial basis. But, it means consumers in remote and deep rural areas are not guaranteed an affordable, high quality, one price goes anywhere tracked service.
- 1.48 Ofcom’s approach is also out of line with Universal Postal Providers in other countries. Many offer tracking on standard Universal Services (with a VAT exemption). For example, PostNL has USO Parcel up to 10kg - delivered to a home address, with Track and Trace that is VAT exempt. Deutsche Post offers tracking on domestic parcels up to 2kg, VAT exempt, for €4.99.

**Figure 1.7: International USO product comparisons**

	 United Kingdom	 Netherlands	 Germany	 Canada
USO basic Tracked service				
VAT exempt				 *
		<small><a href="https://www.postnl.nl/news/firstweekfirst-class-15-10-2019-of-the-spoor">https://www.postnl.nl/news/firstweekfirst-class-15-10-2019-of-the-spoor</a></small>	<small><a href="https://www.deutschepost.de/dhl-online-tracking">https://www.deutschepost.de/dhl-online-tracking</a></small>	<small><a href="https://www.canadapost.ca/postcanada/track/track-tracked-parcel/canada-services/canada-usps/">https://www.canadapost.ca/postcanada/track/track-tracked-parcel/canada-services/canada-usps/</a></small>

\*Some sales taxes apply depending on state item is sent from

**There is no evidence that suggests that if Royal Mail were to offer tracking on USO services, it would drive out or materially undermine competition.**

1.49 Ofcom argues that adding tracking to First and Second Class USO parcels would extend the VAT exemption benefit, creating an unlevel playing field in a part of the market where competition is emerging. Ofcom states if this were to occur to a material degree and the development of C2X competition was impaired, it could undermine the benefits consumers have gained (and could continue to gain) in terms of choice, innovation and value for money from an increasingly competitive market. We disagree.

1.50 We commissioned Oxera to undertake an independent analysis of the supply of C2X parcel services and whether allowing Royal Mail to offer tracking on USO items would affect competitive dynamics. Oxera find that competition in the C2X services is strong and allowing tracking in the USO will be unlikely to harm competition. They explain that the supply of C2X services has been built off the back of a competitive and growing B2X sector that has led to the development of a number of nationwide PUDO and logistics networks, that allow other operators to serve C2X customers at low marginal cost.<sup>53</sup> As a result, C2X carriers have now built large scale, national networks, whilst Royal Mail’s share of the market has declined. Royal Mail’s share of the C2X segment was [3<] % in 2019-20, [3<] pp lower than in 2013. By contrast, four competitors grew their presence in the supply of C2X services over this period. In particular, Hermes’ share of supply in 2019-20 was [3<] %, [3<] pp higher than in 2013.<sup>54</sup>

1.51 This is driven in large a part by the following related factors:

- The growth in demand for return services, fuelled by the huge growth in online retail sales (accelerated by COVID-19).
- In order to attract these return volumes, operators have invested in developing large PUDO networks with broad geographical coverage. A number of operators now have networks to rival the Post Office. These networks enable low-cost entry to the C2X market, as they provide operators with a means to consolidate collection volumes in a way that mirrors the B2X market.
- Once in place, this network enables operators to expand into the wider C2X market at low marginal cost.

1.52 C2X services increasingly resembles the economics of the B2X model. As a result, the supply of C2X services is likely to rise and fall in line with wider B2X changes. Growth in the B2X market has led to the C2X market not only becoming viable, but an attractive proposition for Royal Mail’s competitors.

<sup>53</sup> Oxera, Tracking USO parcels, March 2022, Page 29-31.

<sup>54</sup> Oxera, Tracking USO parcels, March 2022, Page 7.

### **The VAT exemption is in place for services in the ‘public interest’.**

- 1.53 The requirements placed on Royal Mail as Universal Service provider in the UK leads to major fixed costs. Our network design is driven by the need to be able to collect and deliver letters six days a week across the UK. In 2021, we delivered c. 8bn letters. In addition to having to be able to deliver to every address in the country to a high quality, it also constrains where we can place our network of mail centres, delivery offices and delivery routes to be able to sort, connect, distribute and deliver items. By contrast, other operators are free to configure their networks as they choose to deliver the parcels they have.
- 1.54 The reason why our USO services are VAT exempt is because they are ‘public interest’ services, which are deemed appropriate to provide to customers at a reduced cost to them. There is also a significant cost to us in providing the Universal Service, and it is appropriate therefore that our USO services should be free of VAT to help increase consumer demand, and hence sales.
- 1.55 We have estimated the standalone revenue and cost of the Universal Service network. To do this we have subtracted the total of non-regulated activities from the Reported Business total. Figure 1.8 shows that we incur a c£[redacted]bn net cost delivering our ‘public postal services’ obligations. This net cost would be greater still if the VAT current exemption on USO and access mail was not in place and Royal Mail had to charge VAT on £[redacted]bn of revenue. This would lower demand.<sup>55</sup>

**Figure 1.8: Standalone cost of the USO**

[redacted]

- 1.56 It is also relevant to note that some customers of USO parcel services, and in particular the larger marketplace sellers, are VAT registered. Therefore, the effective price they see for competitor services therefore excludes VAT. We have no pricing advantage for our USO services when offered to these customers, and indeed if anything our services undermine their ability to recover VAT.

### **Ofcom has not recognised the extent of stakeholder desire for tracking in its review of responses to its Call for Inputs.**

- 1.57 Ofcom appears to have given too much weight to theoretical, unproven, competition concerns, while underestimating the benefits consumers would get from tracking on USO parcels in reaching its proposal to retain the prohibition. In particular, Ofcom appears to have failed to give sufficient (or any) weight to the fact that the majority of the stakeholders who responded to the relevant question as part of the CFI were in favour of including tracking within the USO.
- 1.58 Ofcom states that - alongside Royal Mail - *“Several other respondents were in favour of amending the DUSP Condition to include tracking... By contrast, a number of other stakeholders – in particular, competing parcel operators – were against the inclusion of tracking.”*<sup>56</sup> This indicates a balanced picture. The reality is quite different. Ofcom significantly understates the disparity in views with those in favour out-numbering those against by two to one. Moreover, there was a much broader range of respondents in favour of tracking. Most importantly, all three statutory consumer bodies were in favour (CAS, CitA and CCNI), as were POL. Unsurprisingly, the only respondents in favour of retaining the prohibition were our competitors.
- 1.59 In addition, Ofcom appears to have failed to engage with a number of key stakeholders, including some of the largest UK online marketplaces (including [redacted]). The strategic direction of these platforms is towards requiring their sellers to use full tracked services when fulfilling sales over their marketplaces. As set out in our CFI response, marketplace sellers’ position on tracking on consumer products will have a material impact on the financial position of the Reported Business. Ofcom appear unconcerned regarding this issue stating it has *“not seen evidence... marketplace platforms are intending to require tracked postal options to be provided as a condition of selling on their*

<sup>55</sup> This revenue decline would be offset to an extent by allowing VAT recovery on related costs.

<sup>56</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 7.7 and 7.9.

*marketplace.*<sup>57</sup> This statement appears to be based on information contained on Vinted website. This does not provide insight into marketplace sellers' forward plans. As such, Ofcom appears to have failed to have regard to the future commercial strategies of marketplace sellers.

- 1.60 This regulatory settlement is intended to last for a five year period. Ofcom must ensure it has given proper consideration to how key players' needs will change in the future, particularly given how rapidly the parcel market is evolving. Ofcom has failed to do so.

### **Regulatory ask**

- 1.61 We urge Ofcom to remove the prohibition on tracking in the USO.

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<sup>57</sup> Ofcom, Review of postal regulation - Consultation, December 2021, Page 160. In footnote 442, Ofcom quotes Vinted as its source. Both [3<] are materially larger in market capitalisation terms with a more established customer base.

## USO products, quality of service and safeguard caps (Q5.1)

Ofcom 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.

### Overview

Ofcom has stated that *“For the universal service to be financially sustainable in the longer term, we remain of the view that Royal Mail needs to adapt to the changing market, modernises its parcel delivery operations, and becomes more efficient.”*<sup>58</sup>

Royal Mail agrees it is important that the Universal Service evolves with the market to stay relevant to consumers and ensure its continued use. We are therefore surprised that Ofcom has not taken this opportunity to reduce prescriptive regulation, enabling greater innovation and to continue the journey Ofcom started in 2012 providing greater commercial freedom for USO products. This position fails to recognise the changes that have taken place in the parcel market and is contrary to what consumers want and are asking for – which is more flexible options which go beyond the current Universal Service offering.

We urge Ofcom to consider the following changes to USO products as part of its consultation:

- **Special Delivery** - Customers and SMEs are telling us that it is ‘next day delivery’ that’s important to them when using the Special Delivery Guaranteed (SDG) 1pm product. While 1pm is still important for some, our research shows that for [X%] of consumers, end of day or later would have been suitable to their requirements when they last used SDG 1pm. For some customers this means the current 1pm guarantee is beyond what they need. We therefore propose two delivery times – by 1pm and by 6pm. This would retain the current 1pm guarantee for those who need it while introducing a later option – at a lower price – for customers who don’t require delivery by 1pm. Adding a SDG 6pm option would also save c.£ [X] million in costs by avoiding costly inefficient diversions.
- **Proof of Delivery** - Signatures remain important for many customers as a form of proof of delivery. However, we also need flexibility to offer other forms of proof of delivery. We firmly believe that a photo-only option, and where specifically needed a photo and signature option, meets consumer needs to provide evidence from the recipient. Technology and consumer preferences have moved on from a simple signature. It may have been right when the regulations were written, but we need much greater flexibility to meet changing customer needs now that we can provide photos, GPS data and other technologically-enabled proofs of delivery (eg one-time-PIN or mobile device authentication).

We agree with Ofcom that there is no requirement to remove the Christmas quality reporting exemption. Royal Mail already has significant incentives (not least for parcels the threat of switching to our competitors) to provide the best possible quality of service at Christmas. We do not agree with Ofcom’s proposals to leave statistical anomalies in the quality of service targets unchanged. This will mean the national 93% regulatory target for quality of service will continue to misalign with the post code area (PCA) target and the delivery point target will not accurately reflect Royal Mail’s performance. This seems counterproductive to promoting good regulatory outcomes.

We are also disappointed that Ofcom is not re-evaluating the level of the safeguard caps. We do not believe that affordability is a concern for the overwhelming majority of Stamp users, even those on low income. Further, given the highly competitive parcels sector and our track record on pricing affordably, we do not believe that the basket cap is necessary.

<sup>58</sup> Ofcom. Annual Monitoring Update for Postal Services. 2020-21, December 2021. P2.

## Context

- 1.62 To stay relevant and sustainable, the Universal Service must also adapt to life in the 21st century. Ofcom noted this in its Annual Monitoring Update in November 2021 when it stated *“For the universal service to be financially sustainable in the longer term, we remain of the view that Royal Mail needs to adapt to the changing market, modernises its parcel delivery operations, and becomes more efficient.”*<sup>59</sup>
- 1.63 We are therefore surprised that Ofcom has not taken this opportunity to reduce prescriptive regulation, enabling greater innovation and continuing the journey Ofcom started in 2012 providing greater commercial freedom for USO products. This position fails to recognise the changes that have taken place in the parcel market.
- 1.64 As noted by Ofcom the postal market has undergone significant change in recent years as demand continues to shift from letters to parcels.<sup>60</sup> This rise in demand for parcels has created a new type of postal user. They want more flexible options which go beyond the current Universal Service offering. Competitors are increasing their supply of parcels services to consumers and SMEs, offering new and innovative customer products and features without having to seek regulatory approval. In this period of ever-evolving innovation, it is important that the Universal Service is able to respond to these changing needs, providing new solutions whilst also maintaining services that cater for more traditional needs. Ofcom’s current proposals will mean the USO will become increasingly irrelevant to consumers’ needs, not able to adapt to changing consumer needs, with potential long term implications on the financial sustainability of the USO.

## Special Delivery Guaranteed 1pm

### Research shows that Universal Service customers want more delivery options

- 1.65 SDG is a flagship Royal Mail service, which faces significant competition from other time-guaranteed express services from other operators. It provides compensation for delay, damage, and loss, while providing peace of mind to customers guaranteeing next-day delivery by 1pm. Customers can claim a full refund when the guarantee is not met. Consumer satisfaction with our provision of this product remains high.<sup>61</sup>
- 1.66 Our research shows that while some consumers and especially SMEs still value the 1pm delivery slot, the current requirement to deliver an item by a specific time goes beyond what some customers need, as it is the guaranteed ‘next day’ element that they value.<sup>62</sup> The 1pm deadline is therefore not a driving factor in selecting the product but acts as further reassurance that the item will arrive the next day.<sup>63</sup>
- 1.67 Having 1pm as the only delivery option also means that SDG items are often delivered when the recipient is not at home e.g., they are at work, school or university. As SDG cannot be left in a safe place or with a neighbour, this means that the receiver must go through the inconvenience of collecting the item from their local Delivery Office (or having the item redelivered on a future date). Having the flexibility to offer a range of SDG delivery times that fit with how people live their lives, including an end-of-day option, would make the product more convenient and would better meet the needs of modern consumers.
- 1.68 With this in mind, we have recently undertaken a significant review of our product portfolio with the aim of simplifying our products [X].<sup>64</sup>

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<sup>59</sup> Ofcom, Annual Monitoring Update for Postal Services. 2020-21, December 2021. P2.

<sup>60</sup> Ofcom, Review of postal regulation, Consultation, December 2021, P3.

<sup>61</sup> Royal Mail, Consumer Satisfaction & Brand survey, 2021-22 Q3.

<sup>62</sup> Royal Mail, SDG Variant Research, March 2020 – Quantitative: 3,000 online panel interviews with consumers, 700 online panel interviews with SMEs, 150 panel interviews with businesses with 250+ employees. Qualitative: four focus groups and four in-depth interviews with marketplace sellers.

<sup>63</sup> Royal Mail Special Delivery Guaranteed: Qualitative research debrief, 2020.

<sup>64</sup> [X]



**Figure 1.9: [X]**

[X]

1.69 [X]. This is supported by Ofcom’s 2020 user needs research, which found that, while users saw special delivery as essential, many typically used it for the guarantee of next-day delivery, rather than the 1pm delivery deadline, insurance or tracking components of the service.<sup>65</sup> However, we do recognise that some users still value the 1pm delivery slot. This is why we would like to offer more options that better meet a wider range of customer needs.

**Figure 1.10: [X]**

[X]

1.70 Building on these findings, in November 2021 we undertook further research of what range of delivery times would increase customer use of the SDG product. To do this we undertook conjoint analysis, which asked respondents to think about an item they had recently sent, then select from the products shown the most appropriate one for their item. By setting the products in the simulator to represent existing products (including SDG 9am and 1pm) we created a base case, then by adding in an option to have SDG by 6pm as well we were able to see the impact on overall choice of SDG. Features were tested with various price points, so the level of appeal reflected a combination of the appeal of the feature itself and the price point. In all cases we saw the proportion of respondents choosing SDG increase significantly when we offered a wider range of delivery times, including a 6pm option.

**Figure 1.11: Royal Mail conjoint analysis findings<sup>66</sup>**

	%age selecting SDG, assuming 9am, 1pm and 6pm are available	
	Small Parcel	Large Letter
Consumer	[X]	[X]
Marketplace Seller	[X]	[X]
Non-Account Business	[X]	

**The SDG 1pm guaranteed service drives inefficiency in our operation at a time when Ofcom is pushing Royal Mail to be as efficient as possible.**

1.71 The current 1pm target means that the product must be prioritised through the network and in delivery. When there are issues in the network and items are received late into a delivery office, a separate van is often sent out to deliver just a handful of items.

1.72 Further, on average [X] of items on core walks are delivered after 1pm.<sup>67</sup> This means, postal staff often have to divert off their normal route in order to ensure SDG items are delivered before 1pm. This is costly and affects the delivery of other USO items. Being able to offer a 6pm SDG delivery option, the impact of meeting the 1pm target would be lessened as SDG 6pm items could be distributed with other items throughout the day. We have calculated that a 6pm option has the potential to save £[X]m in operational costs. The main driver being the reduction in diversions by postal staff to meet the 1pm deadline.

**Regulatory ask**

<sup>65</sup> Ofcom, Review of postal users’ needs, November 2020, Para 6.39.

<sup>66</sup> Illuminas, Product Simplification Research, October 2021.

<sup>67</sup> Calculation based on RM Tracked scanning data.

- 1.73 Our research supports customers wanting a choice of services that reflect their sending needs which depend on their circumstances. We request that Ofcom make changes to special delivery to allow both a 1pm and 6pm delivery in the USO.
- 1.74 This would not only benefit customers in providing more delivery options that meeting their needs but would also allow Royal Mail to deliver the SDG product in a more efficient way as we adapt our network towards to the dynamics of the market to offer deliveries later in the day.

## Proof of delivery

### Context

- 1.75 Ofcom's User Needs Review found that consumers value a signature on delivery and see it as an essential Universal Service. This supports Royal Mail's findings. We do not want to remove the option of a signature. We do, however, believe that customers should have the flexibility of a range of separate delivery confirmation options. A signature (with name) may have historically been the only way to confirm delivery, but there are now other options available, which may more suitably meet customer needs.
- 1.76 In 2021, Royal Mail began a photo proof of delivery trial on non-USO Tracked items for a major online fashion retailer. Since then, the trial has been expanded to other commercial customers. Customer feedback from the trial has been overwhelmingly positive.
- To date, where photos have been captured, we have seen a [%] reduction in denial of receipt complaints.
  - We have also put in place robust operational processes, including training and monitoring, to ensure photos are taken in an appropriate manner and to constantly improve image quality. Where an image is found to be uncompliant, and should a customer complain, we have internal processes to remove the image from external (and if necessary internal) platforms.
- 1.77 We believe the successful trial of Royal Mail's Tracked commercial product demonstrates that a photo only option is suitable for many customers as proof of delivery. As outlined, the competitive parcels market is growing at an exceptional rate. Competitors are developing new products and innovations to meet this growing customer demand, including moving towards photo only with door open. Our competitors, Hermes and DPD, take photos with the door open, without requiring the recipient's name. The USO should be allowed to keep up with these market developments, otherwise it risks being left behind.
- 1.78 Requiring Royal Mail to take a name with a photo would add c. [%] seconds to Royal Mail's delivery process per item. It is estimated this would add £[%]m of operating costs to Royal Mail in providing the proof of delivery product. This cost would have to be recouped in the pricing of the product, which may disadvantage some customer in paying for a photo and name product, when a photo alone would have met their needs.
- 1.79 Requiring a name with photos for USO proof of delivery items would also lead to more complicated delivery processes, as we do not collect names for our Tracked commercial photo product. This means delivery staff would be required to take names for USO items but not for non-USO products. This would increase the complexity of our operational processes at a time we are trying to simplify them. It increases the risk of mistakes being made. It would not be commercially viable to achieve consistency by extending name capturing to non-USO products as this would add £[%]m to our operating costs for non-USO Tracked products.<sup>68</sup>

## Regulatory ask

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<sup>68</sup> Royal Mail internal analysis.

- 1.80 We need flexibility to offer products that better meet consumer needs. Royal Mail still intends to provide a signature option for customers who want one. But we believe there is a large proportion of customers for whom a photo only is sufficient. We believe these customers should have access to a lower priced photo only option, should they require it.
- 1.81 We believe that photo-only (with no name capturing) meets many USO consumer needs to provide evidence from the recipient. We ask that Ofcom confirm that a photo only option meets the regulatory requirements of 'evidence from the recipient'.
- 1.82 More broadly, a simple signature may have been right when the regulations were written, but we need much greater flexibility to meet changing customer needs now that we can provide photos, GPS data and other technologically-enabled proofs of delivery (eg one-time-PIN or mobile device authentication). We therefore request that Ofcom provides that wider flexibility around the definition of proof of delivery to enable us to meet customer needs.

## Quality of service

### Context

#### **We are disappointed that Ofcom has chosen not to fix some of the technical anomalies within the current Quality of Service targets**

- 1.83 Royal Mail takes quality of service very seriously, as it is central to retaining our customers' trust. There are also strong commercial incentives to do so. It is an important factor in retaining and attracting new customers. Moreover, delivering on our USO quality commitments has read-through to services for all our customers - residential, SMEs, access and Corporates.
- 1.84 We continue to support all the main quality of service targets at the heart of the current regulatory framework. . However, we are disappointed that Ofcom has chosen not to take forward our proposals to fix anomalies in the current targets. These changes were technical in nature. They would not have impacted the level of service our customers received.
- 1.85 Ofcom's proposals fail to recognise the changes to Royal Mail's delivery model since the quality of service targets were put in place. For regulation to be effective, it is important that the targets are internally consistent and fit for purpose. Ofcom's proposal not to change the anomaly would mean the national 93% regulatory target for quality of service will continue to misalign with the PCA target and the delivery point target will not accurately reflect Royal Mail's performance. This seems counterproductive to promoting good regulatory outcomes.

#### **We agree with Ofcom that there is no requirement to remove the Christmas quality reporting exemption.**

- 1.86 We agree with Ofcom's position on the Christmas exemption. Royal Mail already has significant incentives to provide the best possible quality of service at Christmas. It is our busiest time of the year. Successfully delivering at Christmas is central to the trust that consumers place in the Universal Service, and it is an important factor in retaining and attracting new customers.
- 1.87 To meet this demand, we already significantly invest in additional resources over our Christmas peak. In 2021, we hired c.20,000 seasonal employees, [X] additional small vans, c. [X]k additional wheeled York containers (at a cost of c.£ [X]m) and purchased c. [X] double decker trailers. However, as identified by Ofcom, the significantly increased volumes of mail over this period, mean that meeting performance targets designed for the rest of the year would not be achievable without disproportionate levels of investment.
- 1.88 It is therefore appropriate that Ofcom maintain the current approach to the Christmas exemption. The requirement for Royal Mail to publish its Christmas performance separately for monitoring

purposes, along with significant customer and commercial requirements means Royal Mail is already sufficiently incentivised to provide the best possible performance at Christmas.

## Safeguard caps

### Context

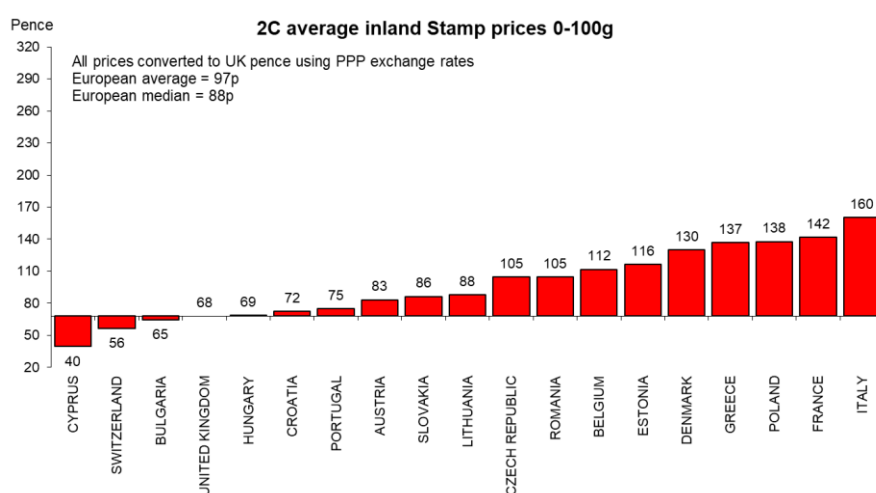
**We are disappointed that Ofcom is not re-evaluating the level of the safeguard caps as part of this regulatory review.**

- 1.89 Affordability is not a concern for the overwhelming majority of Stamp users. Consumer expenditure on Stamps remains very low, at around 70p per week, equivalent to 0.12% of total household expenditure. There is a very similar picture even for those in the lowest income decile, who on average spend 40p per week - or 0.16% - on post. Spending on post represents the same amount of money that people spend on ice cream.<sup>69</sup> Consumers would continue to have significant affordability protections through Ofcom’s Designated Universal Service Provider Condition. This requires Royal Mail to provide Universal Service products at affordable prices.

### Letters cap

- 1.90 Royal Mail commissioned independent customer research into the affordability of Second Class stamps in 2018, which has been shared with Ofcom. It shows that the majority of consumers do not report experiencing affordability issues. It also indicates that customers would find a Second Class stamp price of 81p at the time affordable.<sup>70</sup> Adjusting for inflation since the interviews were conducted, this suggests a cap today of 88p would remain affordable.<sup>71</sup> As noted above, the PSA and Ofcom’s Designated Universal Service Provider Condition would provide consumers sufficient affordability protections.
- 1.91 The current level of the cap - 68p - is materially below the European average. Our Second Class Stamp price of 68p is the third cheapest in Europe, well below the average of 97p and the median of 88p. Our commercial flexibility is constrained despite the vast majority of Second Class stamp customers not facing any affordability concerns.

**Figure 1.12: Comparison of Second Class Stamp prices with other European countries**



<sup>69</sup> ONS Family spending in the UK: financial year ending 2020, issued March 2021

<sup>70</sup> 88% of respondents reported that 81p would be affordable, in comparison to 94% who said the actual price of a Second Class stamp at the time (58p) was affordable.

<sup>71</sup> CPI from ONS (D7BT): April 2018 - 105.4; Mar 2021 (Latest available data) – 114.9. This represents a 9.0% increase.

## **Basket cap**

- 1.92 The basket cap currently has sufficient headroom to allow moderate price increases, assuming the current volume mix remains the same for the expected regulatory period. As set out in our response to question 6.1, competition for the supply of C2X parcels is already strong. Other carriers have large scale, national networks enabled by their presence in the B2C segment. The growth in parcel management services - including online reselling and price-comparison websites - offers consumers access to greater choice and service options. These factors have led to strong downward pricing pressures driven by competition. Given the highly competitive parcels sector and our track record on pricing affordably, we do not believe that the basket cap is necessary. Consumers would also continue to have affordability protections through Ofcom's Designated Universal Service Provider Condition.

## **Regulatory ask**

- 1.93 Affordability does not appear to be a problem for the overwhelming majority of stamp users. We therefore request that the Ofcom uses this review to remove both caps. If Ofcom is not minded to remove the caps, we request a significant uplift in both caps. At a minimum, the letters cap should be in line with the European average. Our research from 2018 demonstrates this would still be affordable. Providing greater commercial flexibility within the safeguard cap does not mean that we would necessarily price to the maximum level allowed.

## Complaints Handling (Q6.2)

Ofcom 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.

### Overview

Consumer protection conditions are an important aspect of the UK's regulatory landscape, providing guarantees for the services consumers can expect. Royal Mail, unlike other parcel operators, is already subject to detailed regulation on how customer complaints and redress should be handled. Royal Mail supports Ofcom's desire to ensure the parcel industry, as a whole, ups its game to a consistently high level. We think that Ofcom could go further to protect USO consumers by allowing tracking in the USO.

We make the following key points on Ofcom's proposed approach and guidance:

- **Tracking underpins the most effective complaints process** - Tracking unlocks greater visibility to support a quick, effective and transparent complaints process alongside better dispute resolution for marketplace sellers. We therefore strongly encourage Ofcom to revisit its provisional conclusion in relation to tracking and remove the prohibition.
- **Consistent oversight, measurement and reporting is vital** - Royal Mail employs a high level of rigour in ensuring that all customer contact is correctly recorded and analysed. All parcel operators need to be held to the same high standards in measurement and reporting to avoid any competitive distortions.
- **Positive consumers outcomes** – We are concerned that, as currently drafted, Ofcom's guidance may not always lead to positive consumer outcomes. We therefore suggest some minor changes to the guidance. These relate to parcel operators working with retailers, the use of chatbots and communication with customers

### Context

1.94 Consumer Protection (CP) conditions are an important part of the regulatory landscape, guaranteeing a level of service for consumers. In situations where things go wrong with a delivery, it is crucial for the integrity of the industry that customers are able to get things resolved quickly and easily. Royal Mail has the best complaints handling standards in the parcel industry and we support Ofcom's ambition to see "*substantial improvements*" from some operators.<sup>72 73</sup>

1.95 Royal Mail is already subject to detailed regulation on how contact with customers should be handled. Most of the parcel industry is covered by a basic requirement to have a "*transparent, simple and inexpensive*" complaints handling procedure.<sup>74</sup> Regulation on Royal Mail is far more extensive, setting out a number of detailed requirements including:<sup>75</sup>

- How a complaint should be handled;
- How records should be kept;
- How and when customers should be contacted;
- How vulnerable customers should be treated;

<sup>72</sup> Consumer Council Northern Ireland (CCNI), Stamp Out Complaints, December 2018, Table 3. Royal Mail and Parcelforce are operators 8 and 3 respectively.

<sup>73</sup> Ofcom, Review of postal regulation, Consultation, December 2021. Box on page 94.

<sup>74</sup> Ofcom, Consumer Protection Condition 3.2.

<sup>75</sup> Ofcom, Consumer Protection Condition 3.2.

- How complaints data should be published; and
- A requirement to offer third party redress scheme if they are not satisfied with the outcome.

1.96 Royal Mail supports Ofcom’s desire to see substantial improvements in complaints handling across the industry. We understand the unique position we are in as the UK’s only Universal Service Provider for post and we accept the additional requirements that come with this position. We welcome feedback on our process from stakeholders, and react swiftly to opportunities to improve. Building trust with our customers is an important part of our strategy and maintaining trust if something goes wrong is also vitally important. We will be using Ofcom’s new guidance as an opportunity to review our processes to see if there is more we can do.

### Tracking

1.97 Tracking on parcel services reduces the number of queries and complaints and results in a better complaints handling process. It reduces the number of queries and complaints because customers know where the item is in the network and when to expect the item, and so have less need to enquire about the whereabouts of an item. Our research tells us that consumers who have actively tracked a parcel are significantly more satisfied ([X]%) that they are able to get in touch with Royal Mail to resolve any issues/problems than consumers who have not actively tracked a parcel ([X]%).<sup>76</sup> Moreover, even where complaints do arise, tracking information can make it easier for a complaint handler to investigate quickly and resolve the query. Tracking information makes it is easier for the complaint handler to locate the item and try and resolve the problem.

1.98 Ofcom clearly wants to improve the handling of complaints within the industry. One of the easiest ways to improve customer outcomes, reduce the number of complaints, and improve the efficiency of complaint handling for USO parcel services is to allow us to provide customers with tracking on USO services.

### Consistent oversight, measurement and reporting

1.99 We note that Ofcom intends to consider “*what data will best help us to monitor complaints handling performance*”<sup>77</sup> with a view to monitoring complaints handling performance across the industry. In doing so, it is vital that Ofcom ensures standards of recording and reporting complaints are done to the same high standards by all operators. Royal Mail has strong processes in place to robustly record all complaint contact with our customers. In gathering performance data from across the industry, Ofcom must ensure the standard of the data and classifications of customer contact are consistent across all operators.

1.100 It is also important to note that Royal Mail handles significantly higher volumes of mail than other mail operators, particularly when letters are taken into account. As a result we receive significantly more contact from customers. Any data gathered should not be viewed in absolute terms, rather it should be considered in the context of volumes handled. Any analysis conducted should be on a parts (complaints) per million (PPM) basis. It is important that Ofcom ensures any metrics used are truly comparable and do not create a misleading view of parcel operators.

### Positive Consumer outcomes

1.101 We understand that Ofcom’s intention is to help reduce consumer detriment in the parcel sector and improve the consumer experience overall. We support this ambition. We are broadly comfortable with Ofcom’s proposed new standards. Having reviewed the guidance, we have identified some aspects that have the potential to conflict with improving the customer experience. These relate to retailer signposting, customer communication and chatbots (as discussed further below). We have

<sup>76</sup> Royal Mail, Customer satisfaction survey Q3 2021/22, based on customers who are extremely, very or fairly satisfied.

<sup>77</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.113.



suggested some minor amendments to the proposed new guidance. We believe these changes will help meet Ofcom's objective.

### **Retailer Signposting**

1.102 Ofcom's proposed new guidance set out that "*postal operators should provide clear and timely information to the customer regarding the need to contact the retailer.*"<sup>78</sup> We think this wording may have unintended consequences, reducing rather than improving the customer's experience. There is a risk that some parcel operators will refer all customers to the retailer – even when the opportunity to resolve the issue directly is available. This could lead to unnecessary delay in helping a consumer resolve an issue. Royal Mail tries to resolve issues directly with consumers and only refer them back to a retailer if required. Consumers should only be referred back to the retailer if the parcel operator is unable to resolve the initial enquiry.

1.103 Ofcom's proposed new guidance also states "*where possible could signpost to the relevant retailer's complaints channel.*"<sup>79</sup> It is often not immediately clear to us when mail is being carried on behalf of retailers, especially small retailers, and those using USO services. In many of these cases, it could be *possible* to identify the retailer based on a return address, however, doing so would place an excessive burden on Royal Mail to locate retailers' complaints processes. Holding an up to date database of retailers contact details and complaints channel would be a very onerous and difficult task, and require a huge amount of resource to update and maintain. We do not think this is Ofcom's intention.

1.104 We suggest the following amendment to Annex 7 paragraph 6 to address these concerns:

- Where postal operators receive complaints from consumers that cannot be resolved by the operator, and need to be dealt with by a retailer, postal operators should provide clear and timely information to the customer regarding the need to contact the retailer, and if reasonably possible could signpost to the relevant retailer's complaints channel.

### **Customer communication**

1.105 Ofcom has rightly identified the important role of communication in any complaints process, calling out the importance of clear and timely information being shared with complainants. Royal Mail supports Ofcom's intention to improve the communication with customers and we agree that customer communications should be clear and timely. Ofcom acknowledges that parcel operators have different complaints handling processes and that a one-size-fits-all approach would not be the right one. We think that, as drafted, Ofcom's guidance is too prescriptive and could lead to negative outcomes for consumers. For instance, the draft guidance currently states that parcel operators should explain their complaints handling process and expected timelines to complainants.<sup>80</sup> In many cases, this is the right approach, and we do this now for many customers.

1.106 However, in some cases, we believe this would introduce a new step that could unnecessarily extend the time taken to resolve a complaint. In particular, customers who contact us via telephone and have their issue immediately resolved to their satisfaction would have the length of their call extended, without any benefit. Whilst we would log the details of the complaint, it would not then benefit the customer to subsequently explain our complaint handling process and timeline when the complaint had already been resolved.

1.107 For example, if a customer calls to report a misdelivery to us for the first time, our current process is to resolve this during that call. We will gather all relevant details and inform the customer that we will raise this with their local delivery office and the postal operator who made the error. If the customer is satisfied with our response, there is no need to prolong the call to discuss our full complaints process or relevant timelines as the matter has already been resolved. We need to ensure that we are not

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<sup>78</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Annex 7 Para 6.

<sup>79</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Annex 7 Para 6.

<sup>80</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Annex 7 Para 9.



required to provide unnecessary information if their complaint has already been satisfactorily resolved.

1.108 To avoid being unnecessarily prescriptive and avoid building in unnecessary and costly steps in a process that would not be in the interests of complainants, we suggest the following amendments to Annex 7 paragraph 9:

- For example, we consider that it would be reasonable to expect that, after having received a complaint that cannot be resolved immediately, the postal operator promptly inform the complainant of: (a) the process it will follow to investigate the complaint with a view to resolving it fairly; and (b) the timeframes in which the postal operator will endeavour to carry out its handling of the complaint. For complaints that were not resolved immediately, after the postal operator has investigated the complaint, we would expect that it promptly communicates the outcome of its investigation to the complainant, and where necessary, set out what compensation or redress will be provided (if any).

### Chatbots

1.109 Ofcom's proposed guidance specifies that chatbots must be "*highly capable of identifying complaints and dealing with additional accessibility needs.*"<sup>81</sup> We understand and support Ofcom's intention to ensure that vulnerable customers are able to interact with parcel operators quickly and efficiently, and customers with additional needs do not face barriers.

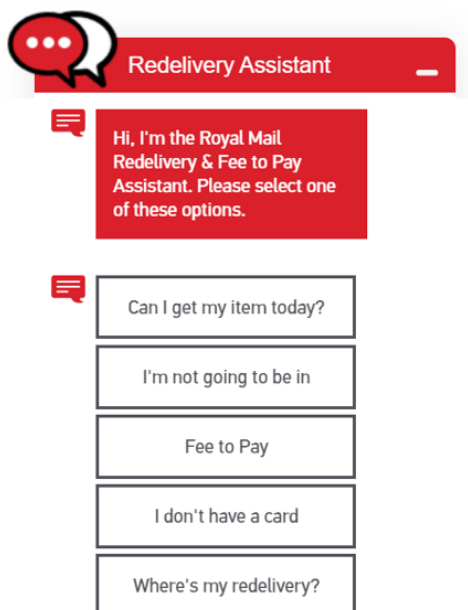
1.110 Ofcom needs to distinguish between different types of chatbot that are in use. Advanced chatbots can use AI technology to interact with website users and provide them with multiple options dependent upon the nature of a conversation. A simple chatbot is much more limited in how it communicates and can only respond to pre-determined commands. Royal Mail only uses simple chatbots.

1.111 Royal Mail uses simple chatbots for dealing with some customer enquiries, which can include directing customers to our complaints channels. We make very limited use of simple chatbots and only those based on selecting pre-determined criteria that help to direct a customer to relevant information on the website. Our chatbots do not allow free input in the text field. It is not possible for this type of chatbot to interpret input from a user and determine if the user has additional needs. If Ofcom were to publish its new standards as currently drafted, it would force us to remove simple chatbots from our website. Simple chatbots help resolve queries in a quick way for consumers, many of whom prefer an automated help route. We do not believe this is Ofcom's intention.

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<sup>81</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Annex 7 Para 10.

**Fig. 1.13 Royal Mail simple chatbot**



1.112 Ofcom should clarify that simple chatbots are not included within the requirement to identify those with additional accessibility needs. We suggest the following amendment to Annex 7 paragraph 10:

- Where 'advanced chat bots' are used as part of the process they must also be highly capable of identifying complaints and dealing with additional accessibility needs.

### **Regulatory ask**

1.113 We support Ofcom's ambition to improve complaints handling standards across the industry. Issuing guidance to parcel operators on the requirements of Consumer Protection condition 3.2 is a good first step towards this ambition. We think that Ofcom should go further and allow tracking on USO services and we would welcome Ofcom reviewing its guidance in line with our suggested amendments to maximise consumer benefits.

## Disabled customers (Q6.3)

**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.**

### Overview

Royal Mail is committed to ensuring that postal services are accessible to all consumers. We support the steps that Ofcom is taking to protect disabled customers in accessing the benefits of the UK postal services. All operators – not just Royal Mail – must be held to account when it comes to providing services to disabled customers.

Royal Mail, unlike other parcel operators, is already subject to a wide range of regulatory requirements that help to protect vulnerable customers.<sup>82</sup> These cover our complaints process as well as maintaining a statement of arrangements to ensure that postal services are accessible to all, including disabled customers and those who live in rural communities.

We encourage Ofcom to take into account three key issues when considering the imposition of a new condition:

- **Tracking underpins a better experience for disabled customers and supports item specific instructions.** Tracking provides the customer with greater control and transparency on progress through the network. This can lead to better outcomes for disabled customers. For example, on our Tracked products, we provide 'Inflight Options' that aren't available on our standard 1c and 2c USO parcels. These inflight options include 'leave with a neighbour', 'leave in a safeplace' or 'deliver on another day'. [3<]. We therefore encourage Ofcom to remove the prohibition on tracking to unlock these benefits for disabled customers.
- **Scope must be managed carefully to ensure costs are proportionate.** Disabled consumers will get the most benefit from a registration process that is simple and easy to navigate. As with other regulations, we suggest that Ofcom include some form of proportionality in its condition.
- **Ofcom must provide sufficient time for effective rollout.** We understand Ofcom is planning to announce its decision on the new regulatory framework in Summer 2022. If the new requirement comes into force in April 2023, this leaves well under a year to develop policies and procedures, implement any IT changes (including to PDAs) and rollout training to over 85k frontline staff and c.[3<]k Customer Experience function. We propose that Ofcom introduces this new requirement from April 2024 to allow reasonable time for implementation.

### Context

1.114 Royal Mail is the proud provider of the Universal Service for post in the UK. A key underpinning principle is that the service is universally available to all consumers. We know that post can be particularly important for some of our vulnerable customers, with many disabled customers being "*particularly reliant*" on online shopping when they are unable to make long journeys.<sup>83</sup> It is important that, where consumers face challenges in accessing postal services, every postal operator makes adjustments to ensure access to services is available to all. We welcome and support the action Ofcom is taking to strengthen consumer protections for disabled customers.

<sup>82</sup> We are required to establish, maintain and review annually a statement of arrangements to ensure that users of postal services who are blind, partially sighted, infirm through age, chronically sick, or disabled are able to post postal packets using the Universal Services regularly and as far as possible without significant cost to those users attributable to their difficulties.

<sup>83</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, May 2021, Para 6.35.

1.115 Ofcom's research<sup>84</sup> shows the challenges faced by disabled customers and supported by research from both the CCP,<sup>85</sup> and Citizens Advice (CitA).<sup>86</sup> Ofcom is right to focus on improving the experiences of disabled customers in the postal market. Building trust with our customers on the doorstep is a key part of our business strategy. Ensuring disabled consumers are treated fairly is just one aspect of this.

1.116 Royal Mail, unlike other parcel operators, is already subject to wide ranging regulatory requirements that support mail being universally available. These include:

- A Statement of Arrangements for customers who are blind, partially sighted, infirm through age, chronically sick, or disabled;
- A requirement for services to be available for both sending and receiving customers throughout the UK, ensuring that rural customers benefit from the USO;
- Minimum density requirements for the location and density of access points to our network that ensure users can post letters and parcels near where they live and work;
- A Statement of Arrangements for rural customers; and
- Detailed consumer protection standards, including clear channels for vulnerable customers to get in touch and receive support via Consumer Advocacy Bodies.

1.117 Royal Mail has the highest consumer protection standards in the industry both as a function of how we operate as a business, and of the regulations to which we are subjected.<sup>87</sup> Looking after our customers is a deep-rooted part of the way we operate as a business. We already have a number of services in place that support the needs of vulnerable customers:

- Articles for the Blind service allows blind and visually impaired consumers and supporting organisations to post mail for free;
- Parcel Collect allows customers to have their items collected from the doorstep without the need for leaving the house;
- A concessionary rate Redirection service to ensure those on the lower incomes receive a special rate when moving home;
- Inflight Redirection offers convenient options around the time and day of delivery to avoid missed deliveries on eligible products with tracking and pre-advice;
- Safeplace ensures customers can have an item delivered exactly where they want for eligible products where the retailer indicates the consumers preference; and
- A process to ensure that customers who are physically unable to sign for items can still receive a delivery.

1.118 Royal Mail delivery staff already have it enshrined in custom and practice that they will adapt their delivery to meet the needs of their customers. This includes for example, knocking loudly for those who are hard of hearing and allowing more time for some individuals to answer the door. Subject to the points below, we do not anticipate that Ofcom's proposed new consumer protection condition will result in a big change for our delivery operations. Rather, it will codify what we already do to protect our customers. In practice, our local support is on the basis of individual knowledge of the regular delivery person.

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<sup>84</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.136.

<sup>85</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.137.

<sup>86</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.138.

<sup>87</sup> Consumer Council Northern Ireland (CCNI), Stamp Out Complaints, December 2018, Page 14, Table 3. Royal Mail and Parcelforce are operators 8 and 3 respectively.

**Tracking underpins a better experience for disabled customers and supports item specific instructions.**

- 1.119 Tracking on a parcel provides transparency to the recipient as it progresses through our network. The receiving customer can take advantage of the information supplied by parcel tracking to know when an item will be delivered and adjust their day accordingly. Ofcom’s research has shown that disabled consumers are more likely to experience issues with parcel deliveries, and that they are more likely to experience harm when issues arise.<sup>88 89</sup> Tracking information can be especially beneficial to disabled customers with limited mobility, giving them an opportunity to plan ahead when receiving a delivery.
- 1.120 Tracking, alongside delivery point and contact information, provides a platform to give disabled customers the ability to control their delivery. ‘Inflight options’ give customers the ability to control their delivery, allowing them to re-route the item to a neighbour, change the point of delivery from the front door to a Safeplace or to change the day of delivery. [8]. Customer notifications for these inflight options are triggered by underlying tracking data. Tracking data is a key enabler for ‘Inflight options’ that are not available on untracked items such as standard 1c and 2c USO parcels. Ofcom’s proposal not to allow tracking on USO services is not in the best interests of our disabled customers.

**Scope must be managed carefully to ensure costs are proportionate.**

- 1.121 Disabled consumers will get the most benefit from a registration process that is simple and easy to navigate. Ofcom has precedent of requiring proportionality within its regulation. For example:
- DUSP1.8.2 requires Royal Mail to provide access to the USO *“having regard to the costs and operational practicalities of doing so”*;
  - CP3.3.9 refers to Royal Mail providing resources *“as may reasonably be required”*; and
  - CP4.2.4 requires mail to be collected within a *“reasonable retention period”*.
- 1.122 The principle of requiring a proportionate response is well enshrined in Ofcom’s regulation. In implementing its new regulation to protect disabled customers, Ofcom should have a view to requiring a proportionate response. We suggest the following amendment to the CP5.2.2:
- Such policies and procedures must, as a minimum, describe:
    - (a) how disabled consumers can communicate their reasonable needs to the relevant postal operator in relation to the delivery of a relevant parcel that is addressed to them;
    - (b) how relevant employees of the relevant postal operator should meet the reasonable needs of disabled consumers when delivering a relevant parcel having regard to the costs and operational practicalities of doing so;
    - (c) how the impact and effectiveness of the policies and procedures are monitored and evaluated.

**Ofcom must provide sufficient time for effective rollout.**

- 1.123 We understand it is Ofcom’s intention for the new Consumer Protection Condition 5 to be in place from April 2023.<sup>90</sup> Some aspects of a customer solution will require potentially wide-ranging IT system changes. In particular those aspects relevant to CP5.2.2 which would allow for disabled customers to communicate their needs with us and for us to act on those needs. We will require an IT solution to be able to provide disabled customers with this service. A project such as this can be complex and involve engagement from across the business. We have a strong product development lifecycle that ensures our products are fit for purpose and meet the needs of our customers. We need sufficient time to scope, design and deliver a robust solution for our disabled customers.

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<sup>88</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.135.

<sup>89</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.141.

<sup>90</sup> Ofcom, Review of postal regulation, Consultation, December 2021, para 6.168.

1.124 We also need time to ensure that our staff are fully trained and have sufficient time to engage with our staff and our unions to ensure that processes are fully embedded in our ways of working. Royal Mail has more than 85k frontline delivery staff and around [8<]k staff in our Customer Experience team. Our customers rightly expect a high and consistent level of service from Royal Mail. It is vital that we have the time to develop and deliver a training package to our staff, in line with Ofcom's expectations set out in its proposed CP5.2.3 requiring staff to be "*appropriately trained.*"<sup>91</sup>

1.125 We understand Ofcom is planning to announce its decision on the new regulatory framework in Summer 2022. If Ofcom then wanted the new requirement to come into force in April 2023, this would leave a very short window to develop policies and procedures, implement any IT changes (including to PDAs) and rollout training to our staff. We would therefore suggest that any new requirements do not come into force until April 2024 at the earliest to allow reasonable time for solutions to be implemented.

### **Regulatory ask**

1.126 We support the steps Ofcom is taking to support disabled customers. Ofcom should take into account three key issues:

- The prohibition on tracking on USO items should be removed to unlock benefits for disabled consumers;
- In its new regulation, Ofcom should include a requirement for a reasonable response from parcel operators; and
- Ofcom should delay the implementation of new regulation until April 2024 to allow operators time to scope, design and deliver a solution.

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<sup>91</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Annex 11, CP5.2.3(b).

## Redirection (Q5.2)

**Ofcom 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.**

### Overview

We welcome Ofcom's proposal not to impose further regulatory requirements on Royal Mail in relation to Redirection pricing. We have worked hard, investing heavily in our Redirection products, including throughout the pandemic, and have undertaken significant consumer research to ensure that our Redirection products meet the needs of our customers. We are pleased that Ofcom has recognised the steps we have taken to ensure our Redirection products remain affordable for all our customers. To help ensure this remains the case, and despite the high rate of RPI, we have announced a price freeze on our consumer Redirection services for 2022/23.

A Redirection provides our customers with peace of mind when they move home and is a very popular service. A Redirection for a family of four costs just c.30p per day. Despite this, we know that a minority of customers, particularly our more vulnerable customers, may still have affordability concerns. To protect these vulnerable customers, we have significantly expanded our concessionary rate scheme. We are pleased that our improved concessionary rate scheme addressed Ofcom's affordability concerns.

We have worked hard to increase the visibility of the concessionary scheme to our customers. We have seen a [X]-fold increase in take up over the last year and will continue to raise awareness of the scheme amongst customers on lower incomes.

### Context

- 1.127 A Royal Mail Redirection allows customers who are moving home or business to have mail that is addressed to their old address delivered to their new address. A Redirection can be put in place for up to four years, and provides peace of mind when moving, as well as helping to prevent identity fraud. We offer a range of Redirection products to meet the needs of our customers, who can choose the length of time they wish to redirect their mail and can apply for a Redirection up to 6 months before or after their moving date. Mail can be redirected to any address in the world. There is no upper limit on the volume of mail sent using Royal Mail Redirection. Users of a domestic Redirection are charged the same price for locations anywhere in the UK, and for any volume of mail they receive.
- 1.128 We have been redirecting mail for our customers for more than 180 years and we constantly strive to evolve the service to meet the needs of our customers. In recent years, we have:
- Frozen prices on the entry level 3-month consumer Redirection for residential customers;
  - Overhauled our pricing structure to reflect the modern household and societal changes;
  - Made it free for those under the age of 16 to be added to a Redirection;
  - Introduced a concessionary rate for those on lower incomes receiving specific benefits;
  - Put in place a ring-fenced process to protect victims of domestic abuse;
  - Provided a free Redirection for vulnerable victims of scams being targeted by fraudsters;
  - Provided a free Redirection for those affected by widespread events such as flooding; and
  - Invested in barcoding which will support greater automation of redirected items and improve the quality of the service we offer.

1.129 The unprecedented impact of the global COVID-19 pandemic had a dramatic impact on businesses and individuals across the UK. We invested significantly during the pandemic to support our customers with initiatives such as:

- Opening an online application process for business customers who were unable to submit a paper-based application when they were unable to enter their business premises;
- Introducing a pro-rata refund to help businesses cope with the uncertainty of lockdown;
- Introducing a free mail hold facility for customers applying for a Redirection;
- Introducing a new Small Business Diversion product;
- Agreeing a new process with Post Office to promote online applications;
- Increasing resource in our Customer Experience team to help our customers apply for a Redirection;
- Supporting domestic abuse victims, partnering with the charity Hestia to provide a Fresh Start toolkit including a free Redirection of mail, in confidence, to their new safe accommodation;<sup>92</sup> and
- Proactively writing to domestic abuse charities to raise awareness of our Redirection product

1.130 A Redirection is a highly manual product requiring more than 1 million hours of manual intervention in our Delivery Offices. Despite the high level of manual intervention, a Redirection offers good value for money. A Redirection for a family of four costs just c.30p per day and our customers are very happy with the Redirection service, with 82% telling us they are satisfied.<sup>93 94</sup>

1.131 We are pleased Ofcom has recognised that a Redirection is affordable for most consumers. However, we know, for a minority of our customers, affordability may remain a concern. In 2019 we launched a new concessionary rate for lower income families to help ensure all our customers have access to a Redirection. In our response to Ofcom's CFI in May 2021, we committed to undertaking consumer research to ensure that our Redirection products remain fit for purpose and to look at our concessionary rate scheme to see if we could do more.

1.132 We conducted extensive consumer research between June and July 2021. Our research gave us a better understanding of what our customers want and expect from a modern and contemporary Redirection service. We identified an opportunity to do more to support lower income households. As a result, we significantly enhanced the concessionary scheme by:

- Expanding eligibility for the scheme to include recipients of means tested benefits, namely the Universal Credit, as well as those receiving Pension Credits. Ofcom has found this change increases potential eligibility for a concessionary rate from 1.7 million people to around 7.2 million people;<sup>95</sup>
- Expanding eligibility to include homeowners as well as those who are renting;
- Significantly increasing the discount available to those eligible. A Redirection for an eligible family of four would decrease by 33% from c.30p per day to c.20p per day;<sup>96</sup>
- Expanding the concessionary Redirection to include a 12-month duration – the most efficient way to take out a Redirection – giving our customers more choice;

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<sup>92</sup> Fresh Start Toolkit <https://www.hestia.org/news/hestia-works-with-businesses-to-provide-potentially-lifesaving-support-to-victims>.

<sup>93</sup> Based on a family of two adults and two children, one below the age of 16 and assuming 304 working days.

<sup>94</sup> Royal Mail, Customer satisfaction survey 2021/22 Q3.

<sup>95</sup> Ofcom, Review of postal regulation, Consultation, December 2021, para 5.87.

<sup>96</sup> Based on a family of two adults and two children, claiming a £60 concessionary Redirection, assuming 304 working days.



- Increasing the visibility of the scheme by creating a dedicated webpage, enhancing the prominence of key information and promoting externally in our marketing communications; and
- The Department for Work and Pensions has also supported our awareness campaign by incorporating our concession Redirection product information when speaking to new claimants.

1.133 We are very pleased that Ofcom welcomed the “*significant changes made by Royal Mail*” to address potential affordability concerns and recognised the steps we have taken to ensure the Redirection Product remains affordable for all our customers, including those on lower incomes.<sup>97</sup> Ofcom has not proposed to extend regulation of Redirection products. We agree this is the right decision.

1.134 Since concerns were raised about the affordability of some Redirection products by Citizens Advice in 2018, we have taken a number of steps to protect our customers including freezing prices for four years, making structural changes to our overall pricing to reflect modern society and introducing a concessionary scheme for those on lower incomes. This demonstrates our commitment to ensuring that our services are available to all consumers.

1.135 We are pleased that the changes to our concessionary rate scheme, as a result of our consumer research, addressed Ofcom’s concerns around affordability. Our original concessionary scheme was the first of its kind in Royal Mail. Since its introduction, we have listened to our stakeholders and our customers and developed the scheme to ensure it meets the needs of lower income consumers. We have now expanded the eligibility criteria to include a significant proportion of the UK population.

1.136 We have worked hard to improve visibility of the concessionary scheme. 2021/22 has seen more than a [§<]-fold increase on take up of the concession, compared to the previous year. We are pleased that more consumers are utilising the concessionary scheme and will continue to monitor applications and raise awareness through a diverse mix of channels.

1.137 We note Ofcom’s comment that Royal Mail will need to review the price of concessionary Redirection products as input costs rise over time. We recognise that any increase in the concessionary price must be handled sensitively. We have already announced that the prices will be frozen for 2022/23 despite the high rate of RPI. We commit to giving careful consideration to any changes to the concessionary prices when they are reviewed.

## **Regulatory ask**

1.138 We are pleased that Ofcom has recognised a Redirection is affordable for most consumers. We are also pleased that Ofcom welcomed the significant changes to our concessionary scheme, based on extensive consumer research, which has addressed Ofcom’s concerns around affordability. We welcome Ofcom’s proposal not to impose further regulatory requirements on Royal Mail in relation to Redirection products.

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<sup>97</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 5.91.

## Further view on USO parcel regulation (Q7.2)

**Ofcom 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.**

### Overview

The minimum requirements for the universal postal service set out in the PSA 2011 require parcels to be delivered five days a week (Monday to Friday) to every address across the UK. In practice, Royal Mail already delivers parcels six days a week (Monday to Saturday). This reflects consumer demand and market dynamics in the parcels sector. As such, we agree with Ofcom that there is no immediate need to add Saturday parcel deliveries to existing USO requirements.

We agree with Ofcom that the current USO parcel weight limit should be retained. Reducing the limit to below 20kg could be detrimental to customers. There are some areas of the country where the market is not providing a reliable, affordable collection and delivery service at these parcel sizes.

### Context

**We agree with Ofcom's proposal not to make any changes to the current five day parcel USO requirements**

- 1.139 The minimum requirements set out in section 31 of the PSA 2011 require parcels to be delivered five days a week (Monday to Friday) to every address across the UK. When making the Universal Service Order in March 2012, Ofcom did not add to these delivery requirements.
- 1.140 In practice, Royal Mail already delivers parcels across the UK six days a week (Monday to Saturday), including Universal Service parcels. As noted by Ofcom, this reflects the consumer demand and market dynamics in the parcels sector. The industry trend is for more parcel delivery options for consumers, not less. In March 2021, we started trialling Sunday parcel delivery for major retailers.<sup>98</sup> Royal Mail's delivery model also relies on economies of scope, with USO letters and parcels delivered together in a combined network. As such, we agree with Ofcom that there is no immediate need to add Saturday (or indeed Sunday) parcel deliveries to the Universal Postal Service requirements (by modifying the Universal Services Order).

**We agree with Ofcom that the 20kg USO weight limit should be maintained**

- 1.141 The USO requirements on Royal Mail apply to parcels up to 20kg. As outlined in our CFI submission, we consider that these weight requirements are working well. USO parcels up to 20kg provides an essential service for users who need it. While there is now very significant competition for consumer parcel services across most of the UK and for most parcel sizes, the market does not currently provide a reliable, affordable collection and delivery service to all parts of the UK at these parcel sizes, especially above 15kg.
- 1.142 No operator other than Royal Mail offers a UK-wide next-day service at comparative prices to standard USO products. Hermes applies a variable delivery timeframe depending on where the item is being sent from and to in the UK. For some UK locations, it applies surcharging. Yodel and DPD also apply surcharges in some circumstances. A reduction in the weight limit could therefore disadvantage customers in remote locations. We therefore agree with Ofcom that changes to the 20kg USO weight limit are not necessary at this time.

<sup>98</sup> See <https://www.royalmailgroup.com/en/press-centre/press-releases/royal-mail/royal-mail-taps-into-sunday-parcel-deliveries-for-major-retailers/>

## **Regulatory ask**

1.143 The current five day parcel USO requirements should be retained. The current USO requirements on Royal Mail up to 20kg should be retained.

## Further views on USO letters regulation (Q5.3)

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

### Overview

We agree that Ofcom's current approach to regulating meters should be retained. Meter remains important to SMEs that use it and the market does not offer comparable services. Ofcom should therefore keep meters within the Universal Service.

### Context

#### We agree with Ofcom's proposal to retain meter mail within the USO

1.144 Ofcom's current approach to regulating meters is working well. Among SMEs that use metered/franked mail, 85% consider this method of sending mail to be 'important' or 'very important' to their business.<sup>99</sup> It is an important component of a wider regulatory framework to support the financial sustainability of the Universal Service. Further, the market does not offer comparable services, given customers relatively low volumes per posting.

### Regulatory ask

1.145 Ofcom should retain its current approach to regulation of meters.

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<sup>99</sup> Ofcom, Review of postal users' needs, November 2020, Para 6.50.

# **Theme 2**

**Clarity on efficiency and financial sustainability.**

## Financial Sustainability (Q3.1)

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

### Overview

Ofcom has a statutory duty to secure the universal postal service, including having regard to the need for the Universal Service to be financially sustainable. It proposes to strengthen its monitoring regime in order *“to properly scrutinise the likely sustainability of the universal service in the longer term.”*<sup>100</sup> We fully support this objective, though we remain concerned that Ofcom has to date failed to engage on the material changes required to the monitoring framework in order for it to be effective.

Ofcom’s current framework is short sighted and demonstrably failed when tested in the early days of the COVID-19 pandemic. Ofcom’s indicative 5 to 10% EBIT margin range is too narrow a measure to provide a comprehensive assessment of the long-term financial sustainability of the Universal Service. When Royal Mail faced a challenging financial environment in 2020, it was apparent that Ofcom has no toolkit with which to respond. Our proposed additional equity metric(s) and tramline approach would look to provide Ofcom with an early warning system.

Ofcom focuses inappropriately on viability rather than sustainability. A business may be viable in the short-term if it invests<sup>101</sup> and supports its debts whilst not paying a dividend. A business can only be sustainable in the long-term if it can fund all three. Ofcom’s monitoring framework heavily relies on debt metrics with no equity metrics – it is therefore monitoring viability (debt metrics) whereas it should have regard, as it is required to do under the PSA 2011, to sustainability (debt and equity). This is inappropriate. Our proposed approach – as set out in our CFI response - addresses this.

Ofcom’s monitoring framework should include wider metrics to identify when sustainability concerns may arise. If sustainability issues are identified, our proposed approach seeks to increase the chances that Ofcom and Royal Mail will have a shared understanding. This will enable proactive steps to be taken in a timely fashion. A narrow focus on viability runs the risk that sustainability concerns will run below the radar until it is too late. Ofcom has limited regulatory levers to support the Universal Service and the ones it has are typically slow to deploy. Hence why an effective early warning system is required.

Ofcom proposes to require Royal Mail to provide an annual five-year confidential financial forecast. This has the hallmarks of the failed Postcomm era which relied on five-year forecasts. Like all publicly listed companies, we need to provide guidance to the market on our medium-term strategy and targets when it is appropriate to do so. This is not aligned to a regulatory cycle at Royal Mail. Royal Mail took quick, decisive action, and updated the market and Ofcom on the risks, actions, and potential impact of the COVID-19 pandemic. While it has not been appropriate to give medium term guidance for some time given the level of uncertainty, such guidance should and will be reinstated when it is meaningful and appropriate to do so.

The market will demand new guidance once there is greater certainty. As we progress through 2022-23 we hope to have more certainty on customer behaviour and revenue growth as well as progress on our transformation programmes. The market will increasingly expect more information on our medium-term strategy and associated targets.

Ofcom should rely on our publicly communicated market guidance, and the confidential business plan or forecast which underpins that guidance. Our shareholders will hold us to account to deliver

<sup>100</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.52.

<sup>101</sup> When financially distressed a company may cut investment to a minimum. A sustainable company will also invest in innovation and growth.

this strategy. A separate regulatory plan that does not align to our market guidance will be incoherent. The time period for any market guidance will be determined by the level of confidence we have in our ability to forecast the future. Hardwiring a regulatory requirement for an arbitrary five-year forecast period, based on a regulatory cycle rather than our business cycle, is not appropriate.

Ofcom also proposes that Royal Mail provides further downsides and sensitivity analyses. As Ofcom's framework is focused on viability not sustainability, we do not agree that it is appropriate to require us to provide this information. We would be constructing it specifically for Ofcom. We already produce downside analyses that inform our viability statement, published in our annual reported accounts, and share this analysis with Ofcom. Our current assessment is sufficient for Ofcom's viability considerations.

Before being able to meaningfully comment on any annual timeline for the provision of financial information, we need to understand, in detail, what information Ofcom would be requiring us to provide. If Ofcom agrees to our proposal to use the plan that underpins the medium-term market guidance then requiring the plan by 31 May 2023 would simply not work. From the end of March through to end of May, our Financial Planning, Analysis and Reporting teams are heavily focused on preparing and announcing the statutory results, as well as the statutory audit and subsequent engagement with financial analysts. We ask that Ofcom discuss the appropriate timelines for announcing relevant information with us before any final decision is taken to ensure any requirements are proportionate and achievable.

## Context

**Ofcom's current framework is short sighted and demonstrably failed when tested in the early days of the COVID-19 pandemic. Our proposed additional equity metrics and tramline approach provides the proactive toolbox that Ofcom needs.**

- 2.1 Ofcom reaffirms much of the existing framework. This includes the definition of Reported Business and the 5-10% EBIT margin is a *"first order indicator of sustainability."*<sup>102</sup> We agree with Ofcom that these elements remain appropriate for the next regulatory cycle. But, they are not sufficient. We remain concerned that Ofcom has to date failed to engage on the material changes required to the monitoring framework in order for it to be effective.
- 2.2 Ofcom states that *"it is important that we best understand and are able to properly scrutinise the likely sustainability of the universal service in the longer term."*<sup>103</sup> We agree that Ofcom should properly scrutinise the financial sustainability of the Universal Service. But Ofcom does not have the monitoring tools to do so. Ofcom's indicative 5 to 10% EBIT margin range is too narrow a measure to provide a comprehensive assessment of the long-term financial sustainability of the USO. For example, when Royal Mail faced a challenging financial environment in 2020, it was apparent that Ofcom has no toolkit with which to analyse the predicament and respond. Our proposed additional equity metric(s) and tramline approach would look to provide Ofcom with an early warning system. This is particularly important for the postal industry where Ofcom has limited levers to take action to help support financial sustainability.
- 2.3 Ofcom's duty under the Postal Services Act 2011 is to secure the provision of the universal postal service. In doing so, Ofcom must have regard to *"the need for the provision of a universal postal service to be financially sustainable."*<sup>104</sup> Oxera has stated that a *"financially sustainable company needs to be able to earn revenues that allow it to cover its debt costs and provide equity investors with a return on their investment."*<sup>105</sup> A business may be viable in the short-term if it invests and support its debt whilst

<sup>102</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.37.

<sup>103</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.52.

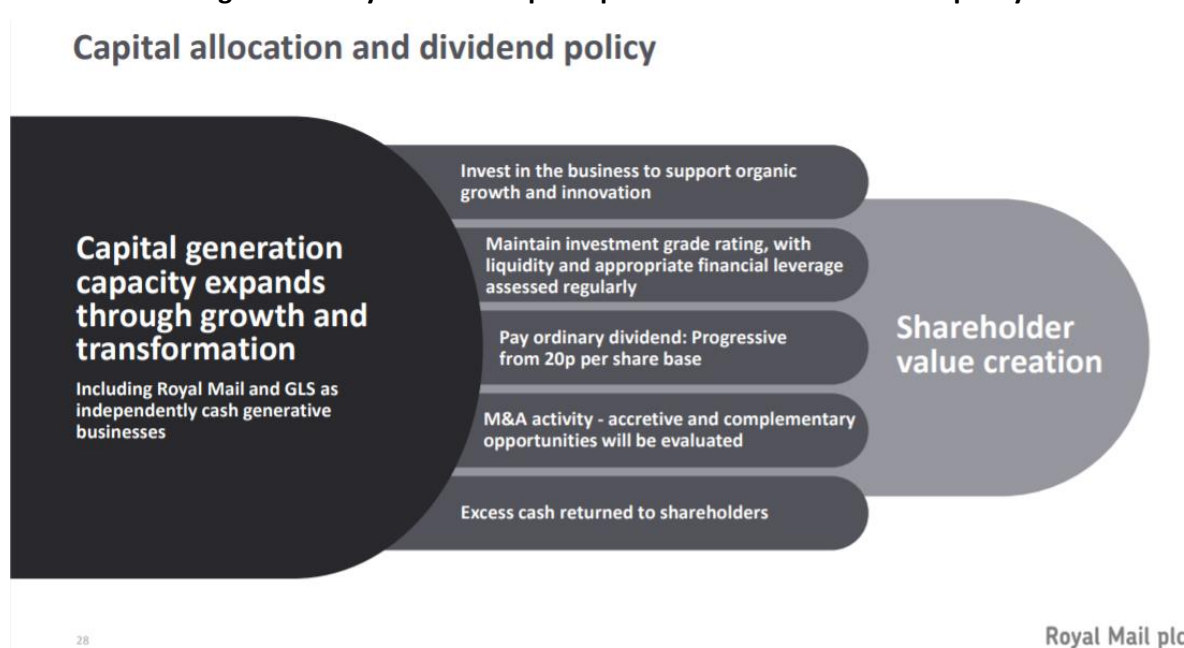
<sup>104</sup> Postal Services Act 2011, 29 (3) a.

<sup>105</sup> Oxera, Financial sustainability of the universal postal service, May 2021, Page 11.

not paying a dividend, whereas a business can only be sustainable in the long-term if it can fund all three.<sup>106</sup>

- 2.4 A sustainable business is expected to make a commercial return. The PSA 2011 explicitly recognises this fact. It states that the “*need for the provision of a universal postal service to be financially sustainable includes the need for a reasonable commercial rate of return*”.<sup>107</sup>
- 2.5 If it is not possible to make a commercial return on our investments (i.e. can pay interest to our debt holders and dividends to our equity investors), shareholders will not invest in Royal Mail. If we are not able to access capital from the market, we will not have the funds to invest in our services, entering a vicious downward cycle.
- 2.6 To avoid this situation, we have developed our capital allocation policy to ensure we invest in our business and provide our shareholders a reasonable return. Our capital allocation policy (as set out in our Analyst Presentation 2020-2021) is shown below:<sup>108</sup>

**Figure 2.1: Royal Mail Group’s Capital allocation and dividend policy**



- 2.7 We have a duty to ensure appropriate use of shareholder funds. If we cannot make the necessary returns, we should return excess capital to shareholders. We need the appropriate financial incentives to invest in the Universal Service network. We need a reasonable expectation that investment will make a commercial rate of return.

**Ofcom’s framework focuses inappropriately on viability rather than sustainability**

- 2.8 The framework is focussed on viability not sustainability. This creates a risk that Ofcom will not take appropriate regulatory action in a timely fashion. Ofcom should put in place a monitoring regime that includes metrics to identify when sustainability concerns may arise.
- 2.9 The chart below shows the relationship between financial viability and financial sustainability. The key difference between viability and sustainability is the equity return component—a financially sustainable company needs to be able to generate profits that allow it to cover its debt costs and provide equity investors with a return on their investment. A firm can be viable if it can meet its debt obligations. However, if equity investors are continually unable to earn a commercial rate of return

<sup>106</sup> When financially distressed a company may cut investment to a minimum. A sustainable company will also invest in innovation and growth.

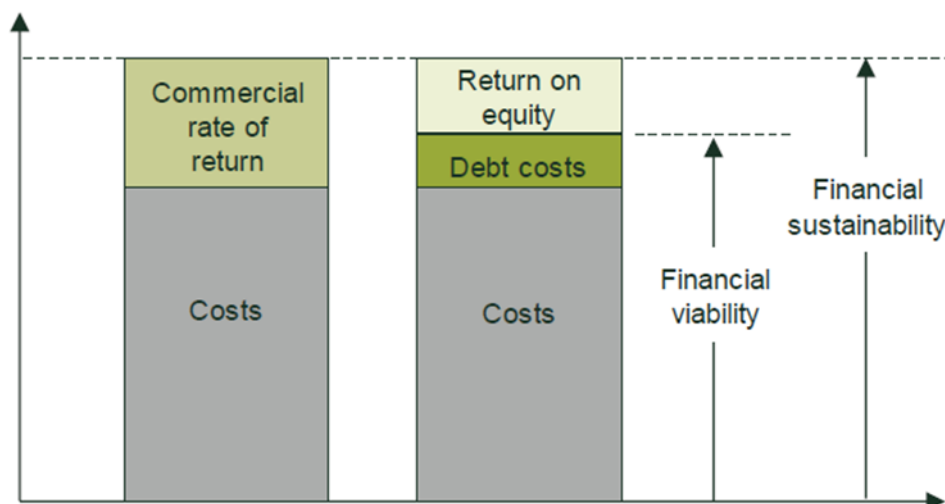
<sup>107</sup> Postal Services Act 2011, Schedule 29 (4).

<sup>108</sup> Royal Mail, Full Year Results 2020-21, presentation to analysts.



on their investments, or do not see a realistic proposition of doing so in the future, the company will not be able to attract the equity investment that is needed in order to invest in the business. Should Royal Mail find itself in this position, the inability to attract investment will deprive the Universal Service of investment potentially affecting service quality and innovation.

**Figure 2.2: Distinction between financial sustainability and viability<sup>109</sup>**



Source: Oxera.

**Ofcom should put in place a monitoring framework that includes equity metrics to identify when sustainability concerns may arise.**

2.10 We are disappointed that Ofcom has not taken forward our proposal to enhance its monitoring framework. It is a missed opportunity to put in place a framework that would robustly identify when the financial sustainability of the Universal Service was under pressure. We are concerned that Ofcom’s monitoring framework is too reliant on ‘viability’ measures and not ‘sustainability’ measures. Debt metrics tend to be affected after equity metrics. Therefore, equity metrics are more of an ‘early warning system’ than the debt metrics Ofcom monitors. As a result, Ofcom may be too late to act to address sustainability issues in the future. For example,

- Any relevant information to the market in Royal Mail plc shares is provided to the market immediately. This means investors can make relevant and informed decisions at that point. Debt credit rating is reviewed annually, and covenant metrics are updated every six months; and
- Debt holders have a greater claim on their investment than shareholders who are more likely to lose their investment in the event of a severe business issue. There is no direct recourse for shareholders in the event that dividends are not paid. Should Royal Mail default on its debt, its debt holders can take action to secure their investment. Dividend payments are affected before debt payments.

2.11 Ofcom also stated that a five-year forecast would “*strengthen our oversight role in holding Royal Mail to account on efficiency performance which would also help us by providing an early warning sign of likely financial sustainability problems*”.<sup>110</sup> Rather, including equity metrics in its monitoring framework would be a more proportionate means of ensuring there is an early warning sign.

<sup>109</sup> Oxera, Financial sustainability of the universal postal service, May 2021, Figure 2.1.

<sup>110</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.27.

**Ofcom’s monitoring framework should include wider metrics to identify when sustainability concerns may arise**

- 2.12 In our response to Ofcom’s CFI, we made four proposals. We suggested including (1) equity metrics and (2) tramlines – we discuss this below. In addition, we suggested that Ofcom (3) provide clarity on the tools Ofcom has to remedy financial sustainability concerns – we set out our concerns on this in paragraphs 2.17 to 22 below. Finally, we suggested that (4) Ofcom needs to give further consideration to the ESG agenda. We have provided further information on ESG in response to question 2.1.
- 2.13 Whilst Ofcom *“agree[d] that a company needs to be an investable proposition for equity investors”*, Ofcom also said that *“any decisions on dividend policy are for Royal Mail Group to take and will reflect the performance and investment needs of the wider Group.”*<sup>111</sup> Therefore, Ofcom does not propose to include targets for equity metrics (our first proposal). We agree that Ofcom should not set a dividend target at the level of Royal Mail Group plc. However, Ofcom should recognise that the group’s equity return is something that we have to closely monitor and, as set out above, our capital allocation policy is to pay a sustainable and progressive dividend. As discussed above, the inclusion of equity metrics would provide an ‘early warning system’ if financial sustainability concerns were to arise.
- 2.14 Ofcom does not intend to adopt our second proposal of tramlines around these metrics. Ofcom does not intend to hardwire specific regulatory actions to a given measure or being outside of a particular range. *“We will consider each case in its specific circumstances and in the wider context of Royal Mail’s financial performance and position.”*<sup>112</sup> We recognise that different issues may need different solutions. But having a common understanding of when financial sustainability issues are arising would support Ofcom in its statutory duty to secure the provision of the Universal Service.
- 2.15 If sustainability issues are identified, our proposed approach seeks to increase the chances that Ofcom and Royal Mail will have a shared understanding. This will enable proactive steps to be taken in a timely fashion. A narrow focus on viability runs the risk that sustainability concerns will run below the radar until it is too late. Absence of the ‘tramlines’ in its decision-making could delay Ofcom determining whether intervention is necessary. It could harm the provision of the Universal Service in the event that the service is at risk. It undermines investment incentives due to the lack of clarity in the framework. Ofcom’s response that it *“all depends”*<sup>113</sup> does not provide clarity and does not help support long-term investment. Further it risks that if Ofcom’s intervention is necessary, it will come too late.
- 2.16 Furthermore, as noted above, Ofcom’s monitoring framework focuses on debt metrics – these are managed to be the last metrics breached if a company is in distress. Breaching debt metrics risks insolvency whereas there are not the same consequences should dividends be paused, cut or stopped. Typically, equity metrics would be the first to be affected in financial distress. If Ofcom’s intent is for an early warning sign of financial issues, instead of extending the financial forecast period and introducing significant additional work for Royal Mail, we suggest that Ofcom adopts equity metrics in its monitoring framework.

**Ofcom has limited regulatory levers to support the universal service and the ones it has are typically slow to deploy. Hence why an effective early warning system is required.**

- 2.17 Ofcom has not provided any guidance on the actions it would take to secure the universal postal service in the event that there were financial sustainability concerns - our third ask of Ofcom in our CFI response. Ofcom has set out that Royal Mail is best placed to manage the risks. But Ofcom has not provided any guidance on the actions it would take to address issues of financial sustainability. We had asked for clarity on Ofcom’s framework and specifically raised this – Ofcom has not done so.

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<sup>111</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.46.

<sup>112</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.30.

<sup>113</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.39 states *“We will consider each case in its specific circumstances and in the wider context of Royal Mail’s financial performance and position.”*

- 2.18 In Ofcom’s consultation document, it identified three drivers of financial sustainability: parcel and letter revenue and cost transformation. We suggest that there is a fourth driver – regulation. Ofcom recognised “*the importance of good regulatory practice and stability to support incentives to invest*” but did not include the regulatory framework as a further driver of financial sustainability.<sup>114</sup> This omission ignores the important role that the regulatory framework plays in (1) supporting investment (through clarity and certainty on the regulatory rules) and (2) interventions in the event that the Universal Service is forecasting and/or is in financial distress. While Ofcom has provided transparency on parts of its monitoring framework – such as the EBIT margin of 5-10% being indicative of a commercial rate of return - Ofcom has not provided any guidance on the actions it could take to help remedy a financial sustainability issue. This was one of our key proposals in our CFI submission. We believe this will be helpful to all stakeholders. Ofcom, by clarifying the tools it has, would provide better insight to all stakeholders. Further providing clarity on timelines for interventions would also be helpful.
- 2.19 We recognise that Ofcom has limited tools to address a financial sustainability issue. The tools at its disposal are asymmetric. It has tools to reduce Royal Mail’s commercial freedoms, for example, to introduce price controls. But, it has limited tools to support Royal Mail. For example, if there was a financial sustainability issue, there are limited tools for Ofcom to increase Royal Mail revenue given the market dynamics we face – letters in structural decline, parcels highly competitive. Ofcom could introduce a compensation fund. But this would take significant a number of years to deploy.
- 2.20 As we have set out above, as Ofcom’s framework monitors viability without tramlines, we believe there is a material risk that Ofcom does not identify financial sustainability issues early enough. We consider that the length of time it will take Ofcom to recognise a sustainability issue and the length of time to implement a solution means that there is a real risk of irreversible harm to the financial sustainability of the Universal Service.
- 2.21 Accordingly, there could be material and irreversible damage to the finances of the Universal Service before regulatory intervention could be implemented due to the long lead times. This inability to quickly remedy issues – and the asymmetric nature of Ofcom’s tools - means Ofcom should take a more proactive approach to regulatory changes that support the finances of the Universal Service. Ofcom should allow the Universal Service to remain relevant so it can continue to be market funded. There is widespread recognition that compensation funds do not work. If the market cannot fund the Universal Service, there is a risk of the need for public subsidy.
- 2.22 We are not the only postal operator to highlight that there is a risk that the public purse will have to fund the Universal Service. In PostEurop’s recent submission to the European Commission on their evaluation report on the Postal Service Directive: “*PostEurop members believe experiences with compensation funds to date have proven not to be successful, and therefore see no point in further exploring funding through this alternative. The USO aims at satisfying the user needs, thereby fulfilling an essential public service as well as acting as an instrument of social cohesion. Considering the wide benefits USO delivers to society, it should be sufficiently financed. Given that the USO should respect the principle of economic sustainability, how the universal service is funded is vital. Where USO revenues do not or cannot cover the net cost of the service, public resources should fully refund the Universal Service provider (USP).*”<sup>115</sup>

**Ofcom should use our medium-term market guidance rather than the failed five year forecasts it is proposing.**

- 2.23 Ofcom says that it needs longer term forecasts as “*some of the factors at work are long term e.g. decline in letters and the transformation of the network.*”<sup>116</sup> Ofcom also suggests that “*a five year period ... should still allow Royal Mail to generate meaningful forecasts, particularly if the forecasts*

<sup>114</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.28.

<sup>115</sup> PostEurop, Position Paper on the PSD Evaluation Report, March 2022

<sup>116</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.53.

are supplemented with adequate sensitivity and scenario analyses.”<sup>117</sup> However, Ofcom does not explain what these sensitivity and scenario analyses would be.

- 2.24 Our industry is very different to those of regulated utilities, such as the water industry, or gas and electricity distribution networks, that have fixed and steady revenues and costs. When Ofcom took over responsibility for post, it found that *“(t)here is widespread recognition that the approach to regulation adopted in the past, has failed in the face of the particular circumstances affecting this sector.”*<sup>118</sup> In regulating Royal Mail, Ofcom should not look to use the tools that other utility regulators use. The demand characteristics we face are materially different. Regulated utility businesses produce a regulatory forecast once a regulatory cycle (typically five years). This forecast will include volumes, revenue, operating costs, capital investment and cost of capital. This forecast is used by regulated companies and their regulators to agree the appropriate pricing levels given the investment levels agreed. For Royal Mail this is simply not appropriate. We do not ‘do a deal’ with our regulator. Our investment levels are dependent on our investors being comfortable with our strategic direction. Our prices are determined by the market – structural decline in letters and significant competition in the provision of parcel services. In normal circumstances, we provide medium term guidance to the market. If investors are not comfortable that we have the right strategy in place, they will take their funds elsewhere.
- 2.25 Like all publicly listed companies we need to provide guidance to the market on our medium-term strategy and targets when it is appropriate to do so. This is not aligned to the five-year regulatory cycle. We cannot agree that it is right to provide five-year forecasts for regulatory purposes when we have not issued medium term guidance to the City. In our view, Ofcom should start from the business plan underpinning the medium-term guidance when we issue it to the market. This will be management’s best view of what is achievable.
- 2.26 During the COVID-19 pandemic, we had to suspend our market guidance due to the significant uncertainty over demand. We have not recently issued new medium-term guidance for Royal Mail UK. We continue to face challenges caused by the COVID-19 pandemic recovery and the end of the implementation period following the UK’s departure from the European Union (‘Brexit’) which have resulted in disruption to global supply chains. These challenges include:
- changing customer behaviour in response to COVID-19 pandemic and changing Government restriction;
  - structural labour and skills shortage;
  - inflationary cost pressures caused by lack of capacity in domestic and international linehaul, energy and fuel costs, and global material shortages;
  - employee absence higher than pre-pandemic levels; and
  - UK-EU border disruption caused by changes to customs data.
- 2.27 Given these factors and the ongoing innovation in the postal sector, it is extremely hard to provide meaningful guidance at this time. However, as we progress through 2022-23, we hope to have more certainty on customer behaviour and revenue growth as well as progress on our transformation programmes. The market will increasingly expect more information on our medium-term strategy and associated targets. While it has not been appropriate to give medium-term guidance for some time given the level of uncertainty, such guidance should and will be reinstated when it is meaningful and appropriate.
- 2.28 Ofcom should look to use our medium-term guidance to assess financial sustainability and efficiency. This is the information investors will rely on when making decisions whether to invest in Royal Mail. Further, we will have a confidential business plan or forecast that underpins this guidance. We, Ofcom

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<sup>117</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 3.56.

<sup>118</sup> Ofcom, Securing the Universal Postal Service, October 2011, Para 1.21.

and investors have a common goal – a financially sustainable business delivering high quality of service to our customers. We urge Ofcom to rely on the confidential business plan or forecast that will underpin our market guidance. This ensures the Regulator has a good understanding of what the market is demanding from Royal Mail, thus, avoiding regulatory game planning that is inherent in regulatory forecasts.

**We disagree with Ofcom’s proposals around the provision of downsides and sensitivity analyses.**

- 2.29 In our response to Ofcom’s CFI, we recommended that Ofcom should put more weight on the downside scenarios as part of its financial monitoring framework. Ofcom has chosen not to take forward our proposal to enhance the framework with equity metrics.
- 2.30 We already produce a downside on our business plan. This is shared with Ofcom. We review our principal risks to assess a severe but plausible scenario to inform our viability statement in the published annual report and financial statements. This assessment is on the viability rather than sustainability of Royal Mail. For example, as part of our assessment for viability purposes, we consider a series of actions to protect cash. These include stopping paying dividends, constraining capital expenditure and other measures that could be implemented on a short-term basis. We do not believe that a sustainable business could continue with these measures in the long-term.
- 2.31 However, as set out above, Ofcom’s framework is focused on viability not sustainability. Therefore, what we already do and share with Ofcom should be sufficient for Ofcom’s viability considerations. Our viability statement and the assessment underpinning it is reviewed by our auditors. We believe this should give Ofcom additional confidence that it can rely on it. We do not agree that it is appropriate to require us to provide additional downsides and sensitivity analyses. This will create further work for Royal Mail, but Ofcom have not set out how this information would be used to assess long term sustainability. Hence, we do not believe Ofcom have demonstrated that this new regulatory requirement is proportionate or necessary.

**Ofcom should reconsider the timescales for the provision of financial information.**

- 2.32 Ofcom considers that 31 May is a proportionate deadline for the provision of financial information as it aligns to Royal Mail’s three-year business planning cycle and by raising this now, it gives Royal Mail time to prepare its reporting systems and processes to produce and deliver the required reports.
- 2.33 Our proposal is that Ofcom should rely on (1) our medium-term market guidance and the confidential business plan or forecast that supports it and (2) subsequent three-year annual confidential business plans that will update the financial forecast. While it has not been appropriate to give medium term guidance for some time during the COVID-19 pandemic, this guidance should and will be reinstated when it is meaningful and appropriate. We note that it would be exceptional not to have medium term guidance for several years outside of an event like the COVID-19 pandemic.
- 2.34 What Ofcom asks for – two additional years beyond Royal Mail’s typical business planning horizon - is over and above the activities performed by Royal Mail’s business planning and finance teams. From the end of March through to end May, our Financial Planning and Analysis and reporting teams are heavily focused on preparing and publishing the statutory results, as well as the statutory audit and subsequent engagement with the financial markets. Typically, years two and three of our business plan are not approved by the Group Board until late May.
- 2.35 There is no time to perform the additional tasks of producing a five-year regulatory forecast. This is not just an exercise in creating new processes to produce spreadsheet reports. Management time needs to be spent validating, reviewing and assuring the results. Senior management time needs to be spent assessing whether the outcomes are meaningful and then approval on that the information is of sufficient quality to be submitted to Ofcom. In addition, Ofcom has not specified what downsides and sensitivities it needs. We cannot comment meaningfully on a proposed timeline when it is unclear what activities we would need to complete. However, we note that Ofcom should take account of our year end reporting timeline when considering imposing further financial regulatory reporting

requirements on the business. We ask that Ofcom discuss the appropriate timelines for announcing relevant information with us before any final decision is taken to ensure any requirements are proportionate and achievable.

## **Regulatory ask**

2.36 Our ask is:

- Ofcom implements our proposal as set out in our CFI response for the inclusion of (1) equity metrics; (2) tramlines; and (3) guidance on the actions Ofcom may take to remedy financial sustainability concerns; and
- For financial forecasts, Ofcom uses (1) our medium-term market guidance (when this has been issued) and the confidential business plan or forecast that supports it and (2) subsequent three-year confidential annual business plans that update the financial forecast. The timing of the medium-term guidance will be dependent on when Royal Mail has sufficient clarity on our medium-term strategy to communicate to the market. Timelines for requirements for provision of more detailed financial information should flow from this date. They need to take account of the Statutory reporting cycle, ensuring the requirements are proportionate and do not put an unreasonable burden on Royal Mail. We ask that Ofcom discuss the appropriate timelines for announcing relevant information with us before any final decision is taken to ensure any requirements are proportionate and achievable.

## Efficiency (Q4.1 & Q4.2)

**Ofcom 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? Please substantiate your response with reasons and evidence.**

**Ofcom 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.**

### Overview

We agree with Ofcom that it is appropriate to maintain its historic approach to monitoring efficiency. Royal Mail was privatised to bring in market discipline. We already face all the incentives we need to be efficient. Ofcom recognises that *“...shareholder pressure and market forces already create significant incentives for Royal Mail to become efficient in the provision of the universal service.”*<sup>119</sup> We also support Ofcom’s position that *“we do not think re-introducing price controls or attempting to set binding targets would support the delivery of efficiencies.”*<sup>120</sup> These would be a distraction and create no additional incentive given the significant pressures we face to become more efficient.

Ofcom has highlighted some concerns relating to our progress on efficiency and proposes to require Royal Mail to publish five-year expectations of efficiency and report against them. Whilst we understand fully the need for Ofcom to monitor our progress on efficiency, this proposed mechanism is not ‘fit for purpose’. The proposal may have some merit if: 1) Royal Mail was operating in a traditional and stable ‘utility like’ market with predictable demand; and 2) our five-year regulatory cycle included wide-ranging price control and RAB / WACC type returns assessments. Neither of these are currently true for Royal Mail. As such, Ofcom’s current proposal has significant potential failings, whilst at the same time, better alternatives exist.

It is currently extremely difficult to predict how our markets will evolve in the next six months, never mind over a five-year term. This unpredictability of future demand makes efficiency forecasting subject to a large margin of error. As we have set out in our response to Question 3.1 on Financial Sustainability, the requirement for five-year regulatory forecasts has the hallmarks of the Postcomm era which inappropriately relied on such forecasts in a rapidly changing market.

There is a better and more coherent alternative. Like all publicly listed companies, we need to provide guidance to the market on our medium-term strategy when it is appropriate to do so, for example in periodic Capital Market Day presentations. It is at this point where it makes most sense for Royal Mail to publish guidance and be transparent on our efficiency expectations. A separate regulatory plan that does not align to market guidance would be incoherent for both the company and its investors. If, instead of Ofcom’s regulatory forecast, it were to hold Royal Mail to account for achieving targets we have necessarily outlined to the market (for example at a Capital Markets Day presentation), then the metrics, associated plans and information – and the tracking – will remain relevant and wholly appropriate.

The transparency that Ofcom proposes will be too technical and/or too high level for the public to contribute meaningfully. It is not appropriate for Ofcom to seek to outsource a technical exercise to the public when it has the economic and financial skills and access to more (confidential) information to perform the assessment.

It is not clear how Ofcom’s proposal meets the principles for imposing new regulation set out in the Communications Act 2003. Regulation should be *“targeted only at cases in which action is*

<sup>119</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.39.

<sup>120</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Title on Page 41.

needed”<sup>121</sup>. It stated that “we think”<sup>122</sup> there is value from publication. It has not set out a comparison of the benefit compared with the cost of compliance, nor the risk of publishing confidential information.

Ofcom also proposes that Royal Mail reports annually against the five-year efficiency expectation. The postal industry moves too quickly for annual reporting against a static five-year regulatory efficiency expectation to make sense. The regulatory forecast will rapidly become out of date. Reporting against a static five-year efficiency expectation will be burdensome and of little value, yet resulting in increased red tape.

Ofcom has shortlisted five metrics for consideration for publication. When we publish our market guidance for the UK Business, we will publicly disclose to our investors – and all stakeholders – key business and financial metrics. These will set out the scale of our (revenue and) cost ambition. We will report our progress against our guidance. There is no need for separate regulatory measures given our commitment to publish medium-term market guidance, when it is meaningful and appropriate to do so. As part of developing our medium-term guidance, we will need to identify and provide appropriate key metrics demonstrating our efficiency expectations. Ofcom should use these metrics.

In conclusion, we believe that we have delivered on efficiency where we can as we set out in our CFI response but accept that there is more to do<sup>123</sup>. If Ofcom view additional measures as necessary – beyond relying on our market guidance - it should give serious consideration to our proposal to set out whether it views the efficiency ambition in our business plan as within a reasonable range.

- 2.37 In our response to Question 3.1, we have set out our concerns with production of a five-year regulatory financial forecast and with the information to be provided by 31 May 2023. For more details on our concerns, please refer to our answer for Question 3.1.

**We agree with Ofcom that it is appropriate to maintain its historic approach to monitoring efficiency. We also support Ofcom’s position that “we do not think re-introducing price controls or attempting to set binding targets would support the delivery of efficiencies.”<sup>124</sup>**

- 2.38 We agree with Ofcom that it is appropriate to maintain its historic approach to monitoring efficiency. Royal Mail was privatised to bring in market discipline. We already face all the incentives we need to be efficient. Ofcom recognises that “...shareholder pressure and market forces already create significant incentives for Royal Mail to become efficient in the provision of the universal service.”<sup>125</sup> We also support Ofcom’s position that “we do not think re-introducing price controls or attempting to set binding targets would support the delivery of efficiencies.”<sup>126</sup> These would be a distraction and create little additional incentive given the significant pressures we face to become more efficient. Price controls were shown to be a failure in the Postcomm era.
- 2.39 Ofcom says that “we continue to believe that shareholder pressure and market forces already create significant incentives for Royal Mail to become efficient in the provision of the universal service.”<sup>127</sup> We agree with Ofcom. Royal Mail was privatised to bring in market discipline. We already face all the incentives we need to be efficient. These pressures have led us to make difficult decisions to reduce costs (for example, closing the Defined Benefit Pension Scheme in 2017<sup>128</sup>, the management

<sup>121</sup> Communications Act 2003, Schedule 3 General duties of Ofcom, Paragraph 3(a).

<sup>122</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.43.

<sup>123</sup> For example, see Royal Mail, Response to Ofcom’s Review of Postal Regulation - Call for Inputs, May 2021, paragraphs 4.2-4.4; 4.10; and 4.15-4.16.

<sup>124</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Title on Page 41.

<sup>125</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.39.

<sup>126</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Title on Page 41.

<sup>127</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.39.

<sup>128</sup> Royal Mail, Response to Ofcom’s Review of Postal Regulation - Call for Inputs, May 2021, Para 4.4 - 4.10.



restructure in 2020<sup>129</sup> and in 2022<sup>130</sup>). It also influences our approach to business planning. Our business plans have to be ambitious and challenging. This is the consequence of market forces; pressure from our investors; pressure from declining letter volume; and pressure from competition in parcels.

2.40 Investors will assess our financial performance to determine whether or not to invest in our shares. If they believe that Royal Mail is underperforming on efficiency, they will move their funds elsewhere or press for a change of strategy and improved performance, or ultimately leadership. We have to keep delivering on our transformation agenda to reduce our costs and remain competitive across all our markets. Due to our combined letter and parcel Universal Service network, improvements in our network (such as our Pathway To Change initiatives) will benefit all products - letters and parcels.

**Ofcom has highlighted some concerns relating to our progress on efficiency and proposes to require Royal Mail to publish five-year expectations of efficiency and report against them.**

2.41 In Ofcom's assessment of our 2021 business plan, revenue growth is not enough, and Royal Mail needs to deliver on efficiency to ensure the longer-term sustainability of the Universal Service.<sup>131</sup> As we have set out in our response to Ofcom's CFI, we have delivered on efficiency where we can, but accept that there is more to do. For example:

- Our key operating metrics between 2009/10 and 2015/16 showed material improvements – such as reducing mail centres from 69 to 39<sup>132</sup> then falling further to 37 by 2017/18;<sup>133</sup>
- In 2017-18, we announced that we had exceeded our three-year cost avoidance target of £500m, having avoided £640m of costs while continuing to deliver on our service and product innovation;<sup>134</sup>
- In April 2017, we announced our plan to close the Defined Benefit pension scheme. In making the necessary and difficult decision to close (and doing so without a strike), Royal Mail avoided an increase in its contributions to the pension scheme of c£0.8bn<sup>135</sup> p.a. in 2018-19;
- When COVID-19 struck in March 2020, we took immediate action to secure the future of Royal Mail by: (1) a significant management restructure that led to a reduction of c2k managers and a saving of c£130m; (2) savings of c£250m on capex over two years, while remaining committed to our investment in parcel automation; and (3) addressing a c£200m saving in non-pay costs;<sup>136</sup> and
- This financial year, the impact of COVID-19, in particular, Omicron has affected our ability to deliver on savings. Nevertheless, as recently announced in our Q3 2021-22 Trading update<sup>137</sup>, we expect to: (1) deliver £55-£80m from our Pathway to Change agreement in 2021-22; and (2) deliver, subject to formal consultation, £40m of annualised benefit (£30m in 2022-23) from streamlining operational management to improve performance focus at a local level.

2.42 Despite the progress set out above, as a result of Ofcom's concern on efficiency, it considered that *"additional measures are necessary."*<sup>138</sup> Ofcom has indicated that *"we think there is value in increasing the level of public understanding and scrutiny of Royal Mail's efficiency expectations and its progress against them."*<sup>139</sup> Ofcom's solution is for Royal Mail to:

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<sup>129</sup> This management restructure announced a reduction of c2k roles.

<sup>130</sup> This management restructure announced the reduction of a further c700 roles, subject to consultation.

<sup>131</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.28.

<sup>132</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, May 2021, Para 4.2 and Figure 4.1.

<sup>133</sup> Royal Mail, Annual Report and Financial Statements 2017-18, Page 37.

<sup>134</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, May 2021, Para 4.4.

<sup>135</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, May 2021, Para 4.10.

<sup>136</sup> Royal Mail, Response to Ofcom's Review of Postal Regulation - Call for Inputs, May 2021, Para 4.16.

<sup>137</sup> Royal Mail, Further progress on transformation and trading update for the Third Quarter October to December 2021, 25 January 2022.

<sup>138</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.43.

<sup>139</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.43.

- set and publish a five-year expectation and publicly report annually against it, including reasons for divergence;
- provide first regulatory forecast on 31 May 2023, and thereafter every five years; and
- five year forecast to be static, unless there are exceptional circumstances.

2.43 Whilst we understand fully the need for Ofcom to monitor our progress on efficiency, this proposed mechanism is not ‘fit for purpose’. The proposal may have some merit if: 1) Royal Mail was operating in a traditional and stable ‘utility like’ market with predictable demand; and 2) Our five-year regulatory cycle included wide ranging price control and RAB / WACC type returns assessments. Neither of these is currently true for Royal Mail. For example, it is currently extremely difficult to predict how our markets will evolve in the next six months, never mind over a five-year term. This unpredictability of future demand makes efficiency forecasting subject to a large margin of error. As such, Ofcom’s current proposal has significant potential failings, whilst at the same time, better alternatives exist.

**There is a better and more coherent alternative. Ofcom should hold Royal Mail to account for its targets communicated to the market on its medium-term guidance.**

2.44 Like all publicly listed companies, we need to provide guidance to the market on our medium-term strategy when it is appropriate to do so, for example in periodic Capital Market Day presentations. It is at this point where it makes most sense for Royal Mail to publish guidance on efficiency expectations. A separate regulatory plan that does not align to market guidance would be incoherent for both the company and its investors. If, instead of Ofcom’s regulatory forecast, Ofcom were to hold Royal Mail to account for achieving targets we have necessarily outlined to the market (for example at a Capital Markets Day presentation), then the metrics, associated plans and information – and the tracking – will remain relevant and wholly appropriate.

2.45 During COVID-19 we suspended market guidance due to the significant uncertainty we faced.<sup>140</sup> Royal Mail took quick, decisive action, and updated the market, and Ofcom, on the risks, actions, and potential impact of the COVID-19 pandemic. While it has not been appropriate to give medium term guidance for some time given the level of uncertainty, such guidance should and will be reinstated when it is meaningful and appropriate. The market will demand new guidance once there is greater certainty. As we progress through 2022-23, we hope to have more certainty on customer behaviour and revenue growth as well as progress on our transformation programmes. The market will increasingly expect more information on our medium-term strategy and associated targets.

2.46 Our shareholders will hold us to account to deliver this strategy. A separate regulatory plan that does not align to our market guidance will be incoherent. The time period for any market guidance will be determined by the level of confidence we have in our ability to forecast the future. Hardwiring a regulatory requirement for an arbitrary five-year forecast period, based on a regulatory cycle rather than our business cycle, is not appropriate.

**Ofcom’s proposed “*additional measure*” is to require Royal Mail to publish five-year expectations of efficiency and report against them. We disagree.**

**(1) There is already significant transparency around our expectations.**

2.47 Ofcom’s rationale for publication of the five-year expectation is that “*we think there is value in increasing the level of public understanding and scrutiny of Royal Mail’s efficiency expectations and its progress against them.*”<sup>141</sup> Ofcom suggests its proposal creates a public reference point for Royal Mail’s efficiency. There is already significant transparency of Royal Mail’s financial performance – both statutory and regulatory. This additional reporting is not necessary.

<sup>140</sup> Royal Mail has stated that we have a productivity target of 3% for 2021-22, as set out in the 2020-21 Annual Report and Financial Statements.

<sup>141</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.43.

2.48 Royal Mail already provides significant transparency to our investors (and therefore the public) through our regular financial disclosures to the stock market, including our market guidance. We provide detailed insight into our historic financial performance through our statutory reporting. For example, we have updated our investors on the progress on efficiency delivered from our Pathway to Change agreement. We announced:

- a target of c£100+m in our 2020-21 Annual Results and Financial Statements. This was amended to at least c£80m at our half year results for 2021-22;
- Most recently, we announced expected benefits of £55 to £80m, dependent on the speed of recovery from Omicron;
- In addition, we have communicated £220m of savings for 2022-23 consisting of:
  - £90m of flow through benefit from Pathway to Change savings in 2021-22;
  - £100m from increases in automation and new Pathway to Change savings (such as year 2 revisions); and
  - £30m<sup>142</sup> from the management re-organisation in Delivery.

2.49 This transparency on our efficiency plans is provided without prompting by our regulator – our investors require us to be transparent. We provide market guidance when it is appropriate and meaningful to do so. In the past, we have provided guidance on letter and parcel volumes, productivity (WIPGH) and cost targets.

2.50 Further publication risks disclosing confidential information. This could affect our ability to compete by giving competitors insight into our confidential plans and affect the market in our shares. The majority of the Reported Business revenue is from parcels which Ofcom has stated is competitive. We are not like regulated utilities which face no or limited competition. Our competitors will look at the information that Royal Mail is required to publish to inform their future pricing strategies. Publishing a cost forecast that is constant, rising or falling along with other metrics on labour trends could provide insight on our commercial strategy. This would damage our profitability and undermine the finances of the Universal Service.

2.51 Additional disclosure that is not aligned to normal market communications may appear incoherent, with timelines and / or the metrics being communicated bringing confusion to stakeholders. Publishing a five-year expectation, particularly on cost metrics, could affect the market in Royal Mail's shares through selective disclosure of financial information. For example, consider if Royal Mail is required to publish an efficiency expectation and to report performance against this expectation, Ofcom might then issue a press release (or another announcement to provide public scrutiny) saying "*Royal Mail is missing its expected efficiency improvement.*" This may make people think we are going to miss our financial targets. However, we may have found additional savings elsewhere not included in the Ofcom-specified calculation of the efficiency expectation. But, without that context, publishing Royal Mail's performance against an Ofcom efficiency metric has the potential to be both misleading and damaging.

2.52 In addition, Ofcom already provides transparency on historic efficiency performance through its public comments on our efficiency in its annual monitoring report. This provides further information on Royal Mail's efficiency performance such as Ofcom's PVEO efficiency metric and productivity measures. We are also required to publish our regulatory financial statements that provide detailed information on the performance of the Reported Business.

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<sup>142</sup> The annualised benefit is £40m. Due to the implementation part way through 2022-23, the benefit is £30m in that year.

## **(2) Ofcom's proposals are too technical to support public scrutiny.**

- 2.53 The transparency that Ofcom proposes will be too technical and/or too high level for the public to contribute meaningfully. It is not appropriate for Ofcom to seek to outsource a technical exercise to the public when it has the economic and financial skills and access to more (confidential) information to perform the assessment. For example, PVE is not a common measure of efficiency. This is too technical to be meaningful for other stakeholders. It is also not a metric that Royal Mail uses internally.
- 2.54 Ofcom's intention is to bring additional scrutiny on Royal Mail's efficiency through the publication of these metrics. If we have to report on measures that are too high level or technical, rather than enhancing Ofcom's monitoring regime, it will detract from it. It becomes a fruitless, burdensome activity and undermines stakeholders' confidence in Ofcom's approach.

## **(3) There is no evidence from Ofcom showing why this intervention is proportionate or demonstrating that the benefits outweigh any costs.**

- 2.55 It is not clear how Ofcom's proposal meets the principles for imposing new regulation set out in the Communications Act 2003. Regulation should be "*targeted only at cases in which action is needed*".<sup>143</sup> Ofcom recognises that we have "*significant incentives ... to become efficient*".<sup>144</sup> It has also stated that it "*thinks*" there is value from publication. It has not set out a comparison of the benefit compared with the cost of compliance, nor the risk of publishing confidential information. Our competitors do not have to do this and could gain valuable insight into our commercial plans from what we do publish. Our proposed approach can achieve the same outcome as Ofcom is seeking in a more coherent way.
- 2.56 The Communications Act 2003 also requires that regulation is proportionate. We do not consider that it is proportionate that the public should undertake technical assessments of efficiency, particularly when Ofcom is far better placed to do so and has done so in the past.

## **Ofcom proposes that Royal Mail reports annually against the five-year expectation. The postal industry moves too quickly for annual reporting against a static five-year regulatory forecast to make sense. Ofcom should rely on our publicly communicated market guidance.**

- 2.57 The postal sector has been subject to significant change and continues to innovate and evolve. Providing a commentary on performance against a regulatory forecast fixed at a moment in time will become increasingly more difficult and less meaningful each year it is performed. It will become a burdensome exercise that will undermine the credibility of Ofcom's framework. Explaining why things have changed from five years ago is pointless. Our investors want real time information to inform their decisions on whether to continue to invest in Royal Mail.
- 2.58 Our industry moves fast. It will be unfair for Royal Mail's management team to be held to account against an obsolete forecast. The exercise could quickly become burdensome and of little value, resulting in increased red tape.
- 2.59 It is also implicit in Ofcom's framework that Royal Mail agree that the metrics robustly capture our efficiency performance. We cannot meaningfully comment on variances to a set of metrics we do not agree reflects our efficiency. However, we will have a set of metrics that we are comfortable sharing when we publish our medium-term market guidance. Therefore, we suggest that Ofcom should rely on our publicly communicated market guidance. A separate regulatory plan that does not align to our market guidance will be incoherent.

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<sup>143</sup> Communications Act 2003, Schedule 3 General duties of Ofcom, Paragraph 3(a).

<sup>144</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 4.39.

**Published ‘regulatory’ efficiency metrics are unnecessary given our commitment to publish medium term market guidance.**

2.60 Ofcom has shortlisted five metrics for consideration for publication. When we publish our market guidance for the UK Business, we will publicly disclose to our investors – and all stakeholders – key business and financial metrics. These will set out the scale of our (revenue and) cost ambition. We will report our progress against our guidance. There is no need for separate regulatory measures given our commitment to publish medium-term market guidance when it is meaningful and appropriate to do so. As part of developing our medium-term guidance, we will need to identify and provide appropriate key metrics demonstrating our efficiency expectations. Ofcom should use these metrics.

**If Ofcom view “additional measures” as necessary, it should give serious consideration to our proposal to set out whether it views the efficiency ambition in our business plan as within a reasonable range.**

2.61 We are disappointed that Ofcom ignored our proposal that it should assess whether the efficiency ambition within our business plan is within a reasonable range. That would be a proportionate and targeted action. Ofcom could issue a public statement to all stakeholders creating transparency and clarity on our forecast efficiency performance. Ofcom already comments annually on the historic efficiency performance. Without Ofcom’s assessment, we do not have clarity of its expectations. This uncertainty becomes an unnecessary distraction – both for Royal Mail management and for our people - when they should be focusing on delivering for our customers. There are many benefits to all stakeholders from Ofcom doing so:

- All stakeholders would take comfort that the experienced economic regulator, with access to confidential information, had undertaken a rigorous exercise to assess Royal Mail’s efficiency.
- Ofcom stating that the ambition within our plan is within a reasonable range means Royal Mail management can focus on delivering on the efficiency in our plan. The expert and independent assessment by Ofcom can reassure staff and management that the level of ambition is credible. It can give comfort to our Board, who sign-off the business plan on behalf of all shareholders, and our investors that the plan has an appropriate level of efficiency.
- Should Ofcom consider the level of efficiency is below a reasonable range, Royal Mail management would need to look again at the opportunities (and, no doubt, seek input from Ofcom as to where to focus its attention). Ofcom may have ideas on opportunities to improve our efficiency based on its own work. For example, in the last few years Ofcom has built a new cost model that underpinned the financial elements of its assessment of user needs. [X].
- Should Ofcom consider the level of efficiency is above a reasonable range, Royal Mail management would similarly need to assess whether too ambitious a target is being set. Pushing excessively to deliver on efficiency risks the sustainability of our operation and our quality of service. Stakeholders would welcome Royal Mail reviewing its plans in light of Ofcom’s feedback to ensure the Universal Service can continue to be provided to a high quality.

2.62 Ofcom is ideally positioned to undertake such an efficiency exercise. It is well placed to provide its independent and rigorous assessment.

- Ofcom has been actively reviewing the postal sector, and in particular Royal Mail, since 2011. It has published its view of Royal Mail’s efficiency in its Annual monitoring report on the postal market.<sup>145</sup> In addition, Ofcom receives regular confidential operational and financial information that gives detailed insight into our business performance as part of its monitoring framework.

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<sup>145</sup> Ofcom published its first report on 20 November 2012 on the postal market in 2011/12. The most recent report by Ofcom on its Annual Monitoring Update for Postal Services was published on 9 December 2021 on the postal market for 2020/21.

- Ofcom has already assessed our efficiency in a previous review. When Ofcom concluded its fundamental review of regulation in March 2017, it found that: *“Royal Mail’s future efficiency plans demonstrated greater ambition than its past performance and were within a reasonable range”*.<sup>146</sup> Ofcom was supported by: (1) WIK-Consult’s benchmarking of Royal Mail’s modernisation plans as well as reviewing Royal Mail’s business plan, historic performance; and (2) econometric analysis by Deloitte of Royal Mail’s performance in its delivery offices and mail centres.
- In 2019, Ofcom has invested further in its understanding of our network. It has built a further suite of cost models *“to seek to replicate Royal Mail’s operational approach to each part of the postal pipeline.”*<sup>147</sup> In October 2019, Ofcom held a workshop with stakeholders to update on progress. Ofcom stated that *“Since then, we have continued to develop the models and have engaged with Royal Mail on points of detail to ensure that our models accurately reflect Royal Mail’s operations.”*<sup>148</sup> If Ofcom is confident that these models *“accurately reflect Royal Mail’s operations”*, then they could be well suited to help Ofcom review Royal Mail’s efficiency plans.

## Regulatory ask

- 2.63 Our ask is that Ofcom does not implement its proposal for publication and reporting against a regulatory five-year efficiency expectation. This regulatory intervention is unnecessary. Like all publicly listed companies, we need to provide guidance to the market on our medium-term strategy when it is appropriate to do so, for example in periodic Capital Market Day presentations. It is at this point where it makes most sense for Royal Mail to publish guidance on efficiency expectations. As part of developing our medium-term guidance, we will need to identify and provide appropriate key metrics demonstrating our efficiency expectations. These will be relevant and wholly appropriate. Ofcom should use these metrics.
- 2.64 If Ofcom considers additional measures as necessary beyond relying on our market guidance, it should give serious consideration to our proposal to set out whether it views the efficiency ambition in our business plan as within a reasonable range.

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<sup>146</sup> Ofcom, Review of the Regulation of Royal Mail, March 2017, Para 3.2, which reported the findings of the May 2016 review.

<sup>147</sup> Ofcom, Review of postal users’ needs, November 2020, Para A5.1.

<sup>148</sup> Ofcom, Review of postal users’ needs, November 2020, Para A5.2.

## Environmental Sustainability (Q2.1)

**Ofcom 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.**

### Overview

There are growing demands from customers, the Government, shareholders and the public at large for progress on environmental sustainability. Yet, the regulatory framework remains silent on this. Ofcom could support the decarbonisation of the postal industry. In the short-term, this could involve collecting data from companies and publishing a league table to help consumers choose the most sustainable delivery options based on carbon emissions per parcel. In the longer term, Ofcom must explore how best to integrate environmental performance into the regulatory framework.

For our views on the 5-year settlement period (2022-2027) period, please see our response to Q7.1 covering tracking in the USO.

### Context

- 2.65 On environmental sustainability, Ofcom notes in its consultation that it *“will work with Government and the postal sector as needed, in accordance with our statutory powers and duties, and monitor innovations and adaptations as the sector works to meet the UK’s net-zero carbon target.”*<sup>149</sup> We are concerned that this fails to demonstrate the urgency and ambition needed on climate change and falls short of the support required to meet the Government’s goal of net zero by 2050.
- 2.66 There are growing demands from customers, the Government, shareholders and the public at large for progress. Global, national and local environmental policies - including the introduction of emission-based charging zones in several UK cities and the UK Government’s ban on the sale of new petrol and diesel vehicles from 2030 - are driving the transition to low- and zero-emission fleets. Policymakers are particularly focused on reducing emissions from last-mile deliveries. For example, *“decarbonising how we get our goods”* is one of six strategic priorities identified by the UK Government for its Transport Decarbonisation Plan.<sup>150</sup> The Secretary of State for Business, Energy and Industrial Strategy recently called for Ofcom to review its regulatory framework *“for its compatibility with our Net Zero Strategy pathways to 2050 and our interim carbon budgets, reporting back by Summer 2022.”*<sup>151</sup>
- 2.67 As one of the largest fleet operators in the UK, we recognise the part we have to play in reducing emissions and improving air quality in the communities we work in. Our long-term carbon reduction ambitions are set in line with the 2015 Paris Agreement. We have set out plans to reach net zero by 2050, with a view to bringing this forward as soon as possible. Having the largest ‘feet on the street’ network of over 85k postmen and postwomen in the UK means that Royal Mail has the lowest reported CO<sub>2</sub>e emissions per parcel among the major UK delivery companies.
- 2.68 At the moment, the regulatory framework is silent on climate change. Ofcom’s principal duty under section 3 of the Communications Act 2003 includes furthering the interests of citizens. We believe that there is merit in exploring with Ofcom how best to integrate environmental performance into the regulatory framework.
- 2.69 The Taskforce on Climate-Related Financial Disclosures (TCFD) is a reporting framework which supports investors and other stakeholders in understanding the potential financial risks and

<sup>149</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 2.42.

<sup>150</sup> Department for Transport, Decarbonising Transport: Setting the Challenge, 2020, Para 5.15.

<sup>151</sup> Open letter from Business Secretary to the Chief Executives of Ofgem, Ofwat, and Ofcom, 31 January 2022, *“Strategic priorities and cross-sectoral opportunities for the utilities sectors: open letter to regulators”*.



opportunities associated with climate change, alongside the strategy and governance in place to manage these. There is increasing scrutiny for companies to understand this area and report in a consistent manner, including having the clear strategy and metrics in place for reporting progress. This year, it is a mandatory requirement for large UK registered companies to publish their carbon emissions under the TCFD framework.

- 2.70 Ofcom could support the decarbonisation of the postal industry. In the short-term, this could, for example, involve collecting data from companies and publishing a league table to help consumers choose the most sustainable delivery options based on carbon emissions per parcel. In the longer term, Ofcom must explore how best to integrate environmental performance into the regulatory framework.

### **Regulatory ask**

- 2.71 Ofcom must explore how best to integrate environmental performance into the regulatory framework.



# **Theme 3**

**Mandate downstream access services  
only where necessary.**

## Scope of access regulation (Q8.1)

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

### Overview

We welcome Ofcom's proposal not to widen access regulation to include parcels. We agree with Ofcom's finding that competition is working well across the parcel market, even for smaller parcels.<sup>152</sup> Extending access regulation to these type of parcels carries the risk of weakening E2E competition for these services and would be contrary to supporting effective competition in the parcels market.

We also welcome Ofcom's proposal not to impose access to other points in the network. The current access framework has enabled access operators to compete successfully with Royal Mail in retail bulk letters and there is no evidence to support extending mandation. Access-based competition continues to be strong - with access operators holding over 70% share of retail bulk mail volumes.

However, we are perplexed by Ofcom's proposal not to remove fulfilment large letters from access regulation. Its own evidence and analysis leads to the conclusion that it should have gone further and removed fulfilment large letters. Ofcom recognises that fulfilment large letters are used to send goods and that these fulfilment large letters are more akin to small parcels both in terms of their packaging and the competitive conditions they are subject to. However, it relies on complexity with differentiating between fulfilment and correspondence large letters as a defence for the status quo, noting that removing fulfilment large letters could harm customer choice. We disagree with Ofcom on both counts:

- **Content control is well established** - Our specifications to differentiate between fulfilment and correspondence large letters work well and have been in place for eight years. We have rigorous, effective content controls; and
- **Supply chain enables differentiation** - Correspondence and fulfilment large letters are typically produced out of different sites or mailing houses. Bulk correspondence large letters come from mailing houses, bulk fulfilment large letters are typically sourced direct from companies or warehouses. This enables customers to choose different carriers for the different types of large letter if they want to.

It is also short-sighted to say that fulfilment large letters are currently only a small proportion of the total parcel market and therefore will not harm the development of E2E competition. The regulatory framework needs to be forward looking. Ofcom have stated the current settlement will run until 2027. Failure to remove unnecessary regulatory restrictions now could have a detrimental impact on the development of E2E competition for these services, including the incentives for technical developments and innovation in this area.

### Context

**We welcome Ofcom's proposal not to widen access regulation to include parcels.**

- 3.1 As Ofcom recognises in its consultation document, it can only impose a Universal Service provider access condition if it is appropriate to do so for the purpose of promoting efficiency, promoting effective competition and conferring significant benefits on the users of postal services.

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<sup>152</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 6.29.

3.2 As Ofcom explains, the evidence does not support the extension of access regulation to small bulk parcels. We agree with Ofcom’s findings that:

- there is already significant competition in the provision of retail bulk small parcels and this is improving over time; and
- extending access regulation to small bulk parcels carries the risk of harming end-to-end competition in the parcels market.

3.3 As Ofcom states *“competition in small bulk parcels has been growing over the last five years, and extending access regulation to this type of parcels carries the risk of weakening competition for these services (and other parcel services). This could reverse the positive trend in competition observed in the last few years, and hence would be contrary to our regulatory objective of supporting effective competition in the parcels market.”*<sup>153</sup>

3.4 This conclusion is very much in line with the findings from the first Oxera report which we commissioned and submitted as part of our response to Ofcom’s CFI.

**We also welcome Ofcom’s proposal not to impose access to other points in the network.**

3.5 As Ofcom set out in its consultation document, there is no evidence to support extending access regulation to any other point in the network. We completely agree with that statement. As Ofcom goes on to state *“the current access framework has enabled access operators to compete successfully against Royal Mail in retail bulk letters.”*<sup>154</sup>

3.6 The evidence is clear. As Ofcom states *“access competition remains strong with access operators holding over 70% share of retail bulk mail volumes.”*<sup>155</sup> There would be no benefit to any extension of access regulation.

3.7 In our response to the CFI we explained that *“Access at points downstream of the IMC would introduce additional inefficiency and unnecessary cost into Royal Mail’s network.”*<sup>156</sup> Therefore, we particularly welcome Ofcom’s acknowledgement that imposing access regulation to the OMC would be disproportionate given that *“these services [business reply mail] account for less than 1% of total bulk mail volumes. They are also declining over time, dropping from [X]. Moreover, the USO already provides some indirect protection for bulk users of this type of mail, via requirements on the frequency and quality of service of collections, as well as a cap on the end-to-end price of Second Class single-piece mail.”*<sup>157</sup>

**However, we are perplexed by Ofcom’s proposal not to remove fulfilment (i.e. General) large letters from access regulation. Its own evidence and analysis lead to the conclusion that it should have gone further and removed fulfilment large letters.**

3.8 In its consultation document, Ofcom recognises that fulfilment large letters, also known by the access operators as General Large Letters,<sup>158</sup> are used to send goods and that these fulfilment large letters are more akin to small parcels both in terms of their packaging and the competitive conditions they are subject to, i.e. subject to end-to end competition unlike those large letters used for correspondence.

3.9 For example, Ofcom recognises that *“end-to-end competition has emerged across all segments of the parcels market, including the small/lightweight segment (as described above). We also understand*

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<sup>153</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.42.

<sup>154</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.46.

<sup>155</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.92.

<sup>156</sup> Royal Mail, Response to Ofcom’s Review of Postal Regulation - Call for Inputs, May 2021, Para 7.26.

<sup>157</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.48.

<sup>158</sup> As a reminder, they are called General Large Letters in access as there is no content control, such as there is with Business Mail, Advertising Mail or Subscription Mail.

*that other parcel operators have been growing their presence in the small segment of the parcels market. Moreover, there are indications that Royal Mail has been losing share of retail small bulk parcels (including letterboxable items) over the last five years.”*<sup>159</sup> Ofcom itself expresses concerns that *“large-scale unintended use of FLLs to deliver goods could harm competition in the parcels market.”*<sup>160</sup>

3.10 Ofcom’s main reasons for its decision are that:

1. The current mandate is based on dimensions rather than content. This means that whilst fulfilment large letters may predominantly be used to send goods, there is some blurring of the lines. Fulfilment large letters are sometimes used for non-fulfilment purposes. As Ofcom stated in its consultation document, fulfilment large letters are used by some customers to *“send letters which simply do not meet standard packaging requirements and/or to send physical items to their own customers, such as bank card readers and Wi-Fi routers.”*<sup>161</sup>
2. Secondly, Ofcom is concerned that this feature could undermine the ability for access operators to compete for all bulk large letters if access fulfilment were removed from access mandate. And that *“bulk letter users tend to send these types of mail occasionally so having to contract with multiple carriers in order to carry a small number of items is unlikely to be attractive to them.”*<sup>162</sup>

3.11 We disagree with both of these points. In particular Ofcom’s statement that there are *“practicality issues and additional costs which could arise if fulfilment large letters are removed from the access condition. This is due to the difficulties involved in controlling the content included in the letters posted by access users.”*<sup>163</sup>

#### **Basing the scope of the regulations on dimensions only is outdated.**

3.12 We made the point in our response to Ofcom’s CFI that the definitions currently being used to determine mandate of large letters are out of date. They do not reflect the very significant differences in how consumers use paper-based large letters and fulfilment large letters. Moreover, this does not reflect how we handle these items in our network.<sup>164</sup>

3.13 There is no need to continue to base the mandate on dimensions only – it is a blunt instrument. We have content controls which currently work well in access and allow fulfilment large letters to be identified as separate to correspondence large letters<sup>165</sup>. Our access customers are very familiar with this process. Removing fulfilment large letters from the mandate would not impact on them from an operational perspective as they already separate these mail types.

3.14 The content controls in access work well and successfully pick up where ‘goods’ are being sent rather than correspondence. The content control process starts by determining if the content of the letter meets the criteria for Business, Advertising or Magazine subscription<sup>166</sup>. If not the default large letter product is a General Large Letter (GLL). The next step is whether or not the large letter is below or above 10mm, typically it will be in packaging which takes it over the 10mm. This will impact whether or not it is machineable through large letter automation or parcel automation and/or whether a Mailmark service can be chosen.

3.15 Figure 3.1 below sets out how the content control process should work for a 101-250g large letter:

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<sup>159</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.62.

<sup>160</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.60.

<sup>161</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.57 (a).

<sup>162</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.57 (b).

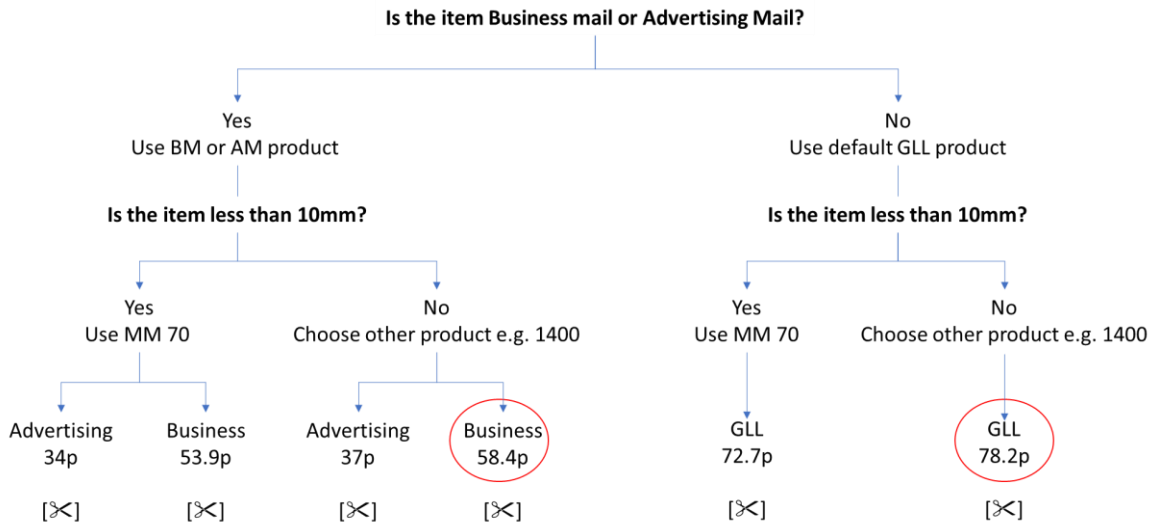
<sup>163</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.59.

<sup>164</sup> Royal Mail, Response to Ofcom’s Review of Postal Regulation - Call for Inputs, May 2021, Para 7.17.

<sup>165</sup> Royal Mail Retail has the same content controls in bulk mail with separate Advertising and Business Mail products as well as RM24/48 large letters used for fulfilment. In Retail the differentiation is made more distinct by having separate Letters and Parcels teams, where the latter are responsible for RM24/48 LL.

<sup>166</sup> <https://www.royalmailwholesale.com/mint-project/uploads/367408210.pdf>

**Figure 3.1: Indicative example of choices a customer makes when choosing which product to use.**



Note: For simplification, the option of Magazine Subscription is excluded and there is also the option of a 70 manual (non-Mailmark) product not just 1400.

3.16 In the figure above, the logical product choice is circled in red for the posting examples below:

- **Card Reader: GLL 78.2p.** Applying the approach above, if a bank is sending a card reader it is fulfilling an order that has been placed by a customer requesting a card reader and it will be in packaging which takes it over the 10mm. It will therefore fail the product specification for Business Mail<sup>167</sup> since it is: (1) sending a physical good not a piece of business correspondence; and (2) the packaging criteria would not be met. It therefore needs to use the GLL product which is the default product for any large letter that does not meet the defined specifications of Business mail. Since it also fails the 10 mm cut-off to use the Mailmark variant it will need to use either the manual 1400 or 70 sortation options, i.e. it will use the GLL product at 78.2p. This is the correct product because it is sending a physical item i.e. is fulfilling a physical good.
- **Welcome Pack: BM LL 58.4p.** On the other hand, if a bank is sending a large welcome pack over 10mm, it would meet the Business Mail content criteria but would fail the mech spec due to the thickness so would therefore use a manual 1400 LL for BM at 58.4p - not the GLL product.

3.17 The hierarchy of prices means that it will always be cheaper for a customer sending business or advertising mail to choose one of those content specific variants if available to them. It should only use the GLL product where it has to i.e. is sending 'goods'. Far from being items of 'Business Mail' that end up in the 'wrong' place, things like card readers are a physical good and so should end up being sent as a fulfilment large letter i.e. using a GLL product in access.

3.18 There are no additional categories of Advertising or Business mail that fail content control – if there were, we would expect to see more use of the GLL <10mm product. Our data supports the view that this content-control works effectively in practice. If a customer is sending a large letter that fails the content control criteria (i.e. is not business or advertising mail), it therefore falls into the default GLL product. Due to the packaging used for sending fulfilment goods we would expect very little genuine fulfilment traffic to meet the 10 mm thickness cut-off point i.e. we would expect to see very little volume on the <10mm GLL product. Looking at actual P1-10 2021/22 volumes, supports this view. Total Mailmark large letters are [X] million items, with only [X] million items sent using the Mailmark GLL 70 line. These volumes demonstrate that very little Business Mail is being sent via the GLL product.

<sup>167</sup> <https://www.royalmailwholesale.com/mint-project/uploads/367408210.pdf>

- 3.19 To add further weight to the argument, all customers have to post <10mm large letters in separate containers to those >10mm. As customers have to separate items in this way anyway, any customer that can use Mailmark will chose to send items <10mm using Mailmark (GLL 70 MM). This would be cheaper than the 1400 GLL service where most of the fulfilment traffic sits.
- 3.20 Based on this analysis, the argument that Fulfilment items cannot be differentiated does not hold.

**Removing fulfilment large letters from access regulation would not harm access competition.**

- 3.21 Generally, customers send predominantly one type of large letter. E.g. An end customer sending goods will use predominantly fulfilment large letters and parcels, a bank would send predominantly Business Mail large letters. However, even where they send both types of large letter, such as in the example above where a bank which may predominantly send correspondence large letters sends out a card reader, they are typically produced out of different sites or Mailing Houses. Bulk correspondence large letters will come from mailing houses, bulk fulfilment large letters will be sourced direct from companies or warehouses. This can be seen by looking at the services offered by the Mailing Houses themselves which usually specialise in one type of mailing. For example, Lettershop mailing house services<sup>168</sup> offer paper or correspondence printing services. On the other hand, Unipart logistics<sup>169</sup> or PSL<sup>170</sup> offer fulfilment services.
- 3.22 Even if the fulfilment and non-fulfilment mailings are produced at the same site (which the evidence indicates is unlikely), large letters which are <10mm and >10mm need to be segregated before the access operator can handover into the IMC. As we set out in our response to Ofcom's CFI, we request that they are separated into different containers because we treat large letters >10mm as parcels within our network. Therefore, the carriers already have to segment in order to: (1) handle through their pipeline efficiently; and (2) to ensure they meet our product spec.
- 3.23 This makes it easy for customers to choose to use different carriers for the different types of large letters if they want to or to use the one carrier if they prefer. It is entirely a commercial decision for them and is what we see happening in practice today.
- 3.24 We are aware of banks sending card readers via our access fulfilment large letter product through a specialist fulfilment mailing house, credit cards through a specialist secure mailing house and all its other printed output going via a third mailing house that deals predominantly with correspondence letters and large letters.
- 3.25 Similarly, looking across other types of customers, we are aware of a number of Government bodies, for example [X], and other companies, such as [X], which take a similar approach. As in the above example, the different streams of mail are produced by different mailing houses at different sites and in some cases there are even completely separate decision makers deciding which provider to use for different mail streams.
- 3.26 We therefore believe the evidence supports removing fulfilment large letters from the access regime.
- 3.27 Finally, if Ofcom did decide to carve out fulfilment large letters from the Access Condition, we do not consider that this would in practice have any material harmful impact on customer choice. The first point to note here is that when Ofcom took over regulation from Postcomm in 2011/12, and removed parcels from the access regime, Royal Mail decided it was in its commercial interests to continue to voluntarily offer parcel services in access. Similarly, it may well be in Royal Mail's commercial interests to continue to offer access for fulfilment large letters even if Ofcom takes those items outside the scope of the access regulation, particularly if this is in the interests of end posting customers. Moreover, Royal Mail, and most of the other E2E parcel operators, already willingly offer parcel services to consolidators and third party logistic providers. Accordingly, it is highly unlikely that an access operator, could not easily continue to bid for the entire mailing of a customer, such as a bank,

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<sup>168</sup> <https://ymgroup.co.uk/services/>

<sup>169</sup> <https://www.unipart.com/logistics/services/>

<sup>170</sup> <https://www.psluk.net/>

including all of its business mail, advertising mail, and ancillary mail items such as card reader. In that context, it would be inappropriate and harmful for Ofcom to retain restrictive and distorting access regulation, when competition and other commercial drivers would otherwise address the only remaining concern identified by Ofcom.

**It is short sighted to say that fulfilment large letters are currently only a small proportion of the total parcel market and not having a material impact on the development of E2E competition.**

- 3.28 A further reason why Ofcom did not think it was necessary to remove fulfilment large letters from mandation is that, in Ofcom's view, fulfilment large letters are currently a very small part of the parcel market and therefore not having a material impact on the development of E2E competition. Notwithstanding the point that we would argue there is sufficient competition for these services from other end-to-end parcel operators already, the regulatory framework needs to be forward looking. Ofcom have stated the current settlement will run until 2027. The parcel market is very dynamic with new innovations being driven by the highly competitive market for parcels and the entrance of disruptors, such as Amazon. Ofcom itself acknowledge that this is working for the benefit of consumers. Failure to remove unnecessary regulatory restrictions now could have a detrimental impact on the development of E2E competition, including the incentives for technical developments and innovation in this area.

### **Regulatory ask**

- 3.29 We are supportive of Ofcom's proposal not to widen the access regulation to include parcels or to impose access to other points in the network. However, the evidence shows that fulfilment large letters are more akin to small parcels both in terms of their packaging and the competitive conditions they are subject to. We therefore urge Ofcom to follow the evidence and re-think its proposal on fulfilment large letters and instead remove them from the access regulation.

## Access price regulation (Q8.2)

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

### Overview

We welcome Ofcom's proposal not to impose any price control on access. We agree the evidence supports Ofcom's view that the current regulatory margin squeeze control has been effective in facilitating access competition. We share Ofcom's view that replacing it with either a direct price control or price cap on access carries a significant risk of regulatory failure. Ofcom acknowledges the challenging conditions we face in the letter industry, including from e-substitution and the risk of tipping points, along with access competition, have acted as a constraint on our pricing.

We are pleased that Ofcom's own analysis was supportive of Royal Mail's modelling which demonstrates we have considered the impact that price increases may have on long-term revenue when making access pricing decisions. Our access pricing decisions have sought to balance e-substitution with financeability and our pricing decisions have therefore been fair and reasonable. We spent significant time undertaking the modelling and carefully considering all relevant factors before making our pricing decisions.

We disagree with Ofcom's provisional conclusion not to make the minor – but important - changes to the regulatory margin squeeze control (USPA6). We believe these modifications would benefit customers by facilitating increased competition for large bulk mail contracts. Amending the contract test to more accurately reflect our upstream incremental cost, which is lower than the current 50% FAC, would not harm access competition. To the contrary, it would offer customers more choice.

Ofcom's key reason for not amending the control is not being able to replicate our upstream cost. We therefore encourage Ofcom to engage with us so we can provide a better understanding of our upstream costs, to build its confidence in making these important amendments.

### Context

**We welcome Ofcom's proposal not to impose any price control on access.**

- 3.30 We agree with the evidence that the current regulatory margin squeeze control has been effective in facilitating access competition and we are supportive of Ofcom's statement that replacing it with either a direct price control or price cap on access carries a significant risk of regulatory failure.
- 3.31 As Ofcom acknowledges, the challenging conditions we face in the letter industry, including from e-substitution and the risk of tipping points, along with access competition, have acted as a constraint on our pricing. Ofcom gave Royal Mail more commercial flexibility to set access charges to respond to these challenges and Ofcom acknowledges that *"Royal Mail's regulatory accounts suggest that it has not been setting charges at levels which are significantly above costs."*<sup>171</sup>
- 3.32 We are pleased that Ofcom's own analysis was supportive of Royal Mail's modelling which demonstrates we have considered the impact that price increases may have on long-term revenue when making access pricing decisions. As Ofcom states, the evidence shows that *"Royal Mail has considered the impact that price increases may have on long-term revenue when making access pricing decisions. In particular, ...Royal Mail factors this impact into its pricing decisions by way of considering the risk and reward balance offered by different pricing options over a number of years. Moreover, we did not find that Royal Mail has systematically underestimated the volume impact of its access price*

<sup>171</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.79.



*increases. Our provisional view therefore is that Royal Mail's recent pricing decisions have been consistent with supporting the financial sustainability of the universal service."*<sup>172</sup>

- 3.33 This demonstrates that we spend significant time undertaking the modelling and carefully considering all relevant factors before making our final decisions. Our access pricing decisions have sought to balance e-substitution with financeability, with the ultimate aim of ensuring our pricing decisions are fair and reasonable.

**We are disappointed that Ofcom has not taken the opportunity to consider making changes to the regulatory margin squeeze control (USPA6).**

- 3.34 We believe the modifications we proposed in our CFI response would have benefited customers by facilitating increased competition by allowing us greater opportunity to compete for large bulk mail contracts.
- 3.35 Amending the contract test to more accurately reflect our upstream incremental cost, which is lower than the current 50% FAC, would not harm access competition but could in fact have increased it further by offering customers more choice.
- 3.36 Ofcom's main reason for not amending the control is not being able to replicate our upstream cost. Ofcom state that it has developed its own bottom-up cost model of Royal Mail's postal network but that *"this model does not have the capability of estimating the upstream LRIC for bulk letters. Therefore, we do not consider that this model can be used to inform the level of the contract test."*<sup>173</sup>
- 3.37 Ofcom's view is that *"Royal Mail does not appear to have updated its LRIC modelling to address our concerns."*<sup>174</sup> However, we would welcome the opportunity to engage further with Ofcom over the coming months on understanding our upstream costs and discussing our current LRIC model, with the aim being to make some improvements to USPA6 in the future.

## **Regulatory ask**

- 3.38 We welcome Ofcom's decision not to impose any price control on access and are supportive of the proposal not to expand the price regulation in this area. However, we disagree with Ofcom's provisional conclusion not to make the minor – but important - changes to the regulatory margin squeeze control (USPA6). We believe these modifications would benefit customers by facilitating increased competition for large bulk mail contracts. We would encourage Ofcom to engage with us so we can provide a better understanding of our upstream costs, to build its confidence in making these important amendments.

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<sup>172</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.83.

<sup>173</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.108.

<sup>174</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para 8.107.

## Non-price terms of access regulation (Q8.3)

**Ofcom 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.**

### Overview

We welcome the fact that Ofcom does not propose to expand any of the non-price terms of access regulation. Ofcom's existing approach to access regulation is working well in delivering terms of access that are fair, reasonable and not unduly discriminatory. Access based competition continues to be strong - with access operators holding over 70% share of retail bulk mail volumes.

The current regulatory framework gives Royal Mail the commercial flexibility to negotiate the terms of access with our access customers. This ensures all parties can respond with agility to industry developments and ultimately generate the best outcomes for our access customers and the users of mail services, while supporting the financial sustainability of the Universal Service. It is important this is retained.

We agree that the existing regulations already allow Ofcom to address any industry concerns. There is no evidence to support the view that separating Royal Mail's bulk retail business into a separate entity or setting up an independent third party is necessary.

We are pleased that Ofcom recognises our open and effective engagement with our access customers. It notes that Royal Mail has *"consulted with industry openly and in detail prior to the implementation of specific changes, and has on occasion reversed changes it proposed or listened to and followed access operators feedback."*

### Context

**We welcome the fact that Ofcom does not propose to expand any of the non-price terms of access regulation.**

- 3.39 Ofcom's existing approach to access regulation is working well in delivering terms of access that are fair, reasonable and not unduly discriminatory. As Ofcom consistently states in its consultation document, access-based competition continues to be strong with access operators comprising over 70% of the bulk letters mail market.
- 3.40 As Ofcom acknowledges, it is important that Royal Mail retains the commercial flexibility to negotiate the terms of access with our access customers, to ensure all parties can respond agilely to industry developments and ultimately generate the best outcomes for our access customers and the users of mail services, while supporting the financial sustainability of the Universal Service. The current regulatory framework is conducive to this and does not need any further extension.
- 3.41 We agree that the existing regulations already allow Ofcom to address any industry concerns and that it would not be appropriate or proportionate *"to require the separation of Royal Mail's bulk retail business into a separate entity or the setting up of an independent third party like the OTA2 to have a greater role in encouraging agreement and resolving issues."*<sup>175</sup>
- The existing regime already allows for access customers to raise concerns with Ofcom in the event that contractual attempts to remedy the situation have been exhausted. In the context of Ofcom's overarching approach to regulation and particularly with reference to the benefits of allowing Royal Mail commercial freedom to provide services to meet the needs of postal users and to adapt to industry challenges, there is no evidence to support the introduction of an independent third

<sup>175</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para A10.28.

party when Royal Mail and access customers are generally best placed to resolve contractual issues (and indeed the ALC contains dispute resolution mechanisms); and

- Structural separation of Royal Mail’s Retail business would be disproportionate when Royal Mail already maintains a strict separation between its Retail and Wholesale businesses to ensure compliance with our USPA5 obligations. This prevents Royal Mail from being able to discriminate in favour of our Retail business and is in addition to the USPA6 conditions which constrain the pricing that our Retail business is able to offer, in order to ensure access customers can compete (which is working well, as evidenced by access operators having over 70% of bulk mail).

3.42 We are also pleased that Ofcom’s acknowledgement of the engagement Royal Mail has undertaken with its customers to address concerns, specifically that Royal Mail has *“consulted with industry openly and in detail prior to the implementation of specific changes, and has on occasion reversed changes it proposed or listened to and followed access operators feedback.”*<sup>176</sup>

3.43 We have worked hard on improving our engagement with our customers and continue to work with them on a collaborative basis on new topics. In addition to the examples set out in our response to Ofcom’s CFI, recently we have continued to work closely with access customers to consider opportunities to improve forecasting and the process for requesting variations to the ALC, to understand how these processes could be more effective at all levels of the supply chain.

### **Regulatory ask**

3.44 We are supportive of Ofcom’s proposal not to expand any of the non-price terms of access regulation. The existing regulations already allow Ofcom to address any industry concerns and any changes in this area would only serve to reduce the commercial flexibility which ensures all parties can respond with agility to industry developments and ultimately generate the best outcomes for our access customers and the users of mail services.

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<sup>176</sup> Ofcom, Review of postal regulation, Consultation, December 2021, Para A10.26.