

Royal Mail

Ofcom's Consultation on Information Gathering

30 September 2024



Summary

- 1.1 Royal Mail welcomes the opportunity to comment on Ofcom's proposals on its General Policy on Information Gathering. The markets regulated by Ofcom have evolved considerably since the policy was last revised in 2015. We consider it is now timely to review the policy and assess its future effectiveness.
- 1.2 We recognise the need for Ofcom to have robust and accurate information for the purposes of fulfilling its statutory duties. We agree that the current process works well overall. In particular, the introduction of the Information Registry in 2020 has improved the overall visibility of upcoming requests for information (RFIs). We have found the increased engagement from the Ofcom team particularly helpful. The current process for providing draft RFIs works well and is essential for allowing us to identify and feedback any issues prior to the formal issue of the information request. We also consider that the current process for providing information to Ofcom on a voluntary basis works well. We agree with Ofcom's proposal that, in certain circumstances, where it becomes apparent that information initially provided to Ofcom on an informal and voluntary basis is particularly relevant for Ofcom's duties, and Ofcom intends to rely on such information in carrying out its statutory functions, then it may be appropriate for Ofcom to issue a request for such information under Ofcom's statutory powers.
- 1.3 However, we have three main concerns that we consider should be reflected in Ofcom's policy:
 - First, the regulatory reporting burden on Royal Mail has increased significantly over recent years. Ofcom's review of Royal Mail's Regulatory Reporting in 2022 put in place a new reporting framework. But Ofcom has continued to request additional data above that required by its new framework. Given the extensive regulatory reporting requirements Ofcom already has placed on Royal Mail, we find the number and scale of the requests from Ofcom to be disproportionate.
 - Second, if Ofcom provided greater transparency on how the information being requested will be used and for what purpose, it would help us to ensure that the information we provide is fit for purpose and would also provide clarity to our internal stakeholders when producing the data.
 - Third, Ofcom often sets unrealistic timescales for providing information. Often the information requested from Ofcom is highly complex which takes a considerable amount of time to produce. In most cases, it is not possible to produce the data within Ofcom's short timescales.
- 1.4 These are described in further detail in the rest of this document.
- 1.5 We therefore ask that Ofcom:
 - Seeks to reduce both the number and scale of RFIs;
 - Continues to provide a draft RFI in advance of the final RFI being sent;
 - Provides Royal Mail with sufficient time to respond to information requests, recognising other regulatory reporting requirements; and
 - Works with Royal Mail to clarify how and where the data requested is being used.

Increased regulatory reporting burden

- 1.6 We recognise that under Schedule 8 of The Postal Services Act 2011, Ofcom has statutory information gathering powers and Ofcom can request "*information...considered necessary for*

the purpose of carrying out our functions in relation to postal services". We note that in Ofcom's 2015 consultation (which is referred to in its 2024 consultation), Ofcom looked to address the reporting burden on stakeholders. We therefore welcome the statement in the draft guidance at A1.14 that Ofcom will, on a case-by-case basis, consider whether exercising an information gathering power would be reasonable and proportionate, and in line with the regulatory principle of Ofcom seeking the least intrusive regulatory methods of achieving its objectives.

- 1.7 However, following Ofcom's review of Royal Mail's regulatory reporting requirements in 2022, Royal Mail has seen an increase in the amount of data Ofcom is requesting above what is required under its new reporting framework. These additional requests place a substantial burden on Royal Mail, particularly as regular regulatory reporting requirements have also increased in recent years.
- 1.8 RFIs often involve large, complex data sets that in many cases require information to be presented in a way that is different to how that information is captured and used in the ordinary course of business. This requires a large amount of time and resource to ensure the information we provide to Ofcom is complete and accurate. Given the extensive regulatory reporting requirements Ofcom already place on Royal Mail, we find the number and scale of the additional requests from Ofcom to be disproportionate.
- 1.9 We therefore ask that Ofcom considers how to limit the amount of information Royal Mail is required to provide, and looks at the proportionality of these requests, including whether all the information being requested is necessary as well as how to focus information requests more precisely. We are open to discussions with Ofcom on how we can seek to reduce the reporting burden.

Insufficient transparency over how data is used

- 1.10 In Ofcom's 2015 consultation it concluded there is a need for greater transparency. We agree the introduction of the Information Registry has been a positive step. Having a central point of contact providing updates on forthcoming RFIs has been helpful for Royal Mail. This helps us to resource for these requests and we encourage Ofcom to provide as much forewarning for these as possible.
- 1.11 We are concerned that we typically have little insight into how the data requested by Ofcom is used. With the vast majority of the data being produced for Ofcom not aligning with what is used internally, a more collaborative approach with greater clarity could reduce the burden on Royal Mail and allow us to share more valuable data with Ofcom.

Process of providing draft RFIs is beneficial

- 1.12 We find Ofcom's current process of providing a draft RFI works well, with the majority of RFIs being sent as a draft version prior to the formal RFIs. We are pleased that Ofcom's Draft General Policy on Information Gathering confirms this will continue to be the case.¹
- 1.13 In our experience, the better the preparation and cooperation between Royal Mail and Ofcom, at the outset of the RFI process, the better the end data set provided to Ofcom. This is for two main reasons. First, it allows us to fully understand what information Ofcom is seeking so that we can ensure the final response is accurate and comprehensive. Second, it helps us to resource effectively and to prepare the business in advance of the final request, thereby allowing a timely response.

¹ A1.30

Unrealistic timescales

- 1.14 Ofcom often sets unrealistic timescales for providing information. Information requests can require Royal Mail to work with the relevant areas of the business to produce, collate, verify and sign off large amounts of data. It is essential that the information we send to Ofcom is complete and accurate. This is a time consuming process that is often dependent on the availability and capacity of specific individuals. In most cases, it is not possible to turn around the data within Ofcom's short timescales. We do not consider that they are proportionate to the size and complexity of the requests.
- 1.15 This is important not just for finalised RFIs, but also when Ofcom issuing RFI's in draft. Given Ofcom's awareness of the regulatory reporting timeline and other business constraints, we request that it considers its deadlines for RFIs before submitting them even in draft. Establishing realistic timelines in draft RFIs would alleviate the additional burden on Royal Mail, eliminating the need for further engagement with the Information Registry to extend deadlines.
- 1.16 In addition to this, we are concerned that Ofcom is looking to restrict the circumstances to which an extension to a timeline can be granted. We note that in the draft policy at A1.40, Ofcom states that they will only agree to extend deadlines "*where there is good reason for doing so, like the unexpected absence of a key employee responsible for obtaining the required information, technical difficulties, or other exceptional circumstances beyond the recipient's control.*"
- 1.17 In our experience, legitimate reasons for why a particular deadline is not feasible are in practice more varied. We therefore suggest the draft policy is amended to reflect this. Royal Mail considers circumstances for an extension should be reviewed on case by case basis.

Process for providing information voluntarily works well

- 1.18 We believe the current process for providing voluntary information to Ofcom works well. Royal Mail provides a significant amount of information on a voluntary basis, including the monthly management pack and various other ad hoc requests.
- 1.19 We agree with Ofcom's proposed approach to this as set out in A1.28-A1.29, whereby Ofcom will continue to engage with stakeholders regarding information shared on an informal and voluntary basis. We agree with Ofcom's proposal that, in certain circumstances, where it becomes apparent that information initially provided to Ofcom on an informal and voluntary basis is particularly relevant for Ofcom's duties and Ofcom intends to rely on such information in carrying out its statutory functions, then it may be appropriate for Ofcom to issue a request for such information under Ofcom's statutory powers.

Conclusion

- 1.20 Royal Mail believes the current process for information gathering works well overall. We welcome the introduction of the Information Registry and will continue our current engagement with the team.
- 1.21 In Ofcom's consultation, it states "*we consider that our proposed changes are likely to improve the transparency, efficiency and robustness of our regulatory practices and will not create significant new burdens for our stakeholders.*" While the proposed changes do not necessarily create new burdens in themselves, there are a number of areas where we consider Ofcom could reduce current burdens. We therefore ask that Ofcom:
- Seeks to reduce both the number and the scale of RFIs;
 - Continues to provide a draft RFI in advance of the final RFI being sent;

- Provides Royal Mail with sufficient time to respond to information requests; and
- Works with Royal Mail to clarify how and where the data requested is being used.