

BASIC DETAILS

Consultation title:	Recovering Postal Regulation and Consumer Advocacy Costs
To (Ofcom Contract):	
Name of Respondent:	Charles Neilson
Representing (self or organisation/s):	Whistl UK Limited
Address (if not received by email):	

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Name Charles Neilson

Signed (if hard copy)

Recovering Postal Regulation and Consumer Advocacy Costs Consultation Response from Whistl

1. Executive Summary

- 1.1. Whistl understands that the need to this consultation has arisen, in part, from pressure exerted by Royal Mail's extensive and expensive lobbying efforts. Adopting the proposals to charge Access Operators for the cost of regulation would be a victory for those lobbying efforts. It cannot be right for the key principles in the operation of the postal market to be determined purely on the thickness of Royal Mail's wallet.
- 1.2. As well as behind-closed-doors lobbying, we have for some time seen that Royal Mail's preferred approach is to put economic, regulatory and operational barriers in the way of its competitors, rather than trying to improve products, lower costs, or become more efficient. Carrying through the proposals would amount to imposing a forced levy on the industry at the behest of a former state monopoly. Whistl urges Ofcom to resist the obvious rent-seeking behaviour from Royal Mail, and to drop the proposals to charge the industry (and in particular Access Operators) for regulatory costs.
- 1.3. Aside from Royal Mail's position, Whistl believes the concept of charging an industry sector for the cost of regulation is, in and of itself, wrong. The imposition of financial levies in an industry is just as destructive as the introduction, and maintenance of, 'red tape'. It seems to us entirely counter-productive to have targets for the reduction of excess regulation, if at the same time, charges that amount to additional corporate taxes are levied on that same industry.
- 1.4. There are only two ways in which corporate taxes are paid by businesses - either by passing them on to customers or to employees through lower wages, or fewer employees. What makes the proposals set out in the Consultation inequitable, when compared with the current charging regime, is that the upstream market in which Access Operators operate is highly competitive and so Access Operators cannot pass costs on to customers, and will not be reducing or cutting the wages of their workforces.
- 1.5. By comparison Royal Mail has greater market power as a virtual monopoly in downstream letter delivery, and so can – and does – pass on the current cost of regulation through the Access and Retail Prices charged to its customers. Royal Mail has increased prices by amounts well in excess of inflation in recent years. An element of those increase will have included the costs of regulation.
- 1.6. The effect of the charging proposals in the consultation is therefore to financially weaken Access Operators while strengthening Royal Mail. While it is our belief that none of the costs of regulation should be charged to the postal market at all, we explicitly reject the proposal that charging Access Operators as well as Royal Mail represents a fairer apportionment of the cost of regulation, as it is clear from the facts that it is not.
- 1.7. In relation to the specific proposals for charging Ofcom's costs:
 - 1.7.1. Whistl submits that the methodology adopted by Ofcom in apportioning the cost of Ofcom's regulation is flawed and the proposals should not be adopted. Access Operators are not the beneficiaries of regulation, and they are not the cause of the requirement for it. We set out our arguments in paragraph 3.1;
 - 1.7.2. the appendix to this response demonstrates that the proposals in the consultation satisfy none of Ofcom's own charging principles;
 - 1.7.3. in the 2014 response on charging regulatory costs, the postal market participants overwhelmingly rejected the suggestion that Access Services formed part of the Universal Postal Service. For the reasons we set out in paragraph 3.2 of this response sets out Whistl's submission that Access Services do not form part of the Universal Postal Service and so Ofcom has no jurisdiction to charge Access Operators for the cost of regulation.

- 1.8. In relation to the specific proposals to charge the costs of CABs:
- 1.8.1. no clear argument or evidence has been provided which would allow a fair consultation and so in Whistl's view the proposals could not be adopted without further information and a further consultation;
 - 1.8.2. on the basis of the information which has been provided there is no evidence or argument provided which demonstrates that the costs are 'qualifying' consumer expenses or that it would be reasonable to charge them. In fact a review of the Citizens Advice work programmes shows that their work has little to do with the postal industry (except for consumer social mail which represents a small proportion of postal items and the services of the post office) and nothing to do with Access Operators.
- 1.9. Whistl proposes that, in place of the current charging model, if Ofcom wishes to fund its costs of regulation from industry, the money could be obtained through the fines that are levied from Ofcom's investigations in the sector. The latest Ofcom work plan shows a surprising lack of projects in the postal sector - especially considering the work being carried out in other communications sectors and the numerous issues in the market that have been raised by Access Operators in recent years.
- 1.10. Funding through a system of fines for regulatory breaches would redress the current misalignment between the needs of the market, and the abuses in the market, and Ofcom's operations. Whistl proposes that Ofcom commence a project to consider the viability of such a fining system as a replacement to the existing charging system and in place of the proposals set out in the Consultation.

2. Whistl's summary of recommendations

- **Ofcom should not adopt any of the proposals set out in the Consultation.**
- **Ofcom should begin a project to look into the viability of funding its operations through regulatory fines in order to align their work to the actual needs, and abuses, in the postal sector.**
- **While that project is underway, the existing charging structures should remain in place.**

3. Who should contribute to Ofcom Costs?

3.1. *The apportionment of Ofcom's costs*

- 3.1.1. In the Consultation, Ofcom have set out an apportionment of their costs in the past three financial years (paragraphs 3.10 – 3.13). The apportionment of the costs divides costs into the cost of regulating the universal postal service, the cost of regulating the 'wider letters market' and the cost of work in the parcels market.
- 3.1.2. We have not seen the underlying data on which this apportionment is based and so we are unable to comment on the validity of such a division or the accuracy of the data. In addition, we have not seen the types of work that have been classified into each section and so we have not been given the opportunity to comment on the validity of the classification. However, on the basis of the points we have made below using apportioned costs and adopting the proposals set out in the Consultation would lead to inconsistent or unintended results and do not satisfy the Ofcom charging principles.
- 3.1.3. In paragraph 3.22, Ofcom assert that "access service are subject to, and benefit from, regulation to a significant degree", and on that basis Ofcom's charging principles relating to fairness, relevance and cost-reflectiveness are satisfied.
- 3.1.4. Whistl disagrees with Ofcom's assertions in paragraph 3.22.
- 3.1.5. The cost of regulation is currently borne by Royal Mail, and since this is a cost to their business, it is passed on to Royal Mail's customers through both the Access & Retail Prices. Royal Mail do not have competitive restraints in the downstream delivery section of the mail market. This has been clear over a number of years, during which time the market has had to sustain continuous, inflation-busting price rises from Royal Mail, an element of which will have included the cost of regulation.
- 3.1.6. Therefore, there is nothing unfair about the current apportionment of costs because the whole postal industry already pays the cost through the Access & Retail Prices. In addition, and based on the same reasoning, the current charging methodology is already cost-reflective.
- 3.1.7. Conversely, the proposals in the Consultation are neither fair nor cost-reflective. Due to the highly competitive nature of the upstream section of the postal market Access Operators would not be able to increase prices in order to pass on the cost of regulation to their customers in the way that Royal Mail passes on those charges. It is only Royal Mail's position as a virtual monopoly in letter delivery that enables it to set terms which allow price increases to take effect within a particular notice period. Access Operators do not have that type of market power. To underline this point Ofcom's own data from 2011/12 to date will show downstream revenue per mail item carried by Royal Mail increasing and upstream revenue per mail item in Access at best flat.
- 3.1.8. The cost of regulation would therefore cause an immediate hit to the bottom line of all Access Operators: in essence financially strengthening the virtual monopoly, Royal Mail, while financially weakening the competitors of that monopoly. That result would be detrimental to the postal market, and moreover, undermine Ofcom's duty under the Communications Act 2003 to further the interests of citizens and of consumers, where appropriate by promoting competition.
- 3.1.9. In terms of relevance, regulation of access services is required to prevent Royal Mail from abusing its dominant position or engaging too much in its overtly anti-competitive agenda. Upholding competitive markets and preventing an abuse of dominance is a matter of enforcing the rule of law. To characterise enforcing the rule of law as a benefit to Access Operators is misconceived – by the same logic, you could say that the proverbial 'man on the Clapham omnibus' derives a benefit because the enforcement of the rule of law is a public good in and of itself.

- 3.1.10. We note that Ofcom's work plan for 2017/2018 does not include any projects relating to Access Services. In fact the only piece of work relating to the postal industry at all is a review of Royal Mail's cost allocation between parcels and letters. The work plan shows that the time that Ofcom spend on work in the postal sector is not *proactive*, but *reactive* work. We are not aware of any reactive work that Ofcom have carried out in which is caused by the actions of Access Operators. Therefore, such reactive work can only arise from Royal Mail's actions.
- 3.1.11. Approaching the issue of who benefits from regulation from the perspective of the amount of time spent in a particular activity, would incentivise the wrong sort of behaviour from Royal Mail. In that situation, the more Royal Mail tried to abuse its position or the rules relating to Access, the more cost Ofcom would spend in this area, and accordingly Access Operators would have to pay a larger amount of money to fund the costs of regulation. In effect, Royal Mail would be positively incentivised for non-compliance because the quantum of costs to its competitors would increase to a point where they could potentially not be covered with the wafer-thin margins that exist upstream.
- 3.1.12. The fact is that Ofcom's regulation of access services relates to Royal Mail's behaviour. It in no way relates to the behaviour of Access Operators. We are unaware of any case that Ofcom have opened to deal with a dispute between Access Operators, or to restrain the behaviour of an Access Operator. The reason for this is that Access Operators' behaviours are focussed on the ferocious head-to-head competition of upstream postal services which is the normal, economically healthy approach to business. It would be entirely wrong to try to charge Access Operators simply because they want to compete fairly and to be protected from the abusive, bullying and rent-seeking actions of Royal Mail.
- 3.1.13. Finally, the 2017/2018 work plan, shows how much work Ofcom is doing in other sectors of the communications market such as broadband or television regulation. Given that the bulk of proactive work is carried out in other sectors these sectors should bear Ofcom's costs. Ofcom's costs will be like most business, part fixed and part variable. Whistl submits that it would not be appropriate for Ofcom to try to harmonise the approach to charging the different sections of the communications market because the amount of resource dedicated to the different sectors of that market are so vastly different and will differ year by year— of the 11 pages of Annex 1 of the work plan, there are no projects which relate to the postal market itself and only one which relates to the regulation of Royal Mail.

3.2. *Are Access Services within the scope of the Universal Postal Service?*

- 3.2.1. The question of whether Access Services are within the scope of the Universal Postal Service was raised during the consultation in 2014. In that consultation, the participants in the postal industry overwhelming rejected the suggestion that it was within the scope. What comes across in paragraphs 3.24 – 3.27 of the Consultation is Ofcom's attempt to fit a distinctly square peg in an extremely round hole. The type of verbal gymnastics in which Ofcom engage in this section to try to prove their point show that the point was flawed in the first place. It is clear to Whistl that Access Services are not within the scope of the Universal Postal Service and we have set out our reasoning for this conclusion in this section.
- 3.2.2. The Postal Services Act 2011 ("**PSA 2011**") says that a postal service is within the scope of the universal postal service if:
- "...the service falls within the description of a service set out in the universal postal service order..." – that is to say services relating to single piece end to end letters;
 - "in the opinion of Ofcom the service is of a kind that, from the point of view of users of postal services, could reasonably be said to be interchangeable with a service of a description set out in that order."

- 3.2.3. The services provided by Access Operators are not single piece, end to end services. While there may be consolidators in the market, those consolidators could not provide any service at all if they did not consolidate the mail items into a bulk consignment: It is not the single piece mail items that make these services, but the fact that Access Operators are using their sales, marketing and technology platforms to offer choice to smaller customers and consolidating their mail into bulk. Moreover, it would certainly be detrimental to the market (and in fact the very opposite of government policy) if Access Operators were to be penalised through industry levies for trying to widen access to wholesale services and offer choice to SME customers.
- 3.2.4. In addition, we do not believe that customers would think that the services are interchangeable. Royal Mail uses the infrastructure of the universal postal services in order to provide services which are not available through mandated access to Access Operators, but are available to users of postal services. Therefore there is a clear difference between the services provided by Royal Mail.
- 3.2.5. In addition, there are significant practical distinctions between the services provided by Access Operators and those provided by Royal Mail. As the provider of the universal postal service, Royal Mail has received the benefit of vast infrastructure which was given to Royal Mail to allow it to carry out a nationwide postal service. As mentioned above, Royal Mail leverages this network of infrastructure in order to provide the services which comprise the universal postal service. No other postal provider has inherited the benefit of that structure, and so other postal providers provide services using separate infrastructure, paid for by their own investments, other than that used for the universal postal service.
- 3.2.6. Further, services within the scope of the Universal Postal Service, such as franked post or stamped post are paid for in an entirely different way to Access Services. Customers pay in advance for franked items and the payment is made to the franking meter manufacturers, who in turn make payment to Royal Mail based on a usage report. Similarly, stamps are paid for in advance against future usage. Any customer will see a clear difference between a service which is paid for in advance and one for which it receives credit terms.
- 3.2.7. Finally, we note that Ofcom would only intend to utilise this definition of the universal postal service for the purpose of trying to charge Access Operators a proportion of Ofcom's costs. Creating a distinction between the market definition for charging purposes and the definition for any other purpose runs contrary to Ofcom's general charging principles of simplicity, reliability, and harmonisation.

3.3. *The application of Ofcom's charging principles to the Consultation proposals*

- 3.3.1. For the reasons that we have stated above, we consider Ofcom's proposals to charge Access Operators a proportion of Ofcom's regulatory costs to be flawed. However for completeness in the Appendix we have applied Ofcom's charging principles to the proposals.
- 3.3.2. As can be seen from the table in the Appendix, the proposals do not satisfy any of Ofcom's Charging Principles and, on that basis, Whistl urges Ofcom to abandon its proposals.

4. Who should contribute to the costs of Consumer Advocacy Bodies?

4.1. Introduction

- 4.1.1. We note that Ofcom have not provided any analysis as to why it believes that any Consumer Advocacy Body (“**CAB**”) costs should be charged to the industry as a whole (let alone to Access Operators). We further note that no information about the costs (costs breakdown, charging methodology, calculation etc) has been provided, and that Ofcom are not in a position to provide them, or argue in favour of them (paragraph 2.36 of the Consultation).
- 4.1.2. We have been led to understand, but have received no definitive confirmation, that the proposed CAB costs are higher than the costs that Ofcom itself are seeking to charge. If that is true, it is simply extraordinary. There surely can be no credible justification for CAB costs being anything more than a fraction of the costs incurred in regulating the entire postal industry, and we can only conclude that any estimate of costs on that sort of scale is incorrect, unjustified and grossly inflated.
- 4.1.3. In the absence of any effective argument in relation to the costs, the approach in the Consultation seems to be that *any costs* incurred by a CAB in a relation to an industry sector become qualifying consumer costs, and should be charged to the participants in that industry sector.
- 4.1.4. While s51 PSA 2011 is, at best, opaque and written in some form of bureaucratic gobbledygook, it surely cannot be the intention of that section to require the private sector to give CABs, what amounts to, a blank cheque for their costs on the basis that they might carry out work (which has not been requested, scoped, costed or subject to any oversight) in an industry sector.
- 4.1.5. In short, in order to charge CAB costs, there need to be clear statements showing exactly what the costs are, why they arise and why they are considered to be qualifying consumer expenses. The Consultation contains none of those statements and so, in Whistl's view the proposal to charge these costs fails from the outset.
- 4.1.6. With the scant information we have, Whistl has tried to respond to the proposals. However the response we have provided below should not detract from our view that the proposals cannot, as a matter of principle, be taken forward until further information and further detail justifying the proposals is provided and a consultation held in relation to that information.

4.2. The basis for charging

- 4.2.1. The basis for charging the costs of a Consumer Advocacy Body (“**CAB**”) is for Ofcom to impose a regulatory condition to require postal operators to contribute to “qualifying consumer expenses”.
- 4.2.2. Putting aside the arguments that we have advanced in the introduction to this section, it is open to Ofcom not to charge any of these expenses to the postal sector at all. Whistl believes that Ofcom should take advantage of the discretion that it is permitted under the legislation, and not levy these charges. The imposition of financial levies in an industry is just as destructive as the introduction, and maintenance of, ‘red tape’. It seems to us entirely counter-productive to have targets for the reduction of excess regulation, if at the same time, charges that amount to additional corporate taxes are levied on that same industry.
- 4.2.3. Turning to the definition of qualifying consumer expenses, sections 51(4)(a) and (c) of the PSA 2011 says that payments can be required to cover:

“such proportion of the expenses of Citizens Advice as the Secretary of State considers

reasonable having regard to the functions exercisable by it...” and

“such proportion of the expenses of Citizens Advice incurred in connection with its support of any qualifying public consumer advice scheme as the Secretary of State considers reasonable having regard to the functions under the scheme exercisable in relation to users of postal services”

- 4.2.4. There is an additional set of qualifying consumer expenses stated in s51(4)(b) PSA 2011. However, we are not aware of any reorganisation schemes for the National Consumer Council or of any costs and expenses relating to it. We have therefore assumed that there is no proposal to levy a charge on the postal industry for these sorts of costs under that sub-section.
- 4.3. *What are ‘qualifying consumer expenses?’*
- 4.3.1. Taking the definition set out in the PSA 2011, it is clear to Whistl that, even if Ofcom chooses not to use its discretion to avoid the burden of additional levies on the industry, there is no justification for requiring Access Operators to pay any of the CAB costs because:
- 4.3.1.1. “having regard to the functions” of Citizens Advice, it would not be reasonable to consider the costs to be qualifying consumer costs; and
- 4.3.1.2. Access Operators are not involved in “any qualifying consumer advice scheme” for which Citizens Advice has incurred a cost.
- 4.4. *Which qualifying consumer advice scheme costs would it be reasonable to charge?*
- 4.4.1. The second group of proposed charges (relating to qualifying consumer advice schemes) can be dispensed with easily.
- 4.4.2. Access Operators are not involved in any consumer advice schemes and so there is no reasonable basis for requiring them to pay for schemes of which they are not a part.
- 4.5. *Which costs of Citizens Advice would it be reasonable to charge?*
- 4.5.1. We assume that the first group of proposed charges (relating to qualifying consumer costs) relate to the cost of Citizens Advice carrying out relevant work which relates to the postal sector. In considering what is relevant to the work of Access Operators, it is worth noting from the outset that Access Operators are business-to-business suppliers while Citizens Advice provides services designed to benefit the consumer. Access Operators do not contract with consumers, and do not provide services to them. Therefore you would expect that the work carried out by Citizens Advice had little (if anything) to do with Access Operators, and so would not be a qualifying consumer expense which could reasonably be charged to Access Operators.
- 4.5.2. That expectation is borne-out by a review of the actual activities carried out by Citizens Advice:
- 4.5.2.1. In the publication “Consumer advocacy: what we did in 2016/17”¹, Citizens Advice set out the annual report of their activities in the energy and postal sectors during 2016/17. The work programme for 2016/2017 was as follows:
- carrying out work relating to better customer service for consumer mail;
 - responding, on behalf of consumers, to the Ofcom consultation on the Regulation of Royal Mail and the government’s consultation on the future

¹ Citizens Advice: “Consumer advocacy: what we did in 2016/17” <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/consumer-advocacy-what-we-did-in-201617>

funding of the post office network and carrying out research into the consumer experience in relation to parcel delivery, whether e-retailers meet their legal obligations and research about the post office network;

- mapping access to postal services and tracking how this is changing over time which involved scrutinising the performance of certain post office branches, research into the effect on communities of changes to the post office network and the effect for consumers of competition on the post office network;
- representing consumers claiming benefits in relation to their communication with government bodies, research into the use of redirections services in the private house rental sector;
- assisting consumers to determine which consumer postal services they should choose and carrying out awareness programmes such as how to save money on Christmas mailings, the price of stamps, scam mail awareness;
- research on the future of consumer postal services.

4.5.2.2. In Citizens Advice's work plan for 2017/18², the work programme for 2017/2018 is as follows:

- education of the public about scam mail;
- work in relation to access to consumer postal services for those in rural areas and for those who are disabled;
- contribution to policy debates'

4.5.3. It is clear from the list of activities that the work carried out by Citizens Advice does not relate in any way to the services provided by Access Operators. Consumers do not have access to the service provided by Access Operators, and Access Operators themselves have no contact with consumers. To the extent that Citizens Advice's work touches postal services at all, we note that it relates to consumer mail, the post office network and services which fall outside mandated access services. None of which have any applicability for Access Operators.

4.5.4. We note that a proportion of Citizens Advice's work relates to scam mail. Scam mail is not produced or created by Access Operators and in fact, Access Operators expend considerable time and resource trying to stop, quarantine and destroy mailings. The work of Access Operators is carried out in conjunction with National Trading Standards Scam Team. From Whistl's own perspective, we do not have any contact with Citizens Advice during our anti-scam activities.

4.5.5. Finally, we reiterate the points made in relation to Ofcom's costs, (i) that while Royal Mail can pass on the cost of CAB expenses, Access Operators cannot do so and (ii) that the work described in the programmes above are clearly for the benefit of the consumers and the public-at-large and not for the benefit of Access Operators or for businesses within the postal industry. As such this work is a public good, and so the cost should be borne by the public purse.

² Citizens Advice: Consumer work plan 2017/18

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/Energy/Energy%20Consultation%20responses/CitizensAdviceConsumerworkplan201718June2017.pdf>

Whistl's response to Ofcom's specific questions

Question 1: Do you agree that revenues from single piece end-to-end letter delivery services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

No. Whistl believes that no regulatory charges should be levied on the postal industry and that Ofcom should begin a project (as described in our Executive Summary) to consider the viability of funding regulatory costs through a fines system. For the reasons set out in paragraphs 3 and 4 of our response, we submit that the proposals for the new charging system fail to pass the relevant standards to be adopted and are, in any event, unfair, unreasonable and unwarranted in the postal industry.

Question 2: Do you agree that revenues from bulk mail and access services should be taken into account for the purposes of setting administrative charges? Please give your reasons.

No. We have set out our reasons in paragraph 3 of our response.

Question 3: Do you agree that turnover from access revenues should be calculated on a net basis (i.e. after the deduction of access charges to Royal Mail)? Please give your reasons.

No. We have set out our reasons in paragraph 3 of our response.

Question 4: Do you agree that turnover from parcel services should not be taken into account for the purpose of setting administrative charges? Please provide your reasons.

Yes. Whistl believes that no regulatory charges should be levied on the postal industry, and so we do agree that parcel operators should not be forced to bear the charges either.

Question 5: Do you agree that the minimum revenue threshold for payment of administrative charges should be lowered to £5m? Please explain why.

No. There should be no changes to the threshold as a change would be of no purpose. For the reasons set out in paragraphs 3 and 4 of our response the proposals for charging Access Operators fail the standards set out in the Ofcom charging principles and are not fair, equitable or cost-reflective. Given the failure of those proposals, a reduction in the minimum revenue threshold would serve no purpose.

Question 6: Do you agree with the proposed changes to CP1 that are set out in Annex 6? Please provide your reasons.

No. We do not agree that CP1 should be changed at all. If the project that Whistl proposes in its Executive Summary is successful, CP1 could be abolished in its entirety and replaced with the system of fines to fund Ofcom's operations.

Appendix

The Application of Ofcom's Charging Principles to the proposals relating to the charging of Ofcom's costs to Access Operators

Principle	Standard	Application to Proposals	Standard Achieved?
Fairness and equity	The charging structure should raise Ofcom's required funding across the regulated sectors in a manner which is fair and equitable	<p>The proposal are not fair since Access Operators cannot pass on costs to their customers, whereas under the current charging methodology Royal Mail can, and do, pass on the cost to their customers.</p> <p>The proposals are not equitable - because Royal Mail can pass on the costs, their effect is to strengthen Royal Mail and weaken its competitors.</p>	X
Simplicity and transparency	Charges should be as simple and as clear as possible for stakeholders, and wherever practicable use data that stakeholders would anyway gather for their own management purposes. Charges should also be relatively simple to administer for Ofcom	<p>The charges are not simple and clear because there is no visibility over how Ofcom has apportioned costs or worked out the underlying data.</p> <p>In addition, charging Access Operators would seem to be a victory for Royal Mail's political lobbying which is carried out purely to put obstacles in the way of its competitors. Imposing a forced levy at the behest of a former state monopoly is the very opposite of simplicity and transparency in charging principles.</p>	X
Cost-reflective	Ofcom is required to ensure that revenues from each individual sector meet the costs of regulation for that sector. Furthermore, we also seek to ensure, so far as possible, that charges should broadly reflect the underlying cost of regulating each type of licence or regulatory activity within the sectors where such category types exist	<p>The proposed costs are not cost-reflective. Simply because Ofcom spends time regulating access services it does not mean that such regulation is for the benefit of, or attributable to, the actions of Access Operators. It is Royal Mail's actions rather than those of Access Operators which cause Ofcom to spend time regulating this part of the sector.</p> <p>This is borne out by Ofcom's work plans where all projects (except the review of cost allocation in the parcels market) relate to sectors other than the postal sector, and there are no <i>pro-active</i> initiatives relating to the postal market at all. This demonstrates that any time Ofcom spend in relation to postal services is entirely reactive; and moreover reactive to the actions of Royal Mail, rather than Access Operators.</p> <p>As we have stated, a methodology based on the time spent in a sector would incentive the wrong behaviour from Royal Mail.</p>	X
Verifiable	The information required for the setting of charges should be easily verifiable to ensure industry-wide compliance	As stated above, Access Operators have had no visibility over how Ofcom has apportioned costs or the underlying data and so have no way of verifying the charges, what they are based on or how much they would be from year-to-year.	X
Adaptable	Charging principles and structures should be capable of adapting to a changing market environment and be consistent with wider policy	<p>The postal market environment is one of structural decline in letter delivery. In that market, Ofcom's additional costs, which Access Operators cannot pass on, are an additional burden to the sector. An adaptable charging process would suggest no charges should be levied on the sector, and certainly not to Access Operators.</p> <p>We note that Ofcom's work plan for 2017/2018 does not include anything relating to access services and only one item relating to the postal industry at all.</p>	X
Relevance	Charges should be based on an operator's activities that flow from the licence or authorisation, but only those activities	As stated above, the time Ofcom spend regulating Access Services is not attributable to the actions of Access Operators. The need for regulation arises from the actions of Royal Mail. Outside of this element of regulation, no other costs of regulation are relevant to Access Operators.	X
Reliability	The charging base should be stable over time, and not prone to erratic movements. Charges should not move substantially each year so long as the overall regulatory costs for that sector remain steady	<p>The methodology used by Ofcom would suggest that the amount of any charge could vary from year to year if it was based on the amount of time that Ofcom spent in carrying out its regulatory work. That would lead to Access Operators not be able to determine how much to forecast for Ofcom's charges.</p> <p>In addition, the methodology assumes that Ofcom's charges could be spread into other areas of the postal market such as parcel carriers. Without knowing if, or when, Ofcom were going to decide to</p>	X

		do that, it would be impossible for any existing or new entrant into the postal market to set its budgets or forecasts, with a threat of uncertain regulatory costs hanging over it.	
Harmonisation	The harmonisation of fee setting methods across the sectors, where it is practicable to do so, can help to ensure consistency and simplification, especially in an increasingly convergent communications industry	We are unaware of what methods Ofcom use to charge other sectors. Its clear from Ofcom's forward work programme that the bulk of its work, and hence its cost, will be allocated to other sectors. However the Postal work could vary significantly between years depending on the market and Royal Mails actions and it is unclear if these fluctuations exist in the other communications market in which Ofcom regulates.	X