



Marina Gibbs
Competition Policy Director
Ofcom
Riverside House
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17th December 2020

Dear Marina,

Proposed regulation of new D+5 Letters access services

The Mail Competition Forum provides the following responses to and comments on the questions asked in the consultation issued by Ofcom on 11th November 2020.

This response is not confidential; it may be published in full and attributed to the Mail Competition Forum.

The Mail Competition Forum (MCF) is a group which represents the interests of many of the UK's leading mail and parcel operators, who compete both with one another and with the incumbent Designated Universal Service Provider, Royal Mail (RM). The objective of the MCF is to support the development of conditions in the UK for fair, vibrant and sustainable competition to Royal Mail within a stable and undistorted market.

RM has a near monopoly in the delivery of mail and a high market share in parcel services, especially for items below 2kg in weight. This gives RM high market power while subject to little competitive pressure. The MCF believes it is therefore vital for a healthy postal market and to ensure the continuing, sustainable provision of the Universal Postal Service that there is effective regulation of RM to mitigate its market power and to apply constraints and requirements on RM in the absence of market competition.

We believe such requirements should include an obligation on RM to provide access to its postal network, on fair and reasonable terms and with appropriate protections, to allow effective competition to RM's retail services.

With the introduction by RM of its Economy Access service from 4th January 2021, the MCF believes it is necessary and justified for Ofcom to set regulatory conditions that apply to this new service, and to adjust those conditions in the future.

Question 1: Do you agree with our proposal to extend the USPA condition to the new D+5 Letters access services?

Yes, the MCF agrees with this proposal.

www.mailcompetitionforum.org Secretary: - 26 Sandy Way, Barford, Warwick CV35 8DY

The views expressed in this letter represent the general views of the Mail Competition Forum and do not necessarily represent the particular position of any individual member organisation.



Ofcom's proposal includes that RM be required to publish Quality of Service information. The MCF strongly believes it is important for this information to show the pattern of delivery across D+2 to D+5 (not just the overall service performance) as this will be key for customers in judging the 'value for money' of the service.

The need for this has been reinforced by the contract change notice issued by RM on 9th December, which unilaterally declares the service performance aim for Economy Access as 97.5% by D+5 (and the threshold for compensation at 92.5%). This means that 25 in every 1,000 Economy Access letters can be still undelivered by D+5 and sets the service performance for D+5 Access below the regulatory target of 98.5% for 2nd Class USO services (which are D+3 end-to-end).

Question 2: Do you agree with our proposal to include Royal Mail's new retail economy Mailmark Letter services and their access equivalent services in the margin squeeze control?

Yes, the MCF agrees with this proposal.

Question 3: Do you agree that, if adopted, the proposed changes to the USPA condition should become effective from the date of Ofcom's statement? For example, do you foresee any practical issues, or otherwise, with making the changes effective on the date of Ofcom's statement?

The MCF supports the introduction by RM of the new Economy Access service at the start of January, but sees the VAT status of the service as being a major factor in its take-up by posting customers.

It would have been preferable for the service to be VAT-exempt from the start, but as the VAT status is essentially dependent on whether the service is subject to regulatory conditions or not, that will not be the case.

Assuming Ofcom's decision statement is issued at some time in February and was effective from the statement date, this would allow the VAT status of Economy Access to be changed at that date.

However, this would require significant change to the pricing systems of both RM and the mail industry more generally in the middle of a VAT quarter. It would also mean such changes having to be made then, as well as after changes to implement other Access price changes at the start of January and the start of April. Hence, it would be more practical for the VAT status to change at the start of the new VAT year.

While this would mean some take-up of Economy Access (especially by customers not able to reclaim the VAT paid) is likely to be delayed, it would allow customers, RM and the industry more time to plan for and implement the change and not require three changes to pricing systems with a three month period.

The MCF suggests that Ofcom still issue the decision statement as soon as possible (to give customers and the industry clarity), but to make the regulatory conditions effective from the start of the new VAT year in April 2021.



Question 4: Do you have any other comments on our proposals as set out above or our proposed amendments to our legal instrument (USPA condition)? Please provide your reasons.

As mentioned, the MCF supports the introduction by RM of the new Economy Access service at the start of January and we are keen that the regulatory position of the new service is clear as soon as possible.

We are aware that responses to this consultation which pose questions or raise issues which Ofcom would need to cover in its decision statement are likely to delay the decision statement being issued. Therefore, we have no further comments at this time.

However, the MCF is likely to return to the regulation of Economy Access (and of access to RM's postal network more generally) as part of inputting to Ofcom's Regulatory Review during 2021.

For example:

- The proposed regulatory conditions assume that RM will be launching Retail equivalents to Economy Access and although RM has said that is its intention, it has not yet made any formal announcements of this.
- As the consultation acknowledges, there are some concerns that RM will, in the future, widen the price difference between Economy Access and 'standard' D+2 Access by applying price increases that are significantly a larger for D+2 Access than for Economy Access; the MCF may feel that the margin squeeze control needs to be adjusted to mitigate this.
- Also related to the price difference between Economy Access and D+2 Access, the MCF may wish to argue that the price difference should be required to be directly linked to the operational cost savings to RM offered by Economy Access. Such cost savings will only be in RM's downstream network (there will be none in the upstream network of Access operators) and so it would be an appropriate regulatory control for the price difference to be RM's operational cost difference, rather than being a purely commercial decision for RM.
- Given RM's action in unilaterally setting the Quality of Service target for Economy Access, without any discussion or negotiation, whether a regulatory target should be set.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Paterson", written over a light blue rectangular background.

Ian Paterson
MCF Secretary