

4th February 2021

Ofcom's Proposed Plan of Work for 2021/22

The Mail Competition Forum provides the following response to the consultation issued by Ofcom on 11th December 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.

In its regulation of the UK postal market, 2021/22 will be a key period for Ofcom and the 5-yearly Regulatory Review is a crucial item of work. The MCF is pleased to see that the Plan of Work for the year includes a consultation in Q3 21/22 and a Statement in Q4 21/22, as major components of the Regulatory Review.

We also understand, from our regular contact with Marina Gibbs and her postal team, that there will also be a "Call for Inputs" in Q4 2020/21 and we see this as another important part of the work for the Regulatory Review.

At present, the UK postal market is seeing the acceleration of the switch in postal volumes from mail to parcels (prompted by conditions during the Covid-19 pandemic) and the precariousness of the financial position of Royal Mail (RM) as the Designated Universal Service Provider.

There has never been more of a reliance on the postal service sector than in the last 12 months, during which time many parcel operators have seen volumes increase by 60% or more, while mail operators have seen a significant decline in volumes. Parcel operators have chosen to invest heavily in their networks to ensure that the sustained increase in demand, and volumes, can be accommodated; mail operators have invested to continue services with social distancing and other Covid-19 security measures. RM has been unable to match this and appears to have prioritised parcels to the detriment of letters. This can be seen in the low levels of quality of service provided by RM and anecdotal evidence of delivery offices holding back mail.



Furthermore, operators other than RM have continued to honour their service level agreements with clients, providing compensation for any service delays, regardless of whether these have been caused by Covid-19.

It is clear that RM's ability to finance provision of the Universal Service is less secure now than it has been at any time under Ofcom's oversight; this is evident from Ofcom's recent Annual Monitoring Review. To prevent further degradation, we believe action in the form of regulatory solutions needs to be developed and implemented, through the Regulatory Review.

The MCF's responses to previous years' Workplan consultations (and other consultations) have had a common theme about the need to revise the regulatory regime set by Ofcom in 2012 and we believe the timing is right to address the issues we have raised.

These issues are:

1) RM Efficiency:

The MCF has consistently called for efficiency improvement targets to be set and for RM to be held to account for hitting these targets.

We are pleased to see that a review of RM's Network efficiency is part of the workplan (under 'Getting everyone connected') and we would urge Ofcom to use its findings to implement a regulatory regime which incentivises RM to push on with their plans for efficiency improvement to a successful outcome.

In the past, Ofcom has simply monitored and reported on RM's performance on efficiency improvement and successive Annual Monitoring Reports have shown that RM's has a poor record in this, failing to achieve its own targets and the potential identified by Ofcom.

In our view, this cannot continue and Ofcom must find an innovative regulatory solution that ensures RM drives efficiency improvements forward.

2) RM Price increases:

Yet again, 2021 has seen inflation-busting price increases by RM, with Business Mail prices increasing by 13%, for example. Repeated, very large price increases by RM have, we are sure, been a major factor in the decline in use of mail.

In granting RM pricing freedom in 2012 (except only for 2nd Class stamped services), Ofcom have allowed RM the opportunity to drive profit through price increases, rather than through operational cost savings and other efficiency improvements.

These price increases have had and are again having a significant impact on mail volumes from the large posters and it is these very volumes that largely underpin the financing of the network that delivers the USO.

This is a vicious circle and every effort must be made to break it. The MCF once again urges Ofcom to investigate further, conduct an independent study on the reduction of bulk posting volumes caused by unfettered price increases and actively consider new price control mechanisms to cap, and preferably to reduce, prices in the bulk mail market from 2022.



Regarding both efficiency improvement and price increases, we note that other sector regulators (with a duty, like Ofcom, to protect consumers through constraining the market power of former state monopolies that now, as private companies, have very dominant or monopoly positions) have used regulatory regimes that link efficiency improvement and ability to increase prices. The MCF believes that could be an approach for Ofcom to consider also.

3) The views of bulk posters of mail and parcels:

The MCF was pleased to see that the work done by Ofcom during 2020 to understand the needs of users of the Universal Service services (USO services) did also include gaining some understanding of the needs of large-volume mail users.

We believe that it is crucially important for Ofcom to understand the importance of large-volume mail and parcel users in the sustainable provision of USO services. While such users are not using USO services, it is their use of other services which very largely provides RM with the funds needed to sustain provision of the Universal Service network. All services offered by RM use the Universal Service network to some extent (especially the delivery network) and the specification for non-USO services follows that for USO services.

In Ofcom's work on User Needs in 2020, several thousand citizens and a thousand SME customers were interviewed at length in a structured programme run by professional market researchers. In contrast, only a dozen or so large-volume users were interviewed by Ofcom staff and this was several months after the research was commissioned, shortly before the report was written.

The MCF recognises that Ofcom has a statutory responsibility to review the needs of users of the Universal Service and has done that. However, we believe that as the revenue from large-volume users of non-USO services is so important for the financial sustainability of the Universal Service, the needs of such users' needs to be properly understood.

We believe Ofcom should, as a matter of urgency, research the needs and opinions of large-volume users of mail and parcels - to ensure that the conclusions of the User Needs report meets their postal needs, particularly in relation to the impacts of a reduction to five days for letters and the impacts of dropping Saturday deliveries.

4) Mandated access to the Universal Service network:

Much has changed since Ofcom took over from Postcomm in 2012 and the 2022 Regulatory Review is an important opportunity to review the regulatory regime, which has been largely unchanged over the last ten years.

MCF has seen that RM have commented often during recent months about the increasing importance of parcels to their business, with lessening importance for mail. It's notable that RM chose to reduce the statutory/regulated letter delivery from 6-days to 5-days during the first, main Covid-19 lockdown last Spring, but to continue the (largely) unregulated parcel delivery 6-days a week when it is only obligated to deliver 5-days a week.



What has not changed is the huge competitive cost advantage RM's Universal Service network provides it with in the lightweight parcels market and this explains RM's dominance and market power in this segment of the parcels market.

It's also true that while Postcomm mandated downstream access to all of RM's Universal Service network, Ofcom has only required RM to allow access to Inward Mail Centres for 'D+2 or longer' mail services.

While RM has granted contracts for some other access to its network (e.g. for some lightweight parcels), the absence of a regulatory requirement to do this and, hence, the non-application of the regulatory conditions to ensure (for example) fair and reasonable terms has meant that users have had to accept contracts very largely imposed by RM and exploiting their dominant position in mail and parcel delivery.

Even within the mandated area, RM has made requests for other access commercially impossible to pursue.

The MCF believes this has not allowed competition to develop to the extent it could if RM were required by regulation to allow general access to its Universal Service network. For example, it has not been possible to develop services competing with RM through access to Outward Mail Centres and the level of competition in the market for tracked services has been constrained by having no access to Inward Mail Centres.

We, therefore, believe Ofcom should revisit its 2012 decision to significantly restrict the regulatory requirement for access and look to restore the wider mandate set by Postcomm in sectors of the mail and parcels market where RM has dominant power, and engage with postal operators, large users and intermediaries to see what would be possible if other points of access were open to them.

As mentioned above, 2021/22 will be a key period for Ofcom in its regulation of the UK postal market and the 5-yearly Regulatory Review is a crucial item of work. The MCF will continue to engage with Ofcom through the upcoming "Call for Inputs" and the Consultation in Q3 21/22, and through our regular liaison with Ofcom.