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Consultation on Ofcom's Plan of Work for 2023/24 – response from the Mail Competition Forum (MCF)

This response is not confidential; it can be published or quoted from and attributed to the Mail Competition Forum (however, please note caveat in footer).

The MCF thank Ofcom for the continued work that they do in the Postal Sector to ensure a thriving competitive Postal Market largely built around Royal Mails Network delivering USO Mail, regulated Access Mail and unregulated Parcel traffic.

Having thoroughly reviewed the market in the 2022 Regulatory Review Ofcom concluded that some enhancement of its monitoring programme would be required, particularly around efficiency, USO sustainability and complaint handling in the parcels market but otherwise the regulatory regime would be left largely unchanged.

The MCF wish to raise one single addition to Ofcom's Work Plan in 2023/24 investigating changes to its Quality of Service (QoS) monitoring and enforcement regime, made necessary by market developments.

In the Priorities for 2023/24 Section 2.2 the consultation says “..*Regulation of post continues to be a core element of our work. This includes reviewing whether regulation of the sector needs to change in light of market developments and evolving user needs..*”.

The MCF believe that a change to the regulatory regime is needed in order to tackle the crisis in Quality of Service in delivery. This unwelcome market development is currently impacting citizens, SMEs and larger businesses both as recipients and senders of mail. It is also undermining trust in the postal system.

The MCF have publicly praised Ofcom's QoS monitoring regime in the past, held it up as an exemplar and suggested Ofcom use a similar approach around driving efficiency improvements. The regime has worked well historically where performance has been at or around the levels expected. QoS was understandably impacted by COVID and Ofcom made allowance for this in their 2021/22 decision not to impose fines for failure to deliver service. However QoS has not recovered post pandemic and performance in 2022/23 has been particularly and consistently poor.

Whilst Ofcom have regular meetings with RM to better understand the actions that Royal Mail's management are putting in place to tackle this poor performance this activity has not driven any real improvement in QoS performance and returned the QoS to anything like pre Pandemic

levels. To put the failures into context: a poor month can see upwards of 200 million items being delivered later than promised at a direct postage cost to posting customers of £70m to £100m.

Further, the extremely poor quality of service is leading to many customers cutting back on their use of letters, which in turn reduces revenue and therefore further undermines the economics of the universal service.

The existing regime summarised will see Royal Mail reporting its performance after the year-end, along with a list of reasons for missing its targets. Ofcom will consider the applicability of each of these reasons and then determine if Royal Mail's performance warrants a fine or other action, probably very late in Q3 2023.

There are two issues here, firstly the determination of failure is too long after the event has happened and does not drive the improvement that is necessary now. Secondly it is probable that any fine issued by Ofcom will be significantly less than the cost of returning service levels to the required standard (or the cost saving obtained by delivering the sub-standard service currently being offered); this can lead to Royal Mail having a clear economic incentive to tolerate poor quality of service.

COVID has undoubtedly disrupted the status quo and left the current QoS regulatory regime ineffective and in need of change following this significant and disappointing market development.

In the situation we are in today, MCF submit that the form of the current control is no longer fit for purpose, but with some simple adaptations could be revitalised to deliver its function.

The MCF request that Ofcom builds into its plan of work a strand that holds the principles of its monitoring work around QoS but adapts them as follows:

1. Timeframe. Reduce the timescales over which the monitoring is performed.

Currently the monitoring is performed throughout the year and decisions taken by Ofcom annually at the end of each year. MCF submit that this is no longer effective. Both RM and Ofcom know of the current delivery crisis and failure now and it is not sensible to wait until the year end to consider whether action is necessary or a penalty appropriate.

A better solution would be to adopt monthly targets and compliance measurement so that the time, the crime and the fine become better aligned. Publication of monthly results would put more public pressure on Royal Mail to take immediate steps to rectify the situation. If monthly measurement and compliance is not practical, then quarterly targets would still be a considerable improvement on annually.

MCF recognises that QoS does have some seasonal elements to it so would also advocate the setting of seasonal targets rather than an overall annual average. Reducing the timescales will make the issue more immediate.

2. Fine. Make the penalty more transparent and commensurate / proportionate with the service degradation.

Ofcom should clearly set out the detail of the amount of fine Royal Mail will face if it fails to meet its targets. This should take into account the number of items that have failed the QoS target and an amount per failed item that is reflective of the degradation in service the paying customer has received.

For example, a failed item for which Royal Mail received first class price but which received a second class service should attract a fine commensurate with the degradation in service and deny Royal Mail the unearned premium that was charged.

This structure could ensure that Royal Mail don't have a perverse incentive to fail QoS in order to save money. Ofcom should explore ways in which this fine could be passed back to posting customers, possibly in the form of postage credits for businesses and account holding customers and possibly through additional stamped cap prices for consumers.

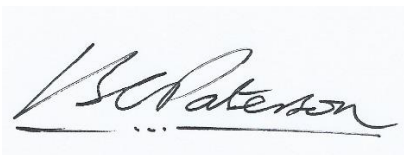
3. Include Access in QoS monitoring regime.

Since Access makes up the bulk of mail delivered by the Royal Mail Network and is a regulated service it now seems odd that Access is not covered by the QoS monitoring regime. Whilst Access Mail and Royal Mail Retail mail follow a slightly different upstream path to that for USO mail, they combine at the IMC onwards and are subject to the same pressures in inward sortation, sequencing and delivery – where most delay occurs.

Whilst Access operators and Royal Mail have agreed commercial terms around QoS targets and compensation levels for any performance failure by Royal Mail, the combination of USO and Access Mail monitoring will provide a more robust, representative and reflective sample, particularly at the Postal Area level.

These requested interventions appear to us to fit well with Ofcom's principles. Ofcom will not be short of evidence of disastrous QoS in 2022/23, but if Ofcom is, MCF can quickly provide monthly quality of service statistics in evidence for Access postings. The requested changes to the regime boost transparency and accountability. In particular the transparency in setting out the mechanism for any fine to be issued will help Royal Mail put the cost of failure into context and the suggestion that the quantum of the fine is proportionate to the degradation in service seems eminently fair.

MCF urge Ofcom to consider a strand of work in 2023/24 around possible QoS monitoring reforms and would welcome the opportunity to discuss further with the consultation and postal services teams.



Ian Paterson
MCF Secretary

c.c. Marina Gibbs, Competition Policy Director