



Decision on modification to Consumer Protection Condition 1

Statement to modify Consumer Protection Condition
1 to reflect the change in the provision of consumer advice
for postal services to Citizens Advice and Citizens Advice
Scotland

Statement

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Section 1

Decision on modifying Consumer Protection Condition 1

Introduction

- 1.1 Under section 51 of the Postal Services Act 2011, Ofcom may set regulatory conditions which require postal operators to make payments relating to the expenses of specified consumer bodies. Ofcom imposed Consumer Protection Condition 1 (“CP1”) under that section on 27 March 2012.¹
- 1.2 The bodies specified in section 51 were the National Consumer Council (which runs Consumer Focus); and the Office of Fair Trading (“OFT”) (which ran Consumer Direct). Consumer Direct provided a call centre and online resources to facilitate access to consumer advice. Consumer Focus’ remit centres on consumer advocacy.
- 1.3 As laid out in the Department for Business, Innovation and Skills’ (“BIS”) ‘Empowering and protecting consumers’ document², BIS has stated its intention to bring together “the technical expertise of Consumer Focus and the research it undertakes with the information gathered by Citizens Advice bureaux and through advice help lines.”
- 1.4 BIS noted the importance of “continuity and capability during a time of economic stress” and therefore set out a phased transition. In April 2012, the Citizens Advice consumer service was launched, replacing the telephone and online service previously administered by Consumer Direct.
- 1.5 In the March 2012 statement on the regulatory framework for postal services we highlighted that we would need to change the references to the OFT³ in CP1⁴ in light of the then proposed change in provider of the consumer advice service. We also noted that this could not be altered until the Postal Services Act 2011 (the “Act”) had been amended.
- 1.6 A statutory instrument which would make this amendment was laid before Parliament in December 2012. This has now come into force and the change to the Act is in effect from 28 March 2013.
- 1.7 In light of this proposed change, we published a consultation on 19 February 2013 which set out our proposed changes to Consumer Protection Condition 1 (CP1) to allow us to collect payments from regulated postal operators relating to the expenses of Citizens Advice and Citizens Advice Scotland.⁵

¹ Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/annex8.pdf>

² Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31854/12-510-empowering-protecting-consumers-government-response.pdf

³ See page 223, paragraph 12.156 at: <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/statement.pdf>

⁴ Which was imposed in accordance with section 51 of, and paragraph 3 of schedule 6 of the Postal Services Act 2011

⁵ Available at: <http://stakeholders.ofcom.org.uk/binaries/consultations/cpc1/summary/cpc1.pdf>

- 1.8 This statement sets out our decision on the modifications required to CP1. The statutory notification of the modified CP1 is contained in Annex 1, an unofficial consolidated version of the modified CP1 which has been marked up to show the modifications that have been made is contained in Annex 2 and Annex 3 contains an unofficial consolidated clean version of the modified CP1 Condition.

Our proposals

- 1.9 CP1 sets out how consumer bodies' expenses are allocated and recovered from regulated postal operators ("RPOs"). RPOs with a turnover from regulated postal services of at least £10 million contribute towards the qualifying consumer expenses of Consumer Focus and certain expansion expenses incurred by the OFT. All RPOs, regardless of regulated turnover, contribute to the other attributable qualifying consumer expenses of the OFT.
- 1.10 In our consultation published on 19 February 2013, we set out our proposal to modify CP1 so as to provide for the collection of qualifying consumer expenses for Citizens Advice and Citizens Advice Scotland from all RPOs, and to remove references to the OFT.
- 1.11 We understood that provision for the "Consumer Direct expansion expenses" was no longer needed because those expenses had already been incurred and recovered. We therefore proposed to remove these references in CP1.
- 1.12 In addition, we also proposed to clarify the basis on which we would apportion the expenses of Citizens Advice and Citizens Advice Scotland to the individual RPOs (CP 1.2.4). The existing condition set out that this would be based on the proportion of qualifying expenses that Ofcom may specify. We proposed to allocate the relevant expenses on the basis of the RPO's share of the total number of calls received by Citizens Advice and Citizens Advice Scotland subject to a *de minimis* threshold.
- 1.13 We considered it appropriate that RPOs were charged for the calls that relate to the service they provide. We considered a number of other options for allocating the qualifying expenses (such as share of turnover) but as Royal Mail was the only operator that offers a service to residential consumers we decided that this may not be the most appropriate way to allocate these expenses. We also considered that a "polluter pays" system was more likely to incentivise RPOs to address the underlying reasons for the complaints.
- 1.14 We considered that it was appropriate to have a *de minimis* threshold, as below a certain level it would not be economic to recover the costs from smaller RPOs. To reach this decision we noted that it costs Ofcom a certain amount of money to identify the calls relating to smaller operators, raise and issue the invoice and ensure the full amount is collected. We therefore proposed that the total cost of the consumer advice functions that Consumer Advice and Consumer Advice Scotland provide in relation to regulated postal services would be proportionately allocated across all RPOs the costs of whose total calls would result in them being above the *de minimis* threshold.
- 1.15 Given the likely potential costs to Ofcom we considered the appropriate *de minimis* threshold to be £100. We pointed out that this would be amongst the smallest sums that Ofcom collects. It was our understanding that in 2012-13 that the total qualifying expenses for Citizens Advice and Citizens Advice Scotland would have been less

than £5000⁶ and over 99% of the calls related to Royal Mail's services. We noted that in 2012-13, £100 would have equated to around 2% of the total number of calls.

- 1.16 In our proposal we highlighted that Citizens Advice and Citizens Advice Scotland may record calls which refer to both Royal Mail and another operator. Given that no calls had been allocated to that category at that time in 2012-13 and the potential difficulty of allocating such calls to the correct RPO we considered it appropriate that these calls were excluded from the analysis of how the total qualifying consumer expenses⁷ should be allocated. We did not consider this would be likely to have a disproportionate or unfair impact on any individual RPO.

Responses to consultation and our decision

- 1.17 We received no responses to the February 2013 consultation.
- 1.18 We consider that the proposal to replace Consumer Direct with Citizens Advice and Citizens Advice Scotland and to remove all references to the OFT remains appropriate. As noted above, the Statutory Instrument has been made and comes into effect on 28 March 2013.
- 1.19 In addition, we consider that it is appropriate to remove the reference to Consumer Direct expansion expenses and clarify the basis on which we would apportion the expenses of Citizens Advice and Citizens Advice Scotland to the individual RPOs. We also consider it remains appropriate to apply a *de minimis* threshold of £100 given the costs associated with invoicing and collecting payments from RPOs under this level.
- 1.20 We consider that these changes are:
- **objectively justifiable** because the consumer advice function for postal services has transferred from Consumer Direct to Citizens Advice and Citizens Advice Scotland. The Act has been amended to allow Citizens Advice and Citizens Advice Scotland to be funded for these new functions and therefore the change to the condition is necessary to ensure it is aligned with the Act;
 - **not unduly discriminatory** because the condition is on a 'polluter pays' basis when a *de minimis* threshold is reached and will apply to all RPOs equally;
 - **proportionate** because it is the minimum that can be altered to ensure the condition functions effectively and to bring it in line with the amended Act; and
 - **transparent** because the change to the condition is set out clearly in this statement.
- 1.21 We do not consider it necessary to carry out a detailed impact assessment of the modification. The change to the institutions follows automatically from the change to the Act, while the clarification of how expenses will be apportioned codifies existing practice.

⁶ Based on the actual number of calls and costs for April 2012 to December 2012 and estimated costs for January to March 2013.

⁷ i.e. including the cost of those calls as the Secretary of State may specify.

Annex 1

Statutory notification: modification of Consumer Protection Condition 1

NOTIFICATION OF PROPOSALS TO MODIFY REGULATORY CONDITIONS IN ACCORDANCE WITH SECTION 51 OF, AND PARAGRAPH 3 OF SCHEDULE 6 TO, THE POSTAL SERVICES ACT 2011

BACKGROUND

- A. On 27 March 2012, following a consultation, Ofcom published a statement entitled '*Securing the Universal Postal Service - Decision on the new regulatory framework*'⁷ setting out various decisions, including the imposition of regulatory conditions under section 51 of the Postal Services Act 2011 (the "**Act**").
- B. On 28 March 2013, a statutory instrument under the Public Bodies Act 2011, the Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013 (the "**Order**"), was made. Article 6 of the Order amended section 51 of the Act to change the institutions in respect of whose qualifying consumer expenses Ofcom may require postal operators to make payments. The Order came into effect the day after it was made.
- C. On 19 February 2013, OFCOM published a notification in accordance with section 51 of, and paragraph 3 of Schedule 6 to, the Act setting out their proposals to modify consumer protection condition 1 to make provision for matters set out in that section 51 in accordance with the changes proposed by the then proposed Order, to be in force from the day after the day on which the Order is made (the "**First Notification**").
- D. A copy of the First Notification was sent to the Secretary of State in accordance with Schedule 6 paragraph 5(1)(a) of the Act.
- E. In the First Notification (and the accompanying consultation document), OFCOM invited representations about any of the proposals set out therein by 20 March 2013.

DECISION

1. In accordance with section 51 of, and paragraph 3 of Schedule 6 to, the Act and pursuant to powers in section 51 of the Act, OFCOM hereby modified consumer protection condition 1 to make provision for matters set out in that section 51 in accordance with the changes proposed by the Order, to be in force from the date of this Notification.
2. The modification to consumer protection condition 1 is specified in the Schedule hereto.
3. The effect of, and Ofcom's reasons for making, this decision are set out in the accompanying statement.

OFCOM'S DUTIES AND LEGAL TESTS

4. Ofcom is satisfied that this decision satisfies the general test in paragraph 1 of Schedule 6 to the Act.
5. In making this decision, Ofcom has considered and acted in accordance with its principal duty in section 29 of the Act and its general duties in section 3 of the Communications Act 2003.

INTERPRETATION

6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act.
7. In this Notification,
 - (a) “**Act**” means the Postal Services Act 2011 (c.5); and
 - (b) “**Order**” means the Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013
8. For the purpose of interpreting this Notification—
 - (a) headings and titles shall be disregarded;
 - (b) expressions cognate with those referred to in this Notification shall be construed accordingly;
 - (c) the Interpretation Act 1978 (c. 30) shall apply as if this Notification were an Act of Parliament.
9. The Schedule to this Notification shall form part of this Notification.

Signed by **Chris Rowsell**

A handwritten signature in black ink, appearing to read 'Chris Rowsell', written over a horizontal line.

Competition Policy Director

A person duly authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

28 March 2013

SCHEDULE

MODIFICATIONS TO CONSUMER PROTECTION CONDITION 1

	Modification		
1.	In the title, for the words after " <u>COUNCIL</u> ", substitute: " <u>, CITIZENS ADVICE OR CITIZENS ADVICE SCOTLAND</u> ".		
2.	In CP 1.1.2, for the defined term and definition of " Consumer Direct expansion expenses ", substitute: "" calls relating to a regulated postal operator " means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u> ;"		
3.	In CP 1.1.2, delete the defined term and definition of " OFT " and renumber the subsequent definitions accordingly.		
4.	In the subtitle for CP 1.2, for the words after " <u>Council</u> ", substitute: " <u>, Citizens Advice or Citizens Advice Scotland</u> ".		
5.	In CP 1.2.2, delete the words "; and (b) the estimated <u>qualifying consumer expenses</u> of the <u>OFT</u> which relate to the expansion of Consumer Direct to enable it to cater for <u>postal service</u> customers, (the "Consumer Direct expansion expenses")". Remove the sub-paragraph numbering and line breaks.		
6.	In CP 1.2.3, for "and the <u>Consumer Direct expansion expenses</u> " substitute "of the Council".		
7.	In CP 1.2.4, for "the <u>OFT</u> other than the <u>Consumer Direct expansion expenses</u> ", substitute " <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> ".		
8.	After CP 1.2.4, insert the following rows: <table border="1" data-bbox="240 1554 1305 2029"> <tr> <td data-bbox="240 1554 778 2029">CP 1.2.5</td> <td data-bbox="778 1554 1305 2029"><u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> multiplied by that <u>regulated postal operator's share</u> of <u>calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u> gives an amount greater</td> </tr> </table>	CP 1.2.5	<u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> multiplied by that <u>regulated postal operator's share</u> of <u>calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u> gives an amount greater
CP 1.2.5	<u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> multiplied by that <u>regulated postal operator's share</u> of <u>calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u> gives an amount greater		

	<p>CP 1.2.6</p>	<p>than £100.</p> <p>The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> by that <u>regulated postal operator's</u> share of <u>calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.</p>		
<p>Renumber the subsequent rows accordingly.</p>				
<p>9.</p>	<p>In the row formerly numbered CP 1.2.5, which has been renumbered pursuant to row eight above to become CP 1.2.7, delete the words “and CP 1.2.4 as appropriate”.</p>			
<p>10.</p>	<p>After the row formerly numbered CP 1.2.5, which has been renumbered pursuant to row eight above to become CP 1.2.7, insert the following row:</p> <table border="1" data-bbox="245 1077 1302 1850"> <tr> <td data-bbox="245 1077 775 1850"> <p>CP 1.2.8</p> </td> <td data-bbox="775 1077 1302 1850"> <p>The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u>, based on estimates of the number of <u>calls relating to that and other regulated postal operators</u> and estimated <u>qualifying consumer expenses</u>; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u>. Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.</p> </td> </tr> </table> <p>Renumber the subsequent row accordingly.</p>		<p>CP 1.2.8</p>	<p>The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u>, based on estimates of the number of <u>calls relating to that and other regulated postal operators</u> and estimated <u>qualifying consumer expenses</u>; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u>. Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.</p>
<p>CP 1.2.8</p>	<p>The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u>, based on estimates of the number of <u>calls relating to that and other regulated postal operators</u> and estimated <u>qualifying consumer expenses</u>; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u>. Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.</p>			

11.	In the “ <i>Table of terms defined in the Act</i> ”, immediately below the header row, insert the following two rows: “ <table border="1" data-bbox="247 302 1300 392"><tr><td data-bbox="247 302 774 347"><i>Citizens Advice</i></td><td data-bbox="774 302 1300 347"><i>51(4)</i></td></tr><tr><td data-bbox="247 347 774 392"><i>Citizens Advice Scotland</i></td><td data-bbox="774 347 1300 392"><i>51(4)</i></td></tr></table> ”	<i>Citizens Advice</i>	<i>51(4)</i>	<i>Citizens Advice Scotland</i>	<i>51(4)</i>
<i>Citizens Advice</i>	<i>51(4)</i>				
<i>Citizens Advice Scotland</i>	<i>51(4)</i>				

Annex 2

Marked up version

UNOFFICIAL MARKED UP VERSION OF CONSUMER PROTECTION CONDITION 1 AS MODIFIED

This marked up version of CP1 is provided as an aid to understanding but is not the proposed legal instrument. In case of conflict, the modifications as set out in the Notification in Annex 1 take precedence.

- Deletions are marked in red struck-through text.
- Additions are marked in red.

CONSUMER PROTECTION CONDITION 1

PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES OF THE NATIONAL CONSUMER COUNCIL, ~~CITIZENS ADVICE OR CITIZENS ADVICE SCOTLAND OR THE OFT~~1.1. Application, Definitions and Interpretation

CP 1.1.1	This consumer protection condition (“ CP Condition ”) shall apply to <u>regulated postal operators</u> .
CP 1.1.2	<p>In this CP Condition—</p> <p>(a) “access payments” means payments made to any other <u>regulated postal operator</u> for the conveyance of <u>letters</u> conveyed by the <u>regulated postal operator</u> from its customers to that other <u>regulated postal operator</u>;</p> <p>(b) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(c) “appointed day” means 1 October 2011;</p> <p>(d) “Consumer Direct expansion expenses” has the meaning it is given in CP 1.2.2; “calls relating to a regulated postal operator” means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) “Council” means the National Consumer Council established by s.1 of the Consumers, Estate Agents and Redress Act 2007;</p>

	<p>(f) “OFT” means the Office of Fair Trading;</p> <p>(g) (f) “public holiday” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p> <p>(h) (g) “relevant year” means any year beginning on 1 April;</p> <p>(j) (h) “regulated postal operator” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(j) (i) “regulated postal service” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>
<p>CP 1.1.3</p>	<p>For the purpose of interpreting this CP Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act⁸;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a day are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</p>

1.2. Payments relating to qualifying consumer expenses of the National Consumer Council, Citizens Advice or Citizens Advice Scotland ~~or the OFT~~

<p>CP 1.2.1</p>	<p>For the purposes of this Condition, the turnover taken into account shall be turnover from <u>regulated postal services</u> (excluding <u>access payments</u> in the case of <u>postal operators</u> other than the <u>universal service provider</u>).</p>
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⁸ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

CP 1.2.2	<p>A <u>regulated postal operator</u> that generated turnover exceeding £10 million, in the preceding year beginning on 1 April, shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of</p> <p>(a) the <u>qualifying consumer expenses</u> of the <u>Council</u>; and</p> <p>(b) the <u>estimated qualifying consumer expenses</u> of the <u>OFT</u> which relate to the expansion of Consumer Direct to enable it to cater for <u>postal service</u> customers, (the “<u>Consumer Direct expansion expenses</u>”)</p> <p>likely to be incurred during the <u>relevant year</u>.</p>
CP 1.2.3	<p>The proportion will be calculated by multiplying the sum of the total <u>qualifying consumer expenses</u> of the <u>Council</u> and the <u>Consumer Direct expansion expenses</u> by that <u>regulated postal operator</u>'s share of turnover expressed as a percentage of the total turnover generated by all <u>regulated postal operators</u>.</p>
CP 1.2.4	<p>A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of the <u>OFT</u> <u>Citizens Advice and Citizens Advice Scotland</u> other than the <u>Consumer Direct expansion expenses</u>.</p>
CP 1.2.5	<p><u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> multiplied by that <u>regulated postal operator</u>'s share of <u>calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u> gives an amount greater than £100.</p>
CP 1.2.6	<p>The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> by that <u>regulated postal operator</u>'s share of <u>calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.</p>
CP 1.2.75	<p>The amounts payable under CP 1.2.2 and CP 1.2.4 as appropriate in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question</p>

	upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.
CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates of the number of <u>calls relating to that and other regulated postal operators and estimated qualifying consumer expenses</u> ; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators and actual qualifying consumer expenses</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.96	The amount due under either or both of CP 1.2.2 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

Table of terms defined in the Act

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

Defined term	Section
<i>Citizens Advice</i>	<i>51(4)</i>
<i>Citizens Advice Scotland</i>	<i>51(4)</i>
<i>letter</i>	<i>65(1)</i>
<i>OFCOM</i>	<i>90</i>
<i>postal operator</i>	<i>27(3)</i>
<i>postal packet</i>	<i>27(2)</i>
<i>qualifying consumer expenses</i>	<i>51(4)</i>
<i>universal service provider</i>	<i>65(1) and Schedule 9 paragraph 3(3)</i>

Annex 3

Consolidated version

UNOFFICIAL CONSOLIDATED VERSION OF CONSUMER PROTECTION CONDITION 1
AS MODIFIED

This consolidated version of CP1 is provided as an aid to understanding but is not the proposed legal instrument. In case of conflict, the modifications as set out in the Notification in Annex 1 take precedence.

CONSUMER PROTECTION CONDITION 1

PAYMENTS RELATING TO QUALIFYING CONSUMER EXPENSES OF THE
NATIONAL CONSUMER COUNCIL, CITIZENS ADVICE OR CITIZENS ADVICE
SCOTLAND1.1. Application, Definitions and Interpretation

CP 1.1.1	This consumer protection condition (“ CP Condition ”) shall apply to <u>regulated postal operators</u> .
CP 1.1.2	<p>In this CP Condition—</p> <p>(a) “access payments” means payments made to any other <u>regulated postal operator</u> for the conveyance of <u>letters</u> conveyed by the <u>regulated postal operator</u> from its customers to that other <u>regulated postal operator</u>;</p> <p>(b) “Act” means the Postal Services Act 2011 (c.5);</p> <p>(c) “appointed day” means 1 October 2011;</p> <p>(d) “calls relating to a regulated postal operator” means calls to <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to a specific <u>regulated postal operator</u> save that where a call is recorded by <u>Citizens Advice</u> or <u>Citizens Advice Scotland</u> as relating to more than one specific <u>regulated postal operator</u> <u>OFCOM</u> will consider the call as relating to no <u>regulated postal operator</u>;</p> <p>(e) “Council” means the National Consumer Council established by s.1 of the Consumers, Estate Agents and Redress Act 2007;</p> <p>(f) “public holiday” means a Christmas Day, Good Friday and a day which is a bank holiday under the Banking and Financial Dealings Act 1971;</p>

	<p>(g) “relevant year” means any year beginning on 1 April;</p> <p>(h) “regulated postal operator” means a <u>postal operator</u> which provides services in relation to which, had those services been carried out prior to the <u>appointed day</u>, it would have been required to hold a licence under the Postal Services Act 2000;</p> <p>(i) “regulated postal service” means a <u>postal service</u> the provision of which, had it been carried out prior to the <u>Appointed Day</u>, would have required the provider to hold a licence under the Postal Services Act 2000.</p>
CP 1.1.3	<p>For the purpose of interpreting this CP Condition—</p> <p>(a) except in so far as the context otherwise requires, any word or expression shall have the same meaning as it has been ascribed for the purpose of Part 3 of the Act⁹;</p> <p>(b) headings and titles shall be disregarded;</p> <p>(c) expressions cognate with those referred to in this CP Condition shall be construed accordingly;</p> <p>(d) the Interpretation Act 1978 (c. 30) shall apply as if this CP Condition were an Act of Parliament;</p> <p>(e) references to a day are references to a period of twenty-four hours beginning with one midnight and ending with the next, which period shall be treated to include a Saturday, a Sunday and public holidays</p>

1.2. Payments relating to qualifying consumer expenses of the National Consumer Council, Citizens Advice or Citizens Advice Scotland

CP 1.2.1	<p>For the purposes of this Condition, the turnover taken into account shall be turnover from <u>regulated postal services</u> (excluding <u>access payments</u> in the case of <u>postal operators</u> other than the <u>universal service provider</u>).</p>
CP 1.2.2	<p>A <u>regulated postal operator</u> that generated turnover exceeding £10 million, in the preceding year beginning on 1 April, shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of the <u>Council</u> likely to be incurred during the <u>relevant year</u>.</p>

⁹ A table for information identifying such defined terms is provided at the end of this condition. This table is intended only as a guide and does not form a part of this condition. We make no representations as to its accuracy or completeness.

CP 1.2.3	The proportion will be calculated by multiplying the sum of the total <u>qualifying consumer expenses</u> of the <u>Council</u> by that <u>regulated postal operator's</u> share of turnover expressed as a percentage of the total turnover generated by all <u>regulated postal operators</u> .
CP 1.2.4	A <u>regulated postal operator</u> shall pay to <u>OFCOM</u> in any <u>relevant year</u> such proportion as <u>OFCOM</u> may specify of the <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> .
CP 1.2.5	<u>OFCOM</u> shall require payments to be made by a <u>regulated postal operator</u> under CP 1.2.4 where the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> multiplied by that <u>regulated postal operator's</u> share of <u>calls relating to regulated postal operators</u> expressed as a percentage of the total <u>calls relating to regulated postal operators</u> gives an amount greater than £100.
CP 1.2.6	The proportion to be paid by a <u>regulated postal operator</u> falling within CP1.2.5 will be calculated by multiplying the total <u>qualifying consumer expenses</u> of <u>Citizens Advice</u> and <u>Citizens Advice Scotland</u> in the <u>relevant year</u> by that <u>regulated postal operator's</u> share of <u>calls relating to regulated postal operators</u> falling within CP1.2.5 expressed as a percentage of the total <u>calls relating to regulated postal operators</u> falling within CP1.2.5.
CP 1.2.7	The amounts payable under CP 1.2.2 in a <u>relevant year</u> shall include the amount of the difference, if any, between the costs actually incurred during the previous <u>relevant year</u> and the estimate of the costs in question upon which charges in the previous <u>relevant year</u> were based, where the latter exceeds the former the amount of the difference being treated as a negative amount.

CP.1.2.8	The amounts payable under CP 1.2.4 in a <u>relevant year</u> shall include the amount of the difference, if any, between the amounts charged to the <u>regulated postal operator</u> in the previous <u>relevant year</u> , based on estimates of the number of <u>calls relating to that and other regulated postal operators</u> and estimated <u>qualifying consumer expenses</u> ; and the amounts which would have been charged had the calculation been based on actual numbers of <u>calls relating to that and other regulated postal operators</u> and actual <u>qualifying consumer expenses</u> . Where the latter exceeds the former the amount of the difference shall be treated as a negative amount.
CP 1.2.9	The amount due under either or both of CP 1.2.2 and CP 1.2.4 shall be payable on 30 June in the <u>relevant year</u> or, if later, on the expiry of one month from the day on which <u>OFCOM</u> serve notice on the <u>regulated postal operator</u> of such amount.

Table of terms defined in the Act

This table is provided for information and does not form a part of this condition. We make no representations as to its accuracy or completeness. Please refer to the Act.

Defined term	Section
<i>Citizens Advice</i>	51(4)
<i>Citizens Advice Scotland</i>	51(4)
<i>letter</i>	65(1)
<i>OFCOM</i>	90
<i>postal operator</i>	27(3)
<i>postal packet</i>	27(2)
<i>qualifying consumer expenses</i>	51(4)
<i>universal service provider</i>	65(1) and Schedule 9 paragraph 3(3)