



Proposed modification to Consumer Protection Condition 1

Consultation 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

Consultation

Publication date: 19 February 2013

Closing Date for Responses: 20 March 2013

Contents

Section		Page
1	Proposed modification to Consumer Protection Condition 1	1

Annex		Page
1	Responding to this consultation	4
2	Ofcom's consultation principles	6
3	Consultation response cover sheet	7
4	Statutory notification: proposed modification of Consumer Protection Condition 1	9
5	Consolidated version	15

Section 1

Proposed modification to 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 currently specified in section 51 are 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. Assuming it comes into force as planned at the time of writing this consultation document, the change to the Act will have effect from 1 April 2013. This consultation addresses the changes to CP1 which are required by the transfer to Citizens Advice and Citizens Advice Scotland of the role formerly carried out by the OFT under the name Consumer Direct.
- 1.7 Further changes are planned for the future. Consumer Focus will become part of the Regulated Industries Unit (the “RIU”) in April 2013. In the ‘Empowering and

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

protecting consumers' document BIS stated that the RIU will "not be a new public body but will consist of the parts of Consumer Focus that currently carry out these functions and will ensure that the existing skills, knowledge and expertise is retained." BIS also indicated that the "role of the RIU will be of a technical nature, dealing primarily with companies, regulators and policy makers."

- 1.8 BIS has confirmed that the transition period will be completed in autumn 2014 when the RIU will transfer its powers, functions and responsibilities to the Citizens Advice Service. In Northern Ireland the same process will occur but these powers will instead be transferred to the General Consumer Council for Northern Ireland. We expect there will be a similar process to implement these changes (including a consultation on the modifications required to CP1) in due course.

Proposed changes

- 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 It is 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 understand that provision for the "Consumer Direct expansion expenses" is no longer needed because those expenses have already been incurred and recovered. We therefore propose to remove these references in CP1.
- 1.12 In addition, we are also proposing to clarify the basis on which we will apportion the expenses of Citizens Advice and Citizens Advice Scotland to the individual RPOs (CP 1.2.4). The existing condition sets out that this will be based on the proportion of qualifying expenses that Ofcom may specify. We are proposing 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 consider it is appropriate that RPOs are charged for the calls that relate to the service they provide. We did consider a number of other options for allocating the qualifying expenses (such as share of turnover) but as Royal Mail is the only operator that offers a service to residential consumers this may not be the most appropriate way to allocate these expenses. In addition, a "polluter pays" system is more likely to incentivise RPOs to address the underlying reasons for the complaints.
- 1.14 We also consider it is appropriate to have a *de minimis* threshold, as below a certain level it is not economic to recover the costs from smaller RPOs. 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 are therefore proposing that the total cost of the consumer advice functions that Consumer Advice and Consumer Advice Scotland provide in relation to regulated postal services is 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 consider the appropriate *de minimis* threshold to be £100. This would be amongst the smallest sums that Ofcom collects. In 2012-13 we understand that the total qualifying expenses for Citizens Advice and Citizens Advice Scotland would have been less than £5000⁵ and over 99% of the calls related to Royal Mail's services. In 2012-13, £100 would have equated to around 2% of the total number of calls.
- 1.16 We note that Citizens Advice and Citizens Advice Scotland may record calls which refer to both Royal Mail and another operator. Given that no calls have been allocated to this category to date in 2012-13 and the potential difficulty of allocating such calls to the correct RPO we consider it appropriate that these calls are excluded from the analysis of how the total qualifying consumer expenses⁶ should be allocated. We do not consider this is likely to have a disproportionate or unfair impact on any individual RPO.
- 1.17 We consider that these changes are:
- **objectively justifiable** because the consumer advice function for postal services is transferring from Consumer Direct to Citizens Advice and Citizens Advice Scotland. The Act is being 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 proposed change to the condition is set out clearly in this consultation.
- 1.18 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.

Next steps

- 1.19 Following consideration of responses, we plan to issue a statement in late March giving our decision on the changes to be made. The changes will actually be made on the day that the amendment to the Postal Services Act 2011 comes into force, which we currently expect to be 1 April 2013.
- 1.20 We request that interested parties respond to this consultation by 20 March 2013.

Question: Do you agree with the proposed modification to Consumer Protection Condition 1?

⁵ Based on the actual number of calls and costs for April 2012 to December 2012 and estimated costs for January to March 2013.

⁶ i.e. including the cost of those calls as the Secretary of State may specify.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 20 March 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/cpc1/howtorespond/form>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email christopher.bentley@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.
- Christopher Bentley
Floor 4
Competition Group
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3417
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Christopher Bentley on 020 7981 3322.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement in March 2013.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Statutory notification: proposed 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 12th December 2012, a draft 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 laid before Parliament. Article 6 of the Order would amend section 51 of the Act to change the institutions in respect of whose qualifying consumer expenses Ofcom may require postal operators to make payments.

C. The Order, if made, will come into effect the day after it is made.

PROPOSAL

1. Ofcom hereby proposes, 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, 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 Order, to be in force from the day after the day on which the Order is made.

2. The proposed modification to consumer protection condition 1 is specified in the Schedule hereto.

3. The effect of, and Ofcom’s reasons for making, this proposal are set out in the accompanying consultation document.

OFCOM’S DUTIES AND LEGAL TESTS

4. Ofcom is satisfied that this proposal satisfies the general test in paragraph 1 of Schedule 6 to the Act.

5. In making this proposal, 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.

⁷ <http://stakeholders.ofcom.org.uk/binaries/consultations/review-of-regulatory-conditions/statement/statement.pdf>

MAKING REPRESENTATIONS

6. Representations may be made to Ofcom about the proposal set out in this Notification by no later than **20 March 2013**.
7. Copies of this Notification and the accompanying consultation document have been sent to the Secretary of State in accordance with paragraph 5(1)(a) of Schedule 6 to the Act.
8. By virtue of paragraph 3(5) of Schedule 6 to the Act, Ofcom may give effect, with or without modifications, to a proposal with respect to which it has published a notification only if Ofcom has—
- (a) considered every representation about the proposal that is made to Ofcom within the period specified in this Notification; and
 - (b) had regard to every international obligation of the United Kingdom (if any) which has been notified to Ofcom for this purpose by the Secretary of State.

INTERPRETATION

9. 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.
10. 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
11. 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.
12. The Schedule to this Notification shall form part of this Notification.

Signed by **David Brown**



Competition Finance Director

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

19 February 2013

SCHEDULE

PROPOSED 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, delete the words "and the <u>Consumer Direct expansion expenses</u> ".		
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="244 1554 1305 2029"> <tr> <td data-bbox="244 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 “***Table of terms defined in the Act***”, immediately below the header row, insert the following two rows:

“

<i>Citizens Advice</i>	<i>51(4)</i>
<i>Citizens Advice Scotland</i>	<i>51(4)</i>

”

Annex 5

Consolidated version

UNOFFICIAL CONSOLIDATED VERSION OF CONSUMER PROTECTION CONDITION 1
IF MODIFIED AS PROPOSED.

This consolidated version of CP1 as we propose to amend it 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 4 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>