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5<sup>th</sup> January 2012

Dear Gavin

### [Consultation on Securing the Universal Postal Service \(2\)](#)

The Postal Trade Association Forum (Postaf) is pleased to be able to comment on Ofcom's consultation on Securing the Universal Postal Service.

Postaf members, trade associations with interests in postal affairs, will have responded directly to Ofcom and it is not proposed to unnecessarily repeat their views again. Nevertheless there are a number of matters which Postaf would draw to your attention in you making any determination on this consultation.

### **History tempers customer confidence in the future**

Many of the proposals in the consultation argue that the previous regulatory regime did not work, therefore there should be an almost 180° change in direction in that there should be little or no control whatsoever.

To have a regulatory regime that relies on the provider with dominant market power acting reasonably there has to be trust and confidence by Customers. Over recent times that trust and confidence has not been present.

The long term objective of light regulation is to be applauded but Postaf would caution that such a major change as proposed could damage the market and therefore the USO. A glide-path approach based on the performance by Royal Mail would instil more confidence in the other stakeholders and encourage them to continue to invest in the medium. As examples the DMA suggestions of an overall cap on price increases without reference be limited to inflation plus and the requirement for Royal Mail to consult on commercial issues.

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Whilst Ofcom may have the regulatory powers and resources to rely on *ex-post* regulation it needs to be clearly understood that almost all other stakeholders do not have the resources or resident expertise to respond to issues after the event. Therefore stakeholders will have to potentially rely on the Regulator to respond to adverse matters that come about by Royal Mail exercising their dominant market power.

Postaf members require a Royal Mail that is able to provide a strong, competitive and sustainable postal service in the United Kingdom. That it can be achieved is still in doubt. They have relied too heavily on the lever of price without any demonstrable pressure on the lever of efficiency. Such action by a monopoly supplier in a shrinking market does not bode well.

## Price Cap

The approach of a single stamped product cap is perhaps a step too far at present. Postaf recommends that *initially* both first and second class stamped products should be capped.

RPI inflationary increases in the cap should be reconsidered. By Ofcom's own admission it was not a proposal based on sound evidence and flies in the face of Government policy to use CPI as the preferred measure of inflation. (It is only a small incremental difference but nevertheless for vulnerable customers makes a difference.)

## Incentives and Penalties

Ofcom has proposed that both the USO and Access regulatory conditions should include penalties but does not appear to quantify the matter. Postaf would ask for more detail now on how it is proposes to monitor the provision of service and what range of penalties or corrective actions they might consider.

There appears to be no scope in the current proposals to offer incentives to Royal Mail for achieving specific performance.

## Efficiency

One of the key criticisms of recent regulation has been the inability of Royal Mail to achieve, and for the Regulator to incentivise/penalise, cost reductions and improved production efficiency. The Ofcom consultation indicates in several places their desire to see improvement but without any detailed targeting.

Royal Mail appear nervous in publishing targets –assumed by the redactions in the consultation document - nevertheless Ofcom’s role should be more than just to *monitor* performance but to agree *targets* and *report* achievement.

## Dispute Resolution

The previous comments on Royal Mail’s dominant market power and the risks for other stakeholders associated with ex-post regulation suggest that there needs to be another process for dispute resolution that does not require intervention by the competition authorities as the only route.

Ofcom should consider how they could provide such a vehicle for all stakeholders not just *vulnerable consumers*.

## Interim Review

Providing stability in the regulatory space has always been a key requirement by strategic users of mail services. Unfortunately for other reasons that has not been achieved over the last three years.

The proposal for a 7 year life for this regime might therefore seem reasonable. Unfortunately it still has the potential danger of failure of being fit for purpose because of unforeseen change. Whilst Ofcom has the tools to make potential change during the period there is no easy way for others to propose change. It is recommended that Ofcom consider an interim consultation and review after say three years that would allow stakeholders a formal route to suggest improvements. The scope of such a review should be planned and agreed now so that as far as possible the stability craved by all can be maintained over the whole regulatory period.

## Financial Reporting

Stakeholders rely on Ofcom to ensure that Royal Mail properly and accurately report their performance. The detail necessary to allow Ofcom to have confidence in state of Royal Mail is for you to determine (see below).

Regrettably, history does not breed stakeholder confidence in this area. The recent reorganisation of RM Group companies into UKLPI would seem like obfuscation to say the least. Additionally a potential threat could come from part of UKLPI, say Parcelforce, offering DSA access for letter traffic on preferential terms.

## VAT

It is well known that the imposition of VAT at standard rate on non USO products could have a significant effect on many users of bulk retail products.

Royal Mail's announcement today that VAT will be applied to retail (non USO) products from April 2012 arguably pre-empts the Ofcom decision regarding bulk mail products in the USO.

Notwithstanding, this announcement will drive all bulk users unable to recover VAT to the access channel leaving the retail upstream business to distribute their costs in a more restricted fashion. The consequences to prices and volumes has still to be evaluated.

### **Notice Periods**

One matter that has not apparently been addressed elsewhere is that of the notice for changes to prices. Whilst no general tariff increase is welcome a reasonable period of notice helps both the customer (and therefore Royal Mail) in planning their business.

It has probably been assumed by most stakeholders that Royal Mail are reluctant to disclose future tariff price rises with long notice periods for competitive reasons. It is suggested that this may not actually be the case; it is more one of corporate timetabling. It may be difficult to include in the proposed regulatory regime but Ofcom should consider how they might influence Royal Mail to review their corporate timetable to look at tariff issues much earlier in their planning cycle.

This concept is less likely to apply to commercial terms because of competitive pressures.

### **Access**

An access regime as proposed and controlled is the minimum necessary. Protection for those CDA customers should no less than access service providers. This may not be adequately addressed in the consultation.

See comment above regarding Parcelforce.

### **Transparency**

In all the matters under discussion in the consultation there is a need to ensure that Ofcom acts as an on-going bridge of confidence between Royal Mail and the other stakeholders.

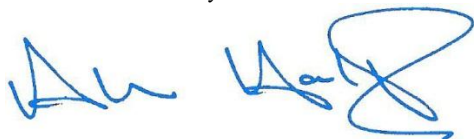
There are many matters of performance by Royal Mail that other stakeholders would wish to understand in detail but cannot for reasons of commercial confidentiality. It is therefore incumbent upon Ofcom to establish not just a *monitoring* regime of Royal Mail as proposed in the consultation but also an appropriate *reporting* regime to stakeholders.

In considering the future processes in regulating Royal Mail, Postaf suggests that Ofcom development of a reporting regime that can achieve two objectives:

- To help to overcome the history of lack of trust and confidence in the Royal Mail by reporting with the maximum disclosure possible.
- Providing regular stakeholder feedback on the performance of Ofcom in the regulation of the dominant market supplier.

If I can add any further information to our submission please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Alan MJ Halfacre".

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