



Consultation: Ofcom's review of the regulation of Royal Mail

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Introduction

The General Consumer Council for Northern Ireland (the Consumer Council) is an independent consumer organisation, working to bring about change to benefit Northern Ireland (NI) consumers. Our aim is to *'make the consumer voice heard and make it count'*.

We have a statutory remit to promote and safeguard the interests of consumers and have specific functions in relation to energy, water, transport and food. These include considering consumer complaints and enquiries, carrying out research and educating and informing consumers. In April 2014, we assumed responsibility for representing consumers in respect of postal services in NI.

The Consumer Council is also a designated body for the purposes of supercomplaints, which means that we can refer any consumer affairs goods and services issue to the Competition and Markets Authority, where we feel that the market may be harming consumers' best interests. In addition, we have 'supercomplainant' status for financial services, with powers to bring supercomplaints on financial matters to the Financial Conduct Authority (FCA).

In taking forward our broad statutory remit we are informed by and representative of consumers in NI. We work to bring about change to benefit consumers by making their voice heard and making it count. To represent consumers in the best way we can, we listen to them and produce robust evidence to put their priorities at the heart of all we do.

Ofcom's review of regulation of Royal Mail

As the statutory representative for consumers of postal services in NI the Consumer Council is pleased to respond to Ofcom's discussion paper on the review of regulation of Royal Mail.

We note that the purpose of the review is to ensure the regulatory framework is appropriate and to make sure the universal postal service is financially sustainable. As part of Ofcom's review it is inviting preliminary views from stakeholders. It is in this context that the Consumer Council provides its response.

We trust that Ofcom will seek further views from key stakeholders once it has reached its conclusion on whether the existing regulation is suitable and how it intends to address concerns around the regulatory framework not working as Ofcom had originally anticipated.

Once a conclusion is reached it will be important for Ofcom to provide sufficient evidence on how and why it reached certain decisions. This will allow the Consumer Council to offer further insight into any proposals affecting postal consumers in NI.

Question 1: Do you agree with our view that there is a need to consider the effectiveness of the existing regulatory structure?

The Consumer Council believes that if Ofcom has evidence that there is a risk to the provision of the universal service and/or the postal market is not working in the interest of consumers it must take appropriate action to address the situation. This includes ensuring the existing regulatory structure is working effectively and delivering benefits to consumers. To successfully achieve this it is important to ensure adequate resources are available to conduct a full and detailed review in order to reach the right decisions.

It is our view that any review of regulation must assess the positive and negative impact of the existing regulatory approach on consumers before any changes are proposed. Analysis at a UK level is clearly important. Equally important to a successful review will be fully considering the impact on consumers across the different nations.

It is encouraging that in section 4 of the discussion paper Ofcom makes a clear statement that it will consider the issues affecting the postal market in light of its overall duties to further the interests of citizens and consumers and to carry out its functions in a way it considers will secure the provision of a universal service. This will be essential as both these are interconnected and interdependent on each other.

The Consumer Council notes there is four years left on the existing price control. We would encourage Ofcom to use this time to undertake a detailed and strategic analysis of how the existing regulatory framework has benefitted or disadvantaged consumers or the industry. The review should also take account of structural changes to the postal market and the dynamic parcel market with the continued growth in e-commerce.

It is crucial that there is a careful and thorough understanding of the impact of changes to the regulatory approach on consumers. The outcome of any review must ensure that appropriate regulatory measures are in place which will benefit consumers both in the short and longer term.

Question 2: To what extent do you consider Royal Mail's pricing and non-pricing behaviour is constrained by other postal operators and additional factors such as substitution.

The universal postal service, provided by Royal Mail, is an essential part of the infrastructure throughout NI. It ensures the delivery of letters (six days a week), packets and parcels (five days a week) with uniform pricing across the UK. Uniform pricing has special significance here considering non-universal postal services, namely parcel products can mean consumers here pay higher prices. Additionally, NI's unique position within the UK underlines the importance the universal service has for social and business postal consumers when connecting to neighbouring communities and economies in Great Britain (GB). It is

essential that Royal Mail's behaviour means it successfully delivers on its obligation when providing the universal service.

The discussion paper identifies the pricing flexibility and greater commercial freedom given to Royal Mail as part of the new approach to regulation. The Consumer Council recognises the risks associated with the greater pricing flexibility for universal service products as part of the regulatory framework introduced in 2011-12. We also understand and agree with the importance of protecting consumers, especially the more vulnerable who are more dependent on mail as a form of communication, from steep price rises. Ofcom recognised this by introducing a price cap on second class stamps for letters and parcels up to 2kg so that more vulnerable consumers have access to the universal postal service. The Consumer Council is supportive of this price cap and would recommend that this continues as it is a key safeguard which controls pricing behaviour.

Consumers across NI have not benefitted directly from end-to-end competition. This form of competition did not penetrate the postal market in NI like it did in other parts of the UK. Consumers and small businesses here stayed dependent upon universal service products provided by Royal Mail. With the withdrawal of Whistl's end-to-end delivery in the UK it is difficult to foresee consumers here benefitting from this type of competition in the future. Consequently, we do not see this having any significant influence on Royal Mail's behaviour.

Unlike end-to-end competition, access competition does exist in NI. This benefits business consumers, especially large mailers. While residential consumers do not benefit directly from this type of competition, they have benefitted indirectly in terms of it incentivising Royal Mail to become more efficient, reducing costs and being more innovative. It is important that the regulatory environment allows this to continue in a way which continues to deliver benefits to consumers. If the regulatory framework is unsuccessful in doing so then Ofcom should seek ways to address this. Access pricing should be fair and reasonable with a key aim of encouraging competition and to ensure consumers across NI continue to receive mail especially those that are more reliant on mail as a form of communication.

It is widely recognised that electronic substitution has had a negative impact on mail volumes. Generally speaking consumers across NI have moved away from mail as a communication method. However, it should also be recognised that many consumers continue to use the postal service, especially older consumers, those on lower incomes and those with a disability. Previous research¹ shows these consumer groups tend to send and receive more mail meaning they are more reliant on the postal service. It is important that the postal service not only offers affordable tariffs, but represents value for money so that cost does not become an increasing push factor for certain consumers to move away from mail, while at the same time leaving more captive consumers exposed to increasing prices. In these circumstances a price control mechanism is a fundamental feature of the regulatory framework.

¹ Consumer Focus Post. The postal consumer perspective: An overview. Experiences and perceptions of, and attitudes to, the postal service and Post Office network in Northern Ireland (April 2013).

The Council Consumer recognises that Ofcom has access to more detailed market analysis. However, we note that Royal Mail has increased prices in areas where it holds the greatest market share, namely letters, and more recently reduced prices where there is more competition, namely the 1-2kg parcel and package market. Ofcom's annual monitoring update on the postal market helps to illustrate this point².

Question 3: To what extent do the competitive constraints faced by Royal Mail vary by different types of mail, e.g. for letter services, between advertising mail, transactional mail (mail sent following a consumer's interaction with a company), and publishing mail (such as newsletters and magazines); and for parcel services, between single-piece and bulk parcels?

As highlighted in the answer to the previous question competition in end-to-end delivery does not exist in NI. However, there is access competition especially for larger mailers, but small businesses and consumers still remain reliant on the universal postal service. For example, research by Consumer Focus Post shows that nearly all (98 per cent) small and micro businesses in NI use Royal Mail universal service products for sending letters³.

One area we have yet to mention is competition in the parcel sector. It is encouraging that Ofcom is seeking to gain a better understanding of

² Ofcom. Annual monitoring update on the postal market. Financial year 2013-14. Section 5.

³ Consumer Focus Post. Annual Mail and business NI Survey (March 2013) by Ipsos MORI.

this market segment. More competition does exist in the parcel market here compared to the mail market, however, it is not as well developed compared to other parts of the UK. As a result consumers here have not fully benefitted from competition and are susceptible to higher costs and lower levels of innovative solutions.

The Consumer Council would like to illustrate this by outlining the issues consumers here are facing which is evident in the business to consumer part of the parcel market. Previous research⁴ shows consumers in NI often face delivery restrictions or higher charges for delivery compared to those in mainland GB when ordering goods online. Our recent research⁵ shows that 33 per cent of online retailers apply delivery exclusions to NI consumers compared to a GB average of two per cent. We also know that 39 per cent of NI shoppers have abandoned a purchase or cancelled due to extra delivery charges to NI⁶. This is restricting choice and negatively affecting consumers in NI. The root cause of this is zonal pricing for non-universal service products and services.

Our research⁷ also helps to quantify the cost of the extra delivery charges to NI. When free delivery is withdrawn the average cost of delivery is £10.00. When standard delivery is withdrawn the average additional cost of delivery to consumers in NI is £2.71. Due to our location in comparison to the rest of the UK, Royal Mail's non-universal

⁴ Consumer Futures. Signed, sealed and delivered? (November 2013).

⁵ Consumer Council. The Online Parcel Premium (September 2015).

⁶ Consumer Futures (Post). Annual Mail and Post office Satisfaction Survey NI (March 2014) by Millward Brown Ulster.

⁷ Consumer Council. The Online Parcel Premium (September 2015).

service products and those offered by alternative postal providers can cost more for posting to NI compared to other areas of the UK.

Consumers in other peripheral areas of the UK, including the Scottish Islands and Highlands face similar issues.

Ofcom must fully understand the complexity of the market and ensure this is given adequate consideration when it is looking at any regulatory change directly or indirectly affecting the parcel sector. The Consumer Council would caution against any changes at a UK level which would unintentionally increase the existing detriment being experienced by consumers in NI.

Question 4: Do you consider that Royal Mail faces appropriate incentives to deliver efficiency improvements?

Improving the efficiency of Royal Mail is clearly an important part of ensuring the universal postal service remains sustainable. Equally, efficiency savings will help reduce reliance on price increases which can have a negative impact on consumers. It is our view that with Ofcom's monitoring regime, which tracks the financial performance of the universal service network and Royal Mail's progress in achieving efficiency savings, it is best placed to conclude if the incentives created by the regulatory environment are sufficient enough to ensure Royal Mail makes the required efficiency improvements.

However, with the full privatisation of Royal Mail there will be increasing pressure from shareholders for an adequate return on investment.

Royal Mail can generally achieve this through efficiency savings or increasing prices. Since the introduction of new regulatory framework in 2012 Royal Mail has made some strides towards efficiency savings, however, increasing price rises have also featured quite significantly. In generating a greater return on investment increasing prices can tend to be a less risky option than efficiency savings, however, this can be harmful for consumers and ultimately the sustainability of the universal postal service as many consumers will seek alternative ways of sending and receiving mail (both letters and parcels).

Question 5: Do you consider that there are any areas of existing controls on Royal Mail activity where there is the potential for deregulation?

The existing price control, with the price cap on second class stamps for letters and parcels up to 2kg, is an important consumer protection measure. However, it should be noted that this approach was a significant move away from the previous regulatory framework representing the deregulation of prices on all first class products along with second class products over 2kg.

It is our view that the existing price cap or a similar safeguard for consumers must continue into the future as this represents the minimum standard of protection consumers should receive. This should be a priority for Ofcom in any of its considerations of deregulation. The Consumer Council would expect Ofcom to undertake a detailed and

considered analysis, and consultation, of any measures to deregulate the market further and clearly demonstrate how this will benefit consumers here.

We look forward to further engagement on matters affecting postal consumers in NI.

If you wish to discuss any aspect of this response in more detail please do not hesitate to contact Kellin McCloskey on 028 9025 1637 or Michael Legg on 028 9025 1641 or via email on kellin.mccloskey@consumercouncil.org.uk
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