



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to Postcomm's Consultation Procedures – Initial Proposals

January 2010

About Consumer Focus

Consumer Focus is the independent champion for consumers across England, Wales, Scotland, and for postal consumers in Northern Ireland. We operate across the whole of the economy, persuading businesses and public services to put consumers at the heart of what they do.

Consumer Focus was formed on 1 October 2008 through the merger of three organisations – energywatch, Postwatch and the National Consumer Council (including the Scottish and Welsh Consumer Councils). We are a statutory organisation that works in a devolved setting, with work priorities varying across different parts of the country, by all working to common strategic goals.

Through campaigning, advocacy and research, we champion consumers' interests in private and public sectors by working to secure fairer markets, greater value for money, and improved customer service. We have a particular focus on the interests of consumers in markets that are 'designated' by Government as requiring additional consumer advocacy. Currently these include energy and postal service consumers.

Consumer Focus also has a commitment to work on behalf of vulnerable and disadvantaged consumers, and a duty to work on issues of sustainable development.

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Overall, Consumer Focus believes that the new consultation (12 weeks, eight weeks and four weeks) process represents a sensible recommendation. However, we would urge Postcomm to adequately consider the ability of relatively small organisations, including ourselves, to respond effectively to their consultations. Due to our relative lack of resources, especially in comparison with Postcomm and Royal Mail, it is essential that we receive adequate time to respond to the issues that Postcomm is raising and consulting on. Consumer Focus is keen to provide appropriate and considered input but this can only be realised if we are given a reasonable period in which to respond. This can only enhance Postcomm's effective policy making process.

For this reason, although we see a need for flexibility in the consultation process in what is a rapidly changing market, we believe that Postcomm when deciding the length of their consultations, should err on the side of providing sufficient time for quality responses to be received, rather than insufficient time for consultation to enable faster decision making. In effect where a borderline decision is required to the length of the consultation period the benefit of the doubt should be on allowing adequate time for quality responses.

To provide further reassurance to Consumer Focus that we will have adequate time to respond to consultations of major consequence to postal consumers we recommend that Postcomm produces:

- Guidelines which detail what factors will contribute to their decision to proscribe different issues with different consultation procedures. Factors could include materiality (the degree of effect on different stakeholders), coverage (the quantity of stakeholders affected) and technical requirements. These guidelines should be consulted on with all industry participants
- A proscribed list which details which types of issues would fall into the 12, eight and four week consultation process. Consumer Focus would expect that major issues related to the USO and Royal Mail's price would be included in the 12 week category. We would also expect that issues subject to a four week consultation process will be of narrow and minor consequence to the market as a whole

Postcomm should also endeavour to gather the responses and opinions of 'hard to reach' stakeholders, such as individuals, local citizen groups, regional bodies etc where appropriate. Below, we provide some detailed recommendations as to what we believe constitutes good practice in consultation procedures, which will also help Postcomm engage with these 'hard to reach' groups.

Providing as much forewarning as is possible of consultations is very helpful in planning and prioritising our resources. The more prepared we are the better our response will be. To help enable this, Consumer Focus would urge for Postcomm to re-establish their quarterly newsletter and suggest that this should routinely list all current and forthcoming consultations with relevant dates. This will act as another way to keep industry participants informed about Postcomm's consultative activities and help them manage internal resources accordingly.

Furthermore, we believe that for major and strategic consultations, Postcomm should not be completely reactive in only considering written submissions to consultation. It should actively seek oral expressions of views and interactions between the views of different stakeholders alongside the period between the issue of consultation documents and the deadline of submissions. Consumer Focus recommends this be achieved by holding well-constructed and well-chaired workshops that would contribute towards the airing of the plurality of industry stakeholder views (postal operators, consumer bodies, rural groups, think tanks etc). This could then be captured subsequently (where appropriate) in the form of a detailed record that is published on the same basis as written submissions. We believe this will improve the policy making process.

Consumer Focus believes that the extension of informal consultation methods like face to face meetings and seminars are a very helpful method of engaging interested parties in the important issues affecting the industry. We also believe they contribute to providing more informed consultation submissions from stakeholders. For example, the meeting Postcomm kindly provided for us for the interim price control consultation was most helpful. We would like to see such offers become the norm in future consultations, especially those of a highly technical nature.

Postcomm should endeavour to balance consultation workload throughout the year ie not have too many consultation documents out at the same time. At the same time Postcomm should take into account the related consultation activities of different teams within Postcomm as well as other organisations, BIS for example. This should help mitigate the risk of overly concentrating consultation documents into a narrow time period.

Consumer Focus would also advise Postcomm to avoid consulting in peak holiday periods (summer holidays and Christmas for example) where staff coverage is at its thinnest. By avoiding these situations, Consumer Focus will be better placed to provide quality consultation responses as it will allow us to optimise our internal resources and thus contribute constructively to the policy making process.

Perhaps obviously, Consumer Focus welcomes attempts to produce documents which are written in plain English and avoid unnecessary jargon. We would however add that in our experience Postcomm's consultation documents have been relatively easy to understand and jargon free.

The use of glossaries to provide definitions of technical terms is very useful for ourselves and, we suspect, other stakeholders. Consumer Focus would welcome their continued use.

Post implementation analysis of policy decisions is always welcome. It provides evidence of where lessons can be learnt from past decisions and improves the decision making process. However, where Postcomm decides to use the shorter consultation procedures (eight and four week) we believe post implementation analysis is essential. Consumer Focus believes that there is greater scope for negative unintended consequences where shortened consultation procedures are used as they are less likely to have fully evaluated all the consequences of policy decisions.

It is also very important the regulatory bodies justify their policy decisions and respond to criticisms and concerns raised by all industry stakeholders in a transparent manner. This helps increase the legitimacy of the regulator's decisions meaning that the likelihood that their decisions will succeed should increase. We are therefore pleased that Postcomm have stated in the document that it "will aim to respond to all the significant issues that are raised and provide an explanation of how they have influenced our [Postcomm's] final decision".

It is always very useful to see other stakeholders' non-confidential responses to consultations as soon as possible. This allows us to fully consider other stakeholders' views and helps evaluate our own policy recommendations. We would recommend that, although stakeholders will find it necessary to submit confidential responses due to risks surrounding commercial confidentiality, Postcomm should still encourage these stakeholders to submit excised non-confidential responses. This allows all stakeholders, ourselves included, to be fully informed of the issues facing all market participants and commentators and allows us to fully evaluate our policy positions. To sum up it improves the policy making process.

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