

CONSUMER FOCUS RESPONSE TO THE GOVERNMENT'S POLICY STATEMENT 'THE FUTURE OF THE UNIVERSAL POSTAL SERVICE IN THE UK' AND TO THE POSTAL SERVICES BILL

April 2009

The Government's Policy Statement, 'The Future of the Universal Postal Service' was presented to Parliament by the Secretary of State on 25 February 2009. The Postal Services Bill to enact the main provisions of the Government's policy was published and had its first reading shortly thereafter. This brief note summarises the main provisions of the policy statement and Bill, indicates Consumer Focus's early response to the proposals and outlines early actions we are taking to promote and secure the interests of consumers.

Regulation

- The Bill will put in place a new regulatory framework including the transfer of responsibility for regulation from Postcomm to Ofcom. It will:
 - Enshrine the universal service at the heart of the regulatory regime, and make explicit that 'protection of the universal postal service takes precedence over competition'.
 - Make arrangements for financial support for the universal service, should it be needed in the future.
 - Create general authorisations under which postal operators can carry out their business, subject to any conditions applicable to them.
 - Extend Ofcom's current competition powers to post.
 - Make specific provision for the regulation of access to ensure 'that the terms on which other operators access Royal Mail's network do not amount to a subsidy'.
 - Provide necessary information-gathering powers to Ofcom to ensure cost transparency and a clear and agreed basis on which regulatory decisions can be made.

Consumer Focus Response:

- We support the policy statement's confirmation that the universal service (US), as described in detail in the Postal Services Bill, must be protected and we will seek to ensure that this strong commitment is not diluted as the Bill progresses through Parliament. In particular, we will be seeking to ensure that the items included in the US provisions and the relevant performance standards, which under the terms of the Bill are issues left to the Regulator, are not reduced or diminished and that Consumer Focus is consulted in any future discussion on amendments to the US provisions in order to keep them in touch with changing consumers' needs over time. We support calls for Ofcom to have regard to vulnerable consumers in carrying out its functions, however this does not negate the need to ensure that adequate consultation is undertaken as part of any assessment of the postal market before making or modifying the universal postal order.

- We are pleased to see that the Bill requires the provider of the Universal Service to publish information on its performance and we will seek to ensure that the range of information is extended beyond what is currently provided by Royal Mail under its current licence, in order to facilitate independent analysis of volumes, flows and performance between, and within, Postcode areas across the United Kingdom.
- In keeping with our role and to ensure greater transparency, we call for the direct provision of such information to Consumer Focus to enable the effective evaluation of the performance of the universal service at a national, regional and local level.
- We note that the Bill enables Ofcom to designate a Universal Service provider without naming a specific provider (such as Royal Mail) within the Bill. We will wish to explore the Government's thinking on this and, given the strong public support shown for Royal Mail since publication of the Policy Statement and Bill, will seek reassurances from BERR that no change in US provider is sought without very good reason. We will wish to establish the conditions in which such a change of provider might be contemplated.
- Consumer Focus's Regulated Industries team has participated on BERR's Postal Policy Steering Group and will, with BERR and other stakeholders, work to ensure the final iteration of the Bill meets the needs of consumers.
- We strongly support the proposed shift of regulation from Postcomm to Ofcom. Indeed, our recent report 'Rating Regulators' concluded that the Postcomm 'toolkit' for monitoring and regulating mail services was not fit for purpose. We would support the additional powers being proposed for Ofcom and welcome the new regulatory perspective of viewing the mail market in the context of the wider communications market.
- Other than to say that the government will take powers to create a levy and fund to finance the Universal Service, the policy statement and Bill say little on the pricing levels envisaged for the Universal Service in the future. The US is a vital service linking together our Nations, regions and communities. It is of particular importance to the vulnerable and disadvantaged – and to small businesses everywhere. Consequently, we are strongly of the view that the US must continue to be provided at an affordable and uniform price across the United Kingdom.
- We support Ofcom's ability to review the extent (if any) of the financial burden for the universal service provider to comply with its obligations, though in doing-so we support the proposal that inefficiencies are identified through a benchmarking exercise and excluded from the costs.
- We understand that the next Price Control is likely to be delayed until late 2010. We have concerns about this, particularly because we feel that Access arrangements with other postal operators need to be reviewed urgently.
- We support the intention to extend redress schemes aimed at protecting consumers to include other postal operators, though we believe the legislation should make this a requirement not an option as currently drafted.

Pension Deficit

- The Bill will deal with Royal Mail's Pension issues, with the Government taking responsibility for all the historic pension liabilities within the Royal Mail Pension Plan prior to 16 December 2008. All future liabilities after this date will remain with Royal Mail.

Consumer Focus Response:

- Consumer Focus supports these measures since it is clear that, over many years, the Royal Mail Pension scheme has not been consistently or adequately funded. Consequently (and critically from the consumer's point of view) this has seriously impeded the ability of Royal Mail to plan ahead with confidence, to invest in modernisation and to secure for the future the provision of a sustainable and efficient mail service at an affordable price. Relief from this historic financial burden should, together with access to other additional sources of funding, enable Royal Mail to carry out the restructuring and modernisation which we agree is urgently needed.

Strategic partnership

- The policy statement and Bill propose that other postal or network operators should be invited to come forward with proposals for developing a 'strategic partnership' with Royal Mail, including taking a minority stake in the company's letter and parcels business. The strategic partner is expected to bring 'proven experience in successful business transformation and workforce engagement'.
- The Bill includes measures to:
 - Give assurances that any companies in the Royal Mail Group providing the universal service will remain in the public sector.
 - Enable a minority sale of shares (expected to be 'around 30 percent') in Royal Mail Group Ltd to a strategic partner.
 - Ensure that further primary legislation would be required for a Government to ever sell more than a minority stake in the company.
 - Enable the necessary transfer of assets to facilitate the transaction or connected Group reorganisation.
 - Require the Royal Mail Group to lay its accounts before Parliament each year.

Consumer Focus Comment:

- We are convinced that it is in the consumer's interest that Royal Mail, the Universal Service provider, restructures, invests and modernises to become an efficient and affordable mail service provider with a stable financial foundation. Achieving this is likely to require an organisational culture change - not least, a notable improvement in workforce relations.
- We do not take a fixed view on how this transformation should be achieved. It is for the Government in discussion with other major stakeholders to decide on how,

organisationally, this increased efficiency and performance can best be attained. Our concern is with the outcome of the process of renewal, in terms of the increased performance and value for money which can be secured for consumers – and not with the route map for change itself.

- However, we do have some concern at the possible impact on competition in the mail market generally which might result from acquisition by one private sector mail service provider of a strategic share-holding in Royal Mail. This could help the strategic partner achieve an anti-competitive and dominant position in the still-undeveloped competitive mail market. It is our intention to carry out research into the impact that a strategic partnership, as outlined in the policy statement, might have on the mail market generally.

Post Office Limited

- The policy statement and Bill confirm the Government's intention that Post Office Limited (POL) is not to be part of a potential partnership, and will remain in public ownership. The new legislation ensures that:
 - Post Office Ltd will be separate from Royal Mail Group. Post Office Ltd will become a sister company to the letters business, sitting directly under the parent company, Royal Mail Holdings.
 - Post Office Ltd will be governed by its own Board, with a non-executive Chair appointed
 - For the first time, Post Office Ltd will be required to lay its accounts before Parliament

Consumer Focus Response:

- We strongly support measures that will enable Post Office Ltd to pursue its own commercial objectives, which may become increasingly divergent from those of Royal Mail Group. The proposed changes to the governance of Post Office Ltd, and where it sits within Royal Mail Holdings, appear to be of benefit to Post Office Ltd. However, it will be important that the governance arrangements effectively translate into a strengthened Post Office Ltd, which in turn can better represent the interests of its customers in group-wide decisions.
- Post Office Ltd should look to ensure its Board reflects the necessary range of consumer, commercial and regulatory experience required to enable POL to develop its own commercial priorities, including where these differ from the rest of the group. The contractual relationship with Royal Mail to offer mail services remains of considerable importance for POL, and the Government should therefore look to secure this relationship by building into the Bill a requirement for Royal Mail to continue to use the post office network as access points for mail services.
- Nevertheless, the Government should encourage greater transparency in terms of the contractual relationship between POL and Royal Mail Group, including that the contract

operates on cost-reflective terms, and that POL receives a fair price for the 'transfer pricing' arrangement through which Royal Mail secures access to post office counters

- Consumer Focus considers that the proposed governance changes offer important opportunities for POL to facilitate new commercial partnerships, including offering services in partnership with, or on behalf of, other mail operators. Such innovation, along with other important new business developments including an expanded role in relation to Government and financial services, are essential steps in securing the future viability of the post office network
- We also support the intention of fully retaining Post Office Ltd in public ownership. The post office network performs a number of essential economic and social roles, and is of particular value to vulnerable, disadvantaged and low-income consumers, including those in rural and remote areas. The Government has previously stated that future funding will be necessary to ensure a national network remains in place after the current funding package expires.
- The Bill as it currently stands does not include provision for the transfer of Postcomm's responsibilities in relation to the post office network. Section 42 of the Postal Services Act 2000 provides Postcomm an advisory rather than regulatory role in relation to post offices. Consumer Focus is urgently discussing with BERR the potential implications of the Bill.