

22<sup>nd</sup> August 2011

Philip Groves  
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London  
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Dear Philip,

**CONSULTATION ON AN APPLICATION FROM ROYAL MAIL FOR AN EXEMPTION FROM THE PUBLICATION REQUIREMENTS UNDER PARAGRAPH 4 OF CONDITION 7 AND NOTIFICATION REQUIREMENTS TO CONSUMER FOCUS UNDER PARAGRAPHS 2 AND 3 OF CONDITION 7 IN RELATION TO CERTAIN LARGE PACKET SERVICES CONTRACTS**

Consumer Focus is the independent champion across England, Wales, Scotland, and for postal consumers in Northern Ireland. We represent the interests of both domestic and small and medium sized businesses (SMEs). We welcome the opportunity to comment on Postcomm's consultation on Royal Mail's application for an exemption from the publication requirements under paragraph 4 of Condition 7 and the notification requirements to Consumer Focus under paragraphs 2 and 3 of Condition 7 in relation to certain large packet services.

As we understand the application that is being made by Royal Mail, the changes that it is seeking to its current licence affect B2X contracts only and do not affect domestic consumers as senders of mail. Consumer Focus recognises that Royal Mail considers that it is handicapped by having to publish every single price three months in advance in the packets market where there is competition or where it faces increasing competition and where publication of its detailed pricing mechanisms provides its competitors with a competitive advantage. Royal Mail's application falls into two parts.

**Part 1**

It seeks an exemption from the publication and notification to Consumer Focus of a pricing ratecard (known as the "internal price calculator") which will be offered in parallel with its standard ratecard (known as the "external price calculator"), which it proposes to continue to make available to all customers. Whilst Royal Mail would be exempt from publishing prices derived from the internal price calculator, it would continue to notify the regulator of all its business prices and any changes thereto with three months' notice. It will also give the regulator details of the cost and economic rationale for each pricing lever in the internal price calculator, so that the regulator can satisfy itself as to whether they are consistent with the relevant regulatory criteria. This exemption is sought across three areas:

- A. Tracked Next Day, Tracked Later than Next Day, Packetpost and Packetsort contracts for which the average weight per item exceeds 1kg.
- B. Tracked Next Day and Tracked Later than Next Day contracts for annual volumes in excess of 150,000 items per year for which the average item weight is less than or equal to 1kg. These products are already outside the price control.
- C. Packetpost and Packetsort contracts for annual volumes in excess of 150,000 items per year for which the average item weight is less than or equal to 1kg.

## Part 2

Royal Mail seeks exemption from publication and notification to Consumer Focus, to allow it to deploy limited pricing discretion either side of the internal calculator price for areas A and B in Part 1 above. Any price variations would continue to be notified to the regulator within a week of signing a contract with a customer. The maximum range of this price discretion would be notified to the regulator giving three months' advance notice of any changes.

Whilst the emphasis of the application centres round Condition 7, its nature may also affect certain aspects of Licence Condition 21 insofar as the internal calculator pricing levers are geographical in nature and could generate non-geographically uniform prices for price controlled services.

## Consumer Focus response

Consumer Focus acknowledges that Royal Mail needs to be in an environment where it can be more competitive. We recognise that Royal Mail wishes to be more flexible in the mail market where competition already exists or indeed where competition is developing. We therefore believe that where competition exists in a given market segment, it makes sense that commercially sensitive information round how it derives its pricing structure is not published. At the same time we believe that whilst competition grows in the three areas identified in Part 1 of its application, Royal Mail's pricing strategy is carefully monitored by the Regulator to prevent any potential abuse of its position.

Whilst we are disappointed to note that Royal Mail's application does not set out any justification or rationale as to why Consumer Focus should no longer be notified of the details of its internal pricing calculator, we realistically believe that such information is more appropriate in the hands of the regulator, with the resources and remit to regulate the market. We regard the safeguards in the application as sufficient to ensure that competition generally and the interests of large bulk mailers can be protected by the regulator. Consumer Focus notes that it would continue to receive other notifications of changes that Royal Mail is obliged to provide under Condition 7 of its Licence.

With regard to Part 2 of the application, Consumer Focus is not opposed to the ability for Royal Mail to use limited pricing discretion in the deferred packets market areas set out in Part 1, namely A (packets over 1kg) and B (annual volumes over 150,000pa for non-price controlled services) subject to the safeguards proposed. However, we do have some concerns in relation to the services covered by both these areas, especially A.

It is important that in the areas where Royal Mail wishes to apply its internal ratecard there are at least some signs of competition developing. In offering contracts to customers, it is expected that Royal Mail will provide notice and also make it clear to all customers of the different terms which are available.

In relation to the ability of Royal Mail to propose pricing mechanisms for any volume of mail over 1kg per item, this would include customers who send relatively small volumes of

packets and parcels, ie SMEs. In November 2010 Postcomm concluded in its market analysis decision document<sup>1</sup> that although Royal Mail retained market power in the B2X deferred PPS market up to 2kg the level of competition varied and there was more evidence of competition at the higher weight (over 2kg) and the greater volume (above 500,000pa) ends of the market. In particular it found that competition was limited below 1kg, fragile for average weights between 1kg and 2kg with annual volumes of between 150,000 and 300,000 items and, more importantly, found no evidence of competition below annual volumes of 150,000.

No evidence has been supplied to indicate that this has changed. There is no evidence that effective competition exists in packets contracts for items covered by the lower volume and lower weight aspects of this part of the application. Therefore, before endorsing such a change, we would want to see evidence that confirms that there is indeed emerging competition in this area.

Consumer Focus has also noted that during this consultation Postcomm is requesting further information from Royal Mail about how the pricing rate card would be applied in practice. To enable organisations to respond fully to this consultation it would have been useful if this had been sought before issuing the consultation so that prospective responders could have been fully informed on how it would be used.

The pricing levers or mechanisms proposed by Royal Mail could have serious implications for consumers and SMEs in our most rural and distant communities. Geographical surcharging for collection and delivery for mailers with volumes less than 150,000pa could impose significant costs on some of the UK economy's most fragile enterprises.

Consumers in Northern Ireland, Scotland's Highlands and Islands and other rural/remote areas already experience significant surcharges for delivery when ordering online from suppliers who use alternative courier/parcel operators. As bulk mail has now been removed from the USO and the levels of fulfilment mail increase, the pricing levers or mechanisms proposed by Royal Mail might create higher costs for posting to these areas, which could be passed onto individual consumers. Postcomm needs to consider the needs of rural consumers when considering any future applications by Royal Mail to impose any form of zonal pricing.

Yours sincerely,



Robert Hammond  
Director of Postal Policy and Regulation

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<sup>1</sup> Postcomm (2010), *Laying the foundations for a sustainable postal service. Annex 1: Analysis of Markets Decision document.*