



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus response to the BIS consultation on mutualisation of the post office

December 2010

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About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland.

We operate across the whole of the economy, persuading businesses, public services and policy-makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

Our response

Question 1: Do you agree with this analysis of the value of the PO network? Are there other aspects of the PO network that it is particularly important for a mutualised PO to retain?

Consumer Focus agrees that the Post Office Network (PO Network) has considerable social and economic value, offering access to services of general economic and social interest on a universal basis. 20 million people use the post office each week, with post offices being particularly important to vulnerable consumers, those in rural areas, elderly consumers and people in receipt of pensions and benefits.

The post office remains important in offering access to essential services, including: mail services; pensions and benefits; access to cash; transactional banking; bill payments; face-to-face government services; and services to small businesses. Almost all post office services can be accessed through other means, including online, over the telephone, and through other retail distribution networks. However, the PO Network continues to offer unparalleled reach, in effect in many communities on a non-commercial basis, to these services of general economic and social interest through 11,800 outlets.

Post offices are a key part of the UK's national infrastructure, and we therefore welcome the Government's stated objective that its mutualisation proposals are to protect and promote the PO network's clear 'public benefit'. However, a critical issue is how 'public benefit' can be appropriately operationalised, in a way that reflects consumers' needs, in the constitutional arrangements for the mutual body.

Consumer Focus considers that the 'public benefit' should be constitutionally codified with primacy attached to the core attributes of universal access and reach. The overriding objectives of the mutual body should be:

- to promote a sustainable network of 11,800 outlets, according to the geographic distribution currently required by the Government's access criteria
- to maintain provision of the 'services of general social and economic interest', through its branch network, for which Post Office Limited currently receives Government subsidy

These are important protections to ensure the mutual body ascribes primacy to the core attributes valued by consumers, and to prevent any move to withdraw or restrict the availability of low margin or loss-making but essential services through its branches.

Consumer Focus would also support the codification of the 'public benefit' against a number of other measures. These include ensuring satisfactory arrangements are in place for responding to and consulting with consumers in the event of changes to the PO network, and seeking to prioritise and report against the standards of service offered to consumers through post office branches.

Service standards and the handling of network changes are particular concerns for consumers. Within inevitable commercial and financial constraints, there are areas where the conversion to mutual status could enable POL to better position itself to respond and reflect these priorities. Consumer Focus considers that the representative body should be required by the constitution to agree the Board's targets for, and monitor the Executive's progress against, improvements to the standards of service in PO branches.

The Code of Practice covering arrangements for changes to the PO network, which is jointly operated by Consumer Focus and POL, should also be subject to the approval of the representative body.

Consumer Focus envisages that, against each aspect of the public benefit codified in the mutual's constitution, POL should be required to demonstrate how its business planning, strategic focus and major commercial decisions have been and will be oriented towards the promotion of these. At the start and end of each business planning cycle, the Board's strategic planning should be subject to the scrutiny of the Representative Body. This would allow the Representative Body to confirm that Board and Executive actions have and will continue to promote the public benefit, and more broadly for the wider membership of the mutual body to be satisfied this is the case.

The representative body should, in the case of the Chair and Chief Executive, have the power to agree remuneration packages and determine their re-appointments on the basis the 'public benefit' is protected and agreed corporate and service-level objectives are met. These powers should be reflected in the constitution to ensure that mutualisation can genuinely deliver the rebalancing, in the public and consumer interest, that the proposals have the potential to unlock. This would also reflect the powers available to the equivalent body in Foundation Hospitals, the Board of Governors, and in the case of powers to remove the Chairperson, the functions available to Partnership Council that oversees John Lewis.

Consideration must be given to how the 'public benefit' clauses could or should be amended. This is necessary as it is neither desirable nor appropriate to anticipate how the 'public benefit' performed by POs could change over time, for example in response to changing consumer needs, new technology or other factors. Constitutional protections will be needed in this respect, particularly given the possible State Aid implications if the PO network is still in receipt of public funds.

Consumer Focus considers that the mutual body should be constitutionally required to consult on any changes, with Government as a recognised consultee. Any change should only proceed if the proposal has 100 per cent support among members of the representative board.

The 'public benefit' principle should be embedded throughout every level of the mutual structure and the decision-making processes through which it operates. The outcome should be that the consumer is at the heart of the mutual's decision making, so that the model delivers clear benefits to consumers. Benefits that are appropriately balanced against the interests of operators and POL's wider strategic and commercial priorities.

2. Do you agree with the proposed governance structure, and why?

- a) Is a 'mixed membership' model the correct one to be considered for a mutual PO?
- b) If so, whom do you consider should make up the different constituencies of members, and why?
- c) Do you agree that the members should engage with the POL Board of Directors through a representative body?
- d) Do you agree there should not be an overall majority of members representing either producer or consumer interests?

Consumer Focus agrees that a mixed membership model, with a representative body acting in the interests of members and holding the Board of Directors to account, is the preferred operating structure for a mutual Post Office. The balance and alignment of interests on the representative body will inevitably be crucial. It is important that the representative body has sufficient constitutional influence to approve and influence the strategic direction of the mutual, while ensuring the Board of Directors is fully enabled to take operational decisions on a day-to-day basis.

We agree with Co-operatives UK that it would be inappropriate to proceed with an operator-controlled model, or with a mixed membership model in which operators held a majority share, because this appears to be incompatible with the requirement that the mutual operates primarily to promote the public benefit. Consumer Focus therefore supports the proposal that 'no group of private interests should be able to exert undue power over the business'.

The existing alignment of interests has largely failed to develop a customer proposition that can respond to the demands and expectations of modern consumers, for example through offering extended opening hours, reducing queue times and a multi-channel offer. The forthcoming roll-out of PO Locals and Mains is geared to addressing these issues. But the limited progress in transforming the customer proposition, both across the branch network and into new delivery platforms up to now, demonstrates the inherent weaknesses of the existing model to balance consumer demand against operator priorities.

Consumer Focus's preferred outline for the representative body would see consumer interests allocated a 51 per cent share of the representative body, and/or the Government maintain a minority shareholding for an interim period, with operator interests being allocated the remaining minority share. Transitional activity is desirable to allow possible members of the representative body the opportunity to develop working relationships and become embedded in the strategic direction and commercial priorities for the Post Office.

We note the arguments for consumer and producer interests to be equally weighted. We recognise this would promote consensual decision making between the range of stakeholders on the representative body. However, we would also caution that a model that requires consensual agreement does not necessarily produce the type of strategic outcomes or decisive decision making that a business such as the Post Office may realistically need, and the primacy that should apply in respect of the 'public benefit' over operator interests.

Constitutional measures will be necessary to set out the triggers for, and process to undertake, membership reviews of the representative body. For example, if a multiple were to withdraw from the network, it should rightly cede its membership rights with implications for the alignment of the remaining interests on the representative body. Likewise, the aspiration in the Government's policy statement that 'Post Office Locals will become the mainstay of the PO Network over time' presents similar issues in respect of the relative weighting of subpostmasters. If the proportion of sub post offices continues to diminish, it should similarly be expected that the voting rights of subpostmasters would also reduce.

Consumer Focus welcomes the proposals for consumer interests to be reflected on the representative body, and notes the options for a directly elected, representative or hybrid model to reflect consumer interests. Further information would be required on the costings and bureaucratic implications of either a full or partial directly elected mechanism to elect consumer representatives. However, at this stage we would be inclined to support either a fully representative or hybrid model.

A representative element is highly desirable. There is a clear benefit in consumer, voluntary and charity elements with particular interests in the network being represented in, and able to exert greater influence over, the decision making of POL than is currently the case. This is particularly the case in respect of stakeholders such as the community shops movement, a small but growing proportion of the PO Network but with distinct and often separate needs from the subpostmasters and multiples.

Consumer Focus would also support dedicated representation for elderly, vulnerable, rural and disabled consumers. Further dialogue would be necessary with these sectors to determine the precise composition and which body or bodies should represent each of these interests. There is also merit in parish councils and local authorities being represented on the mutual structure, in the first instance through the National Association of Local Councils, the Local Government Association, and devolved local authority groups. As part of these arrangements, devolved interests must also be appropriately considered, represented and resourced.

As the statutory consumer body, Consumer Focus recognises the obvious importance of general consumer representation being built into the representative body. This needs to be fully resourced, dedicated and able to present an evidence-based assessment of consumer needs and priorities. Dedicated and authoritative consumer representation, capable of representing the needs of all post office users, must be appropriately reflected in the arrangements for the representative body and appropriately resourced.

If the mutual was already in operation, it is likely the task of representing general consumer interests would be undertaken by Consumer Focus as the UK-wide statutory consumer body. If reform of the consumer landscape means that Consumer Focus is no longer able to fulfil this role, then the functions, expertise and resources currently held by Consumer Focus must be transferred and maintained under the new arrangements, and should reflect the arrangements for all constituent parts of the UK.

We envisage that BIS will work closely with the devolved administrations in the development of the mutualisation model. Although post office policy remains a reserved matter, devolved administrations have a clear interest in the social and economic value of post offices. This has been demonstrated most recently by the activity undertaken by the Welsh and Scottish Governments to support the diversification of post office branches. Close co-operation is desirable to fully realise the 'front office' proposition in devolved contexts. The UK Government will therefore need to ensure that its proposals, in the first instance, give due consideration to a membership structure that reflects the specific interests of, and concerns surrounding, consumers on Scotland, Wales and Northern Ireland. The mutualisation model will also need to reflect, and be sufficiently capable of, capturing the aspirations of the devolved administrations in respect of the mutual model, and also the ongoing profile of the UK constitutional settlement.

3. Should Government fully transfer its ownership of the PO to a mutual over time?

Irrespective of whether mutualisation proceeds, we agree that it is important that POL achieves a 'clear cultural break' from the past. In particular it is important that it is able to move away from the current poor alignment of interests and overly hierarchical decision-making structure. POL needs to leave behind an organisational culture that is characterised by risk aversion, silo thinking between operational units, and a failure to demonstrate the commercial dynamism that is necessary to secure the Post Office's future sustainability.

Government ownership neither causes nor exacerbates these problems. We would therefore challenge the assessment that ‘Government retaining an ownership stake or role could make that transition more difficult’. The decision on whether Government should proceed with an ownership role must reflect the widest possible range of considerations, with commercial viability and the sustainability of the network taking priority. The Co-operatives UK report¹ finds that Government continuing in an ownership capacity ‘seems to be inappropriate’ precisely because Government is exploring mutual options. But the basis for the future of the Post Office, whether a mutual or not, needs to reflect and allow for the strongest possible commercial footing, and decisions must be taken on this basis.

On this basis, Consumer Focus considers that the case for Government to cede its ownership and move to a purely contractual model is not yet made, and that a phased shift in the Government role is preferable (with the retention of a minority share in the first instance). Any gains achieved from a ‘complete cultural break’ are oriented against drivers other than POL’s relationship with Government. These gains could potentially be offset by the increased challenge for POL to win contracts for Government services if, as sole shareholder, future governments faced reduced political or social impetus to procure services through the mutual.

We therefore disagree with the assessment that, in the immediate period following mutualisation, a ‘mutual POL might be better able to react to commercial opportunities and risks than under the present Government structure’. A minority Government share would reflect ongoing taxpayer interest in ensuring value-for-money in decisions that could determine future subsidy levels. It would reflect the ongoing importance of the PO Network as part of the national infrastructure. If the stake was initially retained on an interim basis, this would allow Government, and by extension taxpayers, to be satisfied that the divestment of POL was being successfully discharged into a sustainable and operationally capable set of governance arrangements.

Any move to a purely contractual relationship between POL and Government should be accompanied by an exploration of the scope for government departments tendering for transactional or face-to-face services to undertake competitive procurement exercises. These exercises should, in the first instance, aim to secure value-for-money for the taxpayer, but could also take account of wider social and economic considerations within the frameworks available under EU procurement law. The impact of the Public Services (Social Value) Bill should be fully understood in this respect. Consumer Focus plans to undertake further research on this area.

We welcome the Government’s assurance that before it could be fully or wholly removed from the ownership structure of a mutual Post Office, it would need to be satisfied that the Post Office was:

- financially sustainable
- independently capable of raising finance and working capital
- and that an appropriate failure regime could be developed

The issues of working capital and investment are of particular significance to ensure the PO Network continues to operate smoothly during transition arrangements. In respect of the ability of the mutual body to independently borrow, this is crucial to ensure the long-term sustainability of the network. In the longer-term it is crucial to mitigate potential moral hazards associated with decisions to be taken by the representative body on the future strategic direction of the network, branch investment or member distributions.

¹ Co-operatives UK (2011) *Mutual options for Post Office Limited*

4. Do you think the PO should have the ability to make distributions to members, provided that the public interest can be protected and financed through its distribution?

We welcome the Government's outline position that if the mutual POL made a surplus, this would not be an end in itself but the means through which the public benefit could be protected. We note the arguments for a profit distribution to members. However we fully agree with Government that this is appropriate for consideration only once the business is able to generate sufficient cash to meet all of its operating costs and investment needs, and with appropriate checks in place to ensure the public benefit is protected.

In the event the mutual was in a position to consider making distributions to its members, constitutional protections would be necessary to protect the public benefit and avoid the potential for moral hazards.

Consumer Focus therefore supports a series of constitutional measures to prevent member distributions unless the mutual records an annual profit without subsidy:

- place a cap on the proportion of profits that could be returned to members in any one financial year
- allow for member distributions only once sufficient investment funds to grow and modernise the Post Office's business were in place

Network modernisation and investment should take priority, and should therefore be reflected in the constitutional arrangements. The required investment package for any financial year and longer planning cycles should be approved by the Representative Body. The potential for member distributions should only be approved once the required funds can be secured through operating profit in a given year (and in respect of large-scale investment funding, if the Representative Body assesses that raising additional capital is sustainable, desirable and in the public interest).

Consumer Focus believes this is in the interest of both consumers and taxpayers who continue to support physical investment in the network, and who could be called to do so again in the event the mutual:

- failed to invest sufficiently in its branch network
- was unable to raise sufficient modernisation capital from commercial sources
- or because of a combination of these factors

In its current state, POL does not generate a profit without significant subsidy from Government. Over the course of the Parliament, POL is projected to move back towards financial viability, although during this period it will obviously be challenging to return the Post Office to robust financial health.

Given POL's long-term financial position, there is consequential merit in seeking to restrict profit distributions to members for the initial period after the mutual is formed, and/or after wider financial indicators are met. This may also produce cultural outcomes. One example would be embedding the representative body members around a shared agenda to maximise the sustainability of the branch network. Another example would be incentivising members to reduce the mutual's reliance on government funding before the scope for member redistributions could be unlocked.

5. Are there other considerations Government should pay attention to, in the event of a transfer of POL to mutual ownership?

The financial sustainability of the mutual is critical. We therefore strongly welcome Government's assurance that mutualisation will only take place if and when POL's financial position allows for this. Government is correct when it states the mutual 'will only be successful if it is built on solid financial foundations'.

Government acknowledges that following the completion of the current Network Transformation activities, POL will 'increasingly be able to meet its many commercial challenges'. POL will need to complete these activities in a way that meets the long-term consumer interest, therefore maintaining and potentially growing its customer base. It will also be necessary for the Post Office to successfully develop and expand into new revenue areas, including banking services and its proposition to become the 'front office for government', before the sustainability of the PO is secure.

Consumer Focus suggests that Government should establish a set of specified criteria against which progress towards, and the suitability of POL to move towards, a mutual structure should be established. These should include:

- financial indicators, including cashflow forecasts, operating profit, and independently assessed business projections
- non-financial indicators, including the progress made in transition, preparatory activities
- planning for the mutual structure, governance and membership processes

Consumer Focus welcomes the early discussions held with BIS officials in respect of these areas. We also welcome Government's recognition of the complexity and extended timescales that are necessary if the mutual is to be successfully established. POL is to commence significant restructuring of the branch network from summer 2012, with over 50 per cent of branches set to convert to new operating models². Separately, POL is preparing to separate from Royal Mail Group and must ensure it secures an effective contractual relationship to ensure its future sustainability. It is therefore right that full emphasis is directed to implementing these changes successfully.

Government has set out appropriate timescales for the proposed conversion to mutual status. It is clear that it will be a number of years before the prerequisite financial and non-financial indicators for any successful mutualisation can be achieved. We agree that good progress towards mutualisation can take place before 2015, but that no conversion could be expected to face a parliamentary vote or be enacted before the next Parliament at the earliest.

Given that it will be some time before the necessary conditions are in place to allow mutualisation to happen, we therefore support the Government's proposals to encourage transitional arrangements to be put in place before any full transfer to a mutual.

Although POL should prioritise changes in its organisational culture, mutualisation offers a valuable vehicle against which progress could be framed. We would particularly support the creation of a working group to map out the path to mutualisation, and to allow stakeholders to become more embedded in the strategic direction of the business.

Consumer Focus stands ready to input into the development of, and to participate in, this group.

² Post Office Limited has announced that, from summer 2012, it will begin the conversion of 6,000 branches into new operating formats, Locals (2,000) and Mains (4,000). Consumer Focus expects that a significant number of conversions into Locals will be secured through the compensated closure of existing sub post offices, and the relocation of post office services into other retailers as a secondary offer

6. In light of this document, do you consider that mutualisation should be the preferred ownership model for POL, as opposed to continued Government ownership?

Consumer Focus supports the Government's commitment to explore the options for the mutualisation of POL, and to commit to it as a long-term undertaking that can only happen when the necessary financial and non-financial indicators have been achieved.

It is important that all stakeholders envisage mutualisation as a means not an end. Mutualisation could potentially unlock positive shifts in POL's organisational culture and its approach to customer service. Over time it could transform POL into a more dynamic, responsive and competitive entity. This approach should frame all future activity in this area.

Successful mutualisation will only happen as a result of:

- high quality planning and transition activities,
- the buy-in of stakeholders
- and the active fostering of a mutual culture which should be led, and actively promoted by POL, Government and other core stakeholders

Mutualisation and government ownership are not necessarily incompatible – Consumer Focus can see merit in Government retaining a minority stake during the initial period after mutualisation. This is also desirable to ensure value-for-money is achieved while the Post Office is in continuing receipt of subsidy or other public investment.

The constitution of the mutual, the composition and weightings of members of the representative body, and ensuring that the 'public benefit' is effectively operationalised are critical to ensuring these proposals are developed effectively and robustly. Consumer Focus would support the introduction of a working group to progress these issues. The group should be comprised to reflect as closely as possible the core participants who will shape and build the mutual proposal. We would be ready to participate fully in the operation of such a group.



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