

Postcomm
A Self-Assessment
27 June 2003

There is much experience of economic regulation in the UK. As a result, a number of bodies have suggested tests that might be met by efficient and effective regulators. Although these tests are not specific to the postal industry, we have thought it helpful to offer answers to those questions which are most often asked. The following questions have been brought together from a variety of sources including:

- the tests of good regulation published by the Better Regulation Taskforce;
- recommendations made by the Public Accounts Committee in recent reports on the performance of economic regulators; and
- questions that the International Organisation of Supreme Audit Institutions recommends should be asked by state auditors considering the performance of economic regulators.

For convenience, we have grouped the questions into four areas:

- developing the role of Postcomm
- protecting the consumer
- promoting competition
- controlling prices.

Developing the role of Postcomm

Does the regulator exercise its powers responsibly and impartially?

The Postal Services Commission is a Non-Ministerial Government Department formally accountable only to Parliament and therefore free from political interference whilst subject to all the ethical and other constraints that apply to Departments of State and the Civil Service. The Commissioners are appointed by the Secretary of State and can only be dismissed for incapacity or misbehaviour. The collegiate nature of the Commission helps ensure that it takes responsible and considered decisions. In addition, Postcomm has developed a highly consultative culture as a result of which it does not hesitate to change its proposals if that seems sensible following comment and criticism from customers, the industry or other observers.

Is the regulator technically competent, with the right skills and experience?

Excluding support staff, we currently employ 18 people wholly or mainly on regulating the Royal Mail. Of these, 9 have previous regulatory experience, 3 are economists, 1 an accountant and 2 are lawyers. Three of our staff have previously worked in the postal industry. We require all staff to undertake a wide-ranging induction programme, including spending 5 days with the industry and we are developing our training and development programme with a view to achieving *Investors in People* accreditation. We also make extensive use of private sector consultants and other experts.

Is the regulator sufficiently accountable and is the regulator operating in a transparent way?

We are directly accountable to Parliament, in practice via the Public Accounts and Trade and Industry Committees. We encouraged the NAO to take an early look at our work programme and so benefited from their report, and the consequential PAC report, as we developed our policies.

We cannot alter a licence once issued (for instance by changing a price control) without the agreement of the company concerned, unless we are supported, on appeal, by the Competition Commission.

We can be challenged in court, through judicial review, if our decisions seem unfair or perverse.

We produce an annual report and take every opportunity to describe and explain our plans and activities through public meetings, meetings with stakeholders (individually and in groups), attendances at conferences, media briefings, correspondence and our web site.

Does the regulator have access to sufficient and reliable information?

The industry and others have provided us with considerable helpful information and the Postal Services Act gives us considerable powers to obtain detailed information from the Royal Mail and others. We believe that the Royal Mail have generally sought to respond constructively to our information requests. Where they have failed to provide timely information, this is usually because the information is not readily available within the company.

Does the regulator take sufficient account of developments in the industry and its wider environment?

We have paid particular attention to the need to get out and understand the industry, including from the perspective of the Royal Mail's customers and competitors. We have also carried out an extensive overseas visiting programme, attended a number of international conferences, kept in close touch with the UK Government, the devolved administrations and the European Commission, and monitored the general and specialist press. As a result of this and other activity, we have a good feel for the pace and direction of change in this industry and its environment.

Does the regulator liaise effectively with, and learn from, other regulators?

We have recruited a number of staff from other regulators and this has ensured that we have good informal contacts, at all levels, with other regulators. We also participate in the formal network of inter-regulator meetings including quarterly meetings of Directors-General. We have embarked on a series of liaison meetings with our opposite numbers in Oftel.

Does the regulator consult effectively, including with experts?

We have put a lot of effort into producing clear and accessible consultation documents on a number of major issues, whilst seeking to avoid consulting the same people and organisations too frequently over minor decisions. Responses to all consultations have been varied and helpful, often confirming but equally often questioning the merits of our proposals. We have also established a panel of eminent economists and regulatory experts to guide the detail of our work programme.

Is the regulator operating in a targeted and proportionate way, and consistently?

We have established a strategy within which we are developing detailed policies and making individual decisions. Every effort is being made to ensure that the strategy is targeted on the most important issues, and designed so that the more detailed policies and decisions are proportionate to the problem which they address, and consistent.

Is the regulator effectively discharging its environmental obligations?

The Government has published social and environmental guidance which we take into account as we develop our strategy and make detailed decisions. However, our experience so far suggests that we will in practice have relatively little opportunity to affect the environmental impact of the postal industry and that the industry's behaviour will continue to be determined principally by the Government's transport policies and environmental regulations.

Is the regulator efficient?

We have set out to be a relatively small organisation, not just to save money but also so as to improve the quality of internal communications and decision making. We have also chosen to occupy relatively inexpensive premises south of the river, and to subcontract much of our work so that we do not take on unnecessary long term staffing obligations.

Nevertheless, there is constant pressure for us to take an interest in more issues and in particular to do more to defend the consumer against allegedly unfair behaviour, in particular by the Royal Mail. We will need to take care to respond in a proportionate way to this pressure, so that we are effective without having our costs rise to inappropriate levels.

We have, with the help of WS Atkins, benchmarked ourselves against a number of other regulators. The report may be found elsewhere on our website and was generally complimentary. Their key recommendations (e.g. to improve the way in which we initiate and manage individual projects) are being implemented.

Protecting the Consumer

Has the regulator safeguarded the basic service?

The law provides that Postcomm shall exercise its functions in the manner which it considers is best calculated to ensure the provision of the universal postal service.

Postcomm has therefore ensured that the Royal Mail's licence requires it to provide a universal postal service.

Has the regulator ensured that consumers are compensated when failures of supply occur?

Postcomm is currently consulting on an improved compensation scheme which is intended to come into effect in April 2003.

Has the regulator established service standards and does it effectively monitor compliance?

Postcomm has provided that the Royal Mail's licence includes target service standards agreed between the Royal Mail and Postwatch. Compliance is monitored by Postwatch using information provided by an independent company and audited by a body appointed by Postwatch.

Has the regulator ensured that customers' complaints are satisfactorily addressed?

Postcomm is currently consulting on an improved complaints handling scheme which is intended to come into effect in April 2003.

Has the regulator ensured that all consumers have non-discriminatory access to the service?

Postcomm has ensured, through the Royal Mail's licence, that the company should not show undue preference to, or unduly discriminate against, any one person or class of persons.

Does the regulator ensure access for vulnerable groups?

The law requires Postcomm to have regard to the interests of a number of vulnerable groups. It has therefore ensured that the Royal Mail's licence requires the company to devise special arrangements for such groups and provide free services for the blind and partially sighted.

Promoting Competition

Is the regulator effectively promoting competition?

We are giving this duty top priority, subject only to our primary duty of safeguarding the universal service. We announced our market opening strategy in 2002.

In addition, the Royal Mail's licence contains a number of provisions which will help us introduce competition, including the power to impose the terms under which other operators will be able to have access to the Royal Mail's collection, sortation and delivery network.

In practice, effective competition is still some way off. We are therefore carefully monitoring the market to see what barriers to entry exist, so that we can act to reduce or remove these if necessary.

Is the regulator effectively promoting customer choice?

There is as yet no competition in this market but we will monitor the market and take steps to ensure that our strategy is effective in giving customers a real choice, rather than just a theoretical choice, of postal supplier.

Is the regulator quickly and pro-actively combating anti-competitive practices, including monitoring the effect of interventions?

Unlike most other economic regulators, Postcomm does not have concurrent powers under the Competition Act. There are, however, provisions in Royal Mail's licence requiring it not to behave anti-competitively.

Postcomm is responsible for investigating any breaches of Royal Mail's licence, whereas any allegations of breaches of the Competition Act fall to be investigated by the OFT. In order to avoid confusion about which regulator handles which complaints, we have entered into a formal Memorandum of Understanding with the OFT clarifying the respective roles of the two organisations. In dealing with complaints about anti-competitive practices, Postcomm follows good regulatory practice and, in accordance with the MoU, works closely with OFT.

Price Control

Has the regulator introduced an appropriate price control for all monopoly or near-monopoly services?

The Royal Mail's first licence includes a temporary price control which provides that the Royal Mail may not increase the prices it charges for its reserved area services without Postcomm's permission.

Postcomm is currently consulting on a new price control which is intended to come into effect in April 2003.

Has the regulator established clear links between regulated prices and agreed service standards?

As part of proposals for a new control, Postcomm has proposed new requirements for service standards and compensation. These requirements place licence obligations on Royal Mail to meet to particular standards of performance. Failure to comply with these requirements may lead to regulatory enforcement action, and the imposition of financial penalties. Royal Mail will also be required to pay compensation to business customers where its performance drops below pre-defined levels, and to domestic customers where post is lost, damaged or delayed.

Does the price control incorporate incentives to improve efficiency?

The existing and proposed price controls set caps on prices. During this period, Royal Mail will be entitled to recover revenues in line with pre-set prices regardless of costs. This will provide strong incentives on management to improve efficiency because any cost savings Royal Mail achieves over and above those projected at the time of the setting of the price control will be retained by Royal Mail.

Through the price control, has the regulator ensured that licensees are able to meet their investment needs while avoiding excessive profits?

Royal Mail's next price control allows, in full, for all capital expenditure projected by the company. In addition, Postcomm has proposed that all one-off cash outlays associated with a major restructuring of the company are covered by the overall level of allowed revenues.

Has the regulator considered the implications of the Royal Mail's status as a publicly-owned company?

For so long as Royal Mail remains under public ownership, ensuring that adequate incentives to improve efficiency exist is an important issue.