

A Review of Royal Mail's Special Privileges

MUA Response to Postcomm's Consultation

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Introduction

Mail Users' Association thanks Postcomm for the opportunity to respond to its 'Review of Royal Mail Special Privileges' consultation.

MUA members are firm proponents of the need for fair and equitable business operating circumstances as an essential forerunner to the development of sustainable competition in the postal market. As such the association fully supports Postcomm in its endeavours to attain a level playing field for all present and future postal operators.

MUA would take this opportunity to re-iterate its clear understanding of the need to achieve a postal service in the UK which engenders the positive benefits of competition, whilst at the same time ensuring the continuing provision of a healthy universal service with minimal obligations on Universal Service Provider(s).

MUA members would also state from the outset they believe the process of re-aligning market conditions needs to be swift, so as not to delay market liberalisation any further, and uncompromising, in terms of identifying special privileges which may not be seen at present as barriers to entry now, but which in the future may become so.

With these statements in mind, MUA would strongly urge Postcomm to take into account within its framework for assessing Royal Mail's privileges¹, the very real possibility that in future there may be more than one postal operator responsible for Universal Service Provision. Members believe there is therefore a need for Postcomm to clearly articulate the fact that any retained privilege would be extended to all licensed providers of similar services, regardless of whether it is considered to distort competition or not.

¹ Postcomm Special Privileges Consultation - Page 8. Figure 1.

a) Value Added Tax

MUA clearly identifies with the difficulties faced by Postcomm in addressing the issue of VAT on Post. This remains the largest barrier to entry, and is recognised as being a hard nut to crack in terms of guarding against damage to the UK postal market, whilst at the same time protecting the interests of postal consumers.

MUA acknowledges the modelling carried out by Postcomm to analyse the potential effects of a number of alternative VAT scenarios (namely 5% and 17.5%) on the relevant parties concerned. Members understand Postcomm has chosen these specific examples to reflect the European Commission's present-day thinking, vis-à-vis development of a common VAT regime in the European Union (i.e. that a provision be made for Member States to opt for a reduced VAT rate in respect of certain kinds of postal services, and within this provision Member States will be obliged to opt for a reduced VAT rate that already exists in the said Country).

MUA's overall concern on the VAT issue emanates from the fact that the-powers-that-be at European and national levels have been aware of this imbalance since the publishing of the Green Paper (approximately ten years ago), yet little ground has been covered to overcome the problem. At a European level, it is clear resolution of this thorny issue may take many more years, given the diversity of existing VAT privileges within different Member States, and the fact that the Directive would have to be unanimously agreed by all Member States before it could become law. In the meantime, Royal Mail's VAT Privilege continues to distort competition and delay the liberalisation process.

MUA members are therefore heartened by Postcomm's endeavours to remove this market distortion. At the same time, however, a number of member companies are also disappointed to see Postcomm has not chosen to publish a 'Zero Rated VAT' scenario on core products and services. From a users' standpoint allowing Royal Mail (and other licensed postal operators who provide similar products and services) to move to a Zero VAT rating on these specific services, would mean the national carrier being able to reclaim incoming VAT.

This would have the effect of relieving pressure on future pricing (based on the assumption Royal Mail's windfall profit arising from this activity,

would be removed by reducing prices), whilst at the same time levelling the playing field for all postal operators offering similar products.

These member companies recognise the implications a zero rated VAT regime would have on HM Customs & Excise and Treasury coffers, but they nevertheless believe in the short term such a move would both serve to protect overall mail volumes and customers from the vagaries of Royal Mail's future pricing, whilst at the same time acting as a driver for UK market liberalisation, in the run-up to full implementation of a common European VAT regime.

This having been said, there are also sectors of the postal industry who believe a 5% Reduced VAT rate scenario is a satisfactory outcome. They would, however, wish to seek further assurances from Postcomm that VAT applied in this manner would have virtually no impact on prices, given that Royal Mail appears to be intimating they would need to look toward increasing prices even at this reduced rate.

MUA members are also of their opinion that there is no justification for Parcelforce continuing to benefit from VAT exemption.

OPERATIONAL PRIVILEGES

b) Customs Clearance Procedural Exemptions

MUA considers the Royal Mail's privilege relating to the use of simplified customs declarations by Royal Mail, as universal service provider, represents a clear commercial advantage over other postal operators with similar products and services, and as such requires immediate address. Members believe this exemption to be a historical hangover based on a spurious assumption that items carried by an official arm of UK plc are in some way more legitimate, than those of other postal carriers. MUA believes there no place for this sentiment/practice in a competitive market.

Furthermore, MUA believes Postcomm's provisional view that there may be justification for retaining this privilege is flawed on a number of levels.

- Firstly, relating specifically to exported mail, members believe Royal Mail has as much control over the contents of mail items and packets,

as any other postal operator. When consumers purchase international products and services at Post Offices, Staff have as much opportunity to ascertain the contents of packages as any other Postal Operator.

- Secondly, relating to imported mail or mail in transit, bearing in mind the times in which we live, Royal Mail more so than ever, has as much responsibility for maintaining the integrity of its international mailing pipeline as any other postal operator. Whether Royal Mail achieves this through bilateral agreements with other European Universal Service Providers, to ensure mail contents are ascertained prior to despatch, or by UPU international agreement on the declaration of package contents, it is not seen as acceptable for Royal Mail to be justified CCP exemptions on the basis that it doesn't know what it is carrying.

Members are encouraged by the work HM Customs & Excise are doing to level the customs clearance playing field, and would strongly urge Postcomm to do its part in ensuring all postal operators are treated equally in this respect.

Once again, MUA would also state that it strongly objects to Parcelforce sharing a privilege it is no longer entitled to within a competitive market.

c) Exemptions from Traffic Regulations

MUA would state it strongly supports the view that Royal Mail's exemption for traffic regulations is necessary for the provision of its Universal Service Obligation, but only in respect of collections from pillar boxes. Members would also note that this exemption should be accorded to all licensed postal operators providing universal service provision.

In respect of all other Royal Mail business traffic, MUA would suggest the exemption from traffic regulations should either be withdrawn completely, or extended to all postal operators providing similar services. Members do not subscribe to the argument that by extending the privilege to other postal operators, 'it would create perverse incentives for firms to become licensed operators'².

² Postcomm Special Privileges consultation document – Page 22, Paragraph 4.19

MUA is indeed surprised Postcomm has publicly offered up this argument, given that it would appear to indirectly reflect on the integrity of a licensing regime it has itself instigated. Business mailers would certainly expect sufficient controls were in place to ensure traders with ulterior motives would be weeded out at a preliminary stage.

Nor does MUA consider it necessary to analyse ‘how far private operators can avoid parking penalties by taking advantage of the waiting and loading time allowances (where they exist)’³. In short, if they are providing similar services to Royal Mail in a competitive market, they should not have to be obliged to work their operating procedures around such restrictions.

MUA considers it would therefore seem sensible to propose to Postcomm that were they to decide to extend the traffic regulations exemption (or part thereof) to other postal operators, the most appropriate way forward would be for Postcomm to take the lead in ensuring the provision of guidance (from the highest governmental level) to all Local Authorities explaining the issues involved, and requesting they undergo a review of their policies on local traffic regulation exemptions.

This guidance could include notification of the fact that proven Postcomm licensed postal operators (including Royal Mail) would in due course be approaching them to ascertain their policy toward traffic regulations (in respect of postal operators), and the importance of Local Authorities adopting a level playing field approach to all proven postal license holders, what ever that maybe.

Once again, MUA members fully support Postcomm’s proposal that Parcelforce should no longer enjoy traffic exemption privileges (in a scenario where Postcomm might choose to retain Royal Mail’s traffic regulation exemption, whilst not extending it to other postal operators), on the basis that this clearly distorts competition, and is no longer justified.

d) London Congestion Charge

MUA fully supports Postcomm’s stance on recommending to Transport of London that Royal Mail should not be exempt from paying London’s Congestion Charge.

³ Postcomm Special Privileges Consultation document – Page 22, Paragraph 4.19

e) Carriage of Mailbags by ship and Aircraft

MUA supports Postcomm in its proposals to abolish this privilege on the grounds that it is a historical privilege that is no longer relevant.

f) Harbour Legislation

MUA concurs with Postwatch's view that it would be useful to keep this privilege in reserve to avoid harbour authorities detaining universal service mail as a result of unpaid duties. This would act as a safeguard if the authorities decided to considerably increase harbour fees, and would be particularly important for providing a universal service to remote islands where deliveries can only be made via one particular harbour.

MUA would caveat this statement by stating it believes this privilege should be extended to other licensed postal operators providing similar products and services.

POWERS AND RIGHT GRANTED TO ROYAL MAIL

g) Immunity from Prosecution

With the exception of anonymous pillar box mail, MUA disagrees with Postcomm's provisional view that there is any case for retention of the 'Immunity from Prosecution' privilege for universal service reasons.

Royal Mail, along with all other postal operators have the opportunity at point of purchase to establish the contents of postal packets. Whether Royal Mail chooses to insist staff to do so or not is within the gift of Royal Mail Group's management, and should not be a justifiable argument for immunity from prosecution for carrying and possessing prohibited articles.

h) Compulsory Purchase Powers

MUA members agree with Postcomm there is no compelling case for Royal Mail to retain privileges relating to the use of compulsory purchase powers. MUA would therefore recommend that this privilege should be abolished when a suitable legislative vehicle becomes available.

i) Provision Relating to Public Pillar Boxes

MUA supports Postcomm's preliminary view that Royal Mail should retain its privilege in relation to the installation of pillar boxes and pouch boxes in streets. Members also agree that as and when other postal operators are in a position to offer public collection services (either as licensed Universal Service Providers, or providers of services on non-universal terms), this privilege should be extended.

MUA members also support Postwatch's premise that it may take a considerable time to change this privilege in law, and would urge Postcomm to review the relevant legislation as a matter of urgency, so that it does not act as a barrier to entry in the future, and as a consequence limit the development of competition.

j) Classification of Royal Mail as a Private Carrier

MUA supports Postcomm's view that Royal Mail should retain its status as a private carrier, regardless of whether it is or is not considered to be a privilege. Members would strongly recommend Postcomm extended the option of this classification to all universal service providers.

OTHER PRIVILEGES AND BARRIERS TO ENTRY

MUA would wish to raise a number of privileges presently enjoyed by Royal Mail that do not appear in Postcomm's consultation document, but which members believe merit address given that they represent barriers to entry:

- **Crown Post Offices**

MUA would draw Postcomm's attention to the fact that Royal Mail continues to retain exclusive access to market postal related products and services through the crown post office network. Many observers consider this network to be a national institution, the ownership of which has, by dint of history, fallen to Royal Mail.

Given that in future it is very feasible there will be more than one universal service provider, MUA members consider a full review of this

exclusivity should be undertaken, so as not to disadvantage new market entrants.

- **Sub-Post Office Network Contracts**

MUA would also urge Postcomm to review the relevant clauses held within contracts issued to the extensive UK sub-post office network, which prohibit them from selling products on the general side of their stores which compete with postal products and services sold over the post office counter. Members believe this again serves to distort competition in the market place.

- **The Postcode Address File**

MUA would highlight that whilst it recognises the role Royal Mail presently plays in the stewardship of PAF files for purposes of upkeep, integrity, and the overall national interest, it would question whether it is appropriate for Royal Mail to retain sole rights to ownership of PAF, given the competitive advantages it may offer over other market entrants. MUA believes PAF is a national asset, and the right to use it should be universal and free of charge.

- **Other Relevant Privileges**

MUA would also raise the issues of Royal Mail retaining exclusive rights to carry the Queens image on stampage, and their monopoly over the licensing of franking machine suppliers.