



MAIL COMPETITION FORUM

MCF RESPONSE TO THE POSTCOMM CONSULTATION ON THE CONSUMER COMPLAINTS REGULATIONS

1. The Mail Competition Forum (MCF) is an association of licensed mail carriers, who operate in the domestic mail market as competitors to Royal Mail. The forum meets monthly to discuss matters of common interest and, as a group, will make representations to other parties on policy matters that impact on its membership.
2. Current membership of the MCF consists of Citipost AMP Ltd, City Link, DHL Global Mail (DHL), DX Network Services Ltd (DX), Racer Consultancy Management Services Ltd (Racer), Secure Mail Services Ltd (SMS), TNT Post UK Ltd (TNT Post) and UK Mail Ltd (UK Mail).
3. The MCF welcomes the opportunity to comment on the Postcomm consultation document of June 2008 concerning its proposals to create regulations setting out the requirements for complaint handling procedures to be adopted by all licensed postal operators in relation to licensed postal activities.
4. On balance, we believe that, subject to the points detailed below being addressed, the proposals for complaint handling processes strike an acceptable balance for consumer protection by relying on a mixture of market pressure and mandatory regulation. As a competitive market develops, it is to be expected that the level of mandatory, regulatory intervention in complaints handling can reduce.

Contract customers to be excluded from the remit of the customer handling regulations

5. The first point to be addressed is that, wherever a sending customer has a contract with a licensed postal operator (other than a sending customer sending a single item of mail through Royal Mail), there is adequate contractual protection which is assured through contract law, choice of supplier and either the negotiated terms of that contract or, in the situation where standard terms and conditions apply, the application of statutory protection against unfair contract terms. Such contract customers should fall outside the scope of the regulations.
6. Many customers who send volumes far below 4000 items are able to choose supplier and will have the power of choice to leverage adequate redress in their contracts with their postal service providers.
7. A more appropriate formulation than “bulk mail” customers for those who are to fall outside the remit of the regulations would be to refer to “contract mail” customers. This would mean a sending customer using any service where there is a contract, express or implied, between the sending customer and the licensed

¹The views expressed in this letter represent the general views of the Mail Competition Forum and do not necessarily represent the particular position of any individual member organisation



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postal operator other than a customer for a service involving the conveyance of a single item of mail.

8. As Postcomm notes, licensed operators may, of course, voluntarily choose to offer redress to other customers who are not within the scope of the mandatory regulations.

Recipients of any service entitled to redress

9. For the reasons stated by Postcomm, we accept that a recipient of licensed mail sent at any stage through a licensed postal service should be eligible to use the regulated redress system.

Review period of three years

10. We agree that three years is an appropriate period prior to Postcomm's review of the redress scheme. It is to be expected, however, that operators will review their own arrangements during this period.

Reasonable publicity

11. The home page of a web site often benefits from simplicity. So long as a potential complainant has access via a "contact us" or other similar statement on the home page of web site (leading to a more detailed page with the complaints handling procedure), we would fully expect this to satisfy the provisions of the regulations. This is already common practice in other regulated industries. We would welcome Postcomm's assurance that such an approach would satisfy the requirement to include the procedure at a "clear and prominent location on any relevant website".
12. Smaller operators, in particular, are likely only to have facilities which are on industrial sites and, while not physically excluded to the public, might reasonably be expected only to permit access to trade suppliers or trade customers. It would be useful to clarify that "business premises which are accessible to the public" means only those premises from which licensed postal services are actually sold to members of the public. We wish to avoid a situation where failure of a reception desk in a trading estate to have a copy of the complaints handling procedure available constitutes a breach of the regulations and thus a breach of licence.



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Content of complaint log

13. We agree that recording date, identity of complainant, contact details, summary of complaint, further action / subsequent contact and date of completion / deadlock is a proportionate data set to record in the complaints handling record.

Signposting the redress scheme

14. We accept that a maximum time (subject to an agreed extension) for resolving complaints should be part of the complaints handling procedure. We also accept that a deadlock letter should be issued if a complaint cannot be resolved or has not been resolved within the maximum (or extended, as the case may be) time.
15. However, we do not agree that where a licensed operator has voluntarily applied the customer complaints handling procedure for non-licensed mail that it should have to provide guidance of “any other independent guidance available”. This should be a matter for the licensed operator to adopt whichever procedure it considers appropriate.
16. To avoid the risk of premature or unnecessary referrals to the redress scheme provider, we agree that contact details of the Ombudsman need only be available in the deadlock letter. Only generic reference to the existence of an independent Ombudsman need be made in the complaint handling procedures and other communications prior to the deadlock letter. No reference need be made to the Ombudsman in complaints relating to services other than licensed mail services.

Signposting Consumer Direct

17. We accept that a reference to Consumer Direct in the complaints handling procedures will be appropriate.

Reporting of complaints data

18. We agree that, for operators other than Royal Mail, in order to make the system workable, the requirement to break complaints down by category needs to be practicable for the business in question and to require between two and ten categories is acceptable.

Consumer complaint

19. It is not clear who is eligible to “act on behalf of a relevant consumer”. Our concern is to avoid multiple claims in respect of the same incident or claims



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brought by people or organisations with little direct interest in the outcome of the complaint. Some guidance on who is covered would therefore be useful.

Applicable only to licensed mail

20. As the regulations are to apply only to licensed letter services, it must be clear that a “relevant consumer” is either a sender of licensed mail (other than “contract mail”) or a recipient of licensed mail. To achieve this, it would be appropriate to define “relevant postal services” as only being those services provided by a licence holder “whilst undertaking the conveyance of letters which in the absence of a licence would give rise to an offence under section 6 of the Postal Services Act 2000”. That is because, licence holders will almost all provide a range of licensed and non-licensed services. Only those services provided under the licence are relevant for the purposes of the redress scheme. A “relevant consumer” should also, therefore, be exhaustively defined as being such a sender or recipient and not as a consumer of services “including” the two types of service but, rather, “being” either of the two services.

Binding nature of a redress determination

21. Under the terms of any redress scheme, we would wish the finding of the redress operator to be binding on the consumer (regulation 5(2)(vi)).

Vulnerable consumers

22. In order to satisfy draft regulation 7, we need to agree arrangements with Consumer Focus in relation to complaints from vulnerable customers. In relation to postal services, the identification and handling for vulnerable customers will be less obvious (and less vital) than for other regulated services so any procedures will need to be proportionate. In order to keep this requirement proportionate, especially for smaller operators, guidance on what is required would be very useful as the time resource needed to agree bespoke arrangements with Consumer Focus is likely to be disproportionate.

We trust that Postcomm will take these final points into account before finalising the regulations and should be happy to answer any additional questions Postcomm may have prior to promulgating the legislation.

*David Sibbick, Secretary
Mail Competition Forum
31st July 2008*