



# **Royal Mail's response to Complaint handling standards for licensed postal operators**

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# Response

## 1. Introduction

- 1.1 Royal Mail welcomes the opportunity to comment upon Postcomm's proposals for complaint handling standards for licensed postal operators.
- 1.2 In general Royal Mail supports the principles of Postcomm's approach but has a number of serious concerns about how Postcomm proposes to deploy these in its proposals and the associated statutory instrument. Royal Mail comments on the complaint handling standards regulations and proposals in chapters 2 and 3 respectively of this response. Comments upon the draft statutory instrument are given in chapter 4.
- 1.3 Royal Mail is happy to discuss these matters with Postcomm.

## 2. Complaint handling standards regulations

- 2.1 This chapter gives Royal Mail's views on the complaint handling standards regulations, as discussed in chapter 2 of Postcomm's document.

### Principles of the regulations

- 2.2 Royal Mail notes from the outset that the definition of a 'relevant consumer' proposed by Postcomm appears to be incorrect. Contrary to the view expressed in the proposals document, the drafting does not exclude senders of bulk mail from the ambit of the complaint handling standards.

- 2.3 The current definition of a 'relevant consumer' reads:

*"relevant consumer" means any consumer who is a consumer in relation to "relevant postal services" including:*

*(a) recipients of mail and*

*(b) senders of mail who are not senders of bulk mail.*

- 2.4 While this definition expressly includes, by way of illustration, consumers who are not senders of bulk mail, this is not the same as expressly excluding consumers who are senders of bulk mail. The definition in fact does not exclude anyone, and therefore senders of bulk mail still fall within it. Irrespective of Royal Mail's comments below on whether the exclusion should be made by reference to senders of bulk mail rather than contract customers, the definition of a 'relevant consumer' must be addressed in any event.
- 2.5 Separately, Royal Mail does not agree that Postcomm's proposals are fully consistent with BERR's December 2007 decision on the scope of the redress scheme and complaint handling procedures. In particular, the exclusion at paragraph 2.11 is not for senders of bulk mail, it is for 'consumers who have a written contract with the licensed postal services provider'<sup>1</sup>. The current definition of the exclusion by reference to bulk mail has no basis or explanation in the Consumers, Estate Agents and Redress Act 2007 (the "Act") or in BERR's thinking. Postcomm have arbitrarily taken the view that the exclusion should relate to bulk mail, rather than the BERR reference to contract customers.
- 2.6 BERR's decision not to use a size-based criterion for postal consumers recognised the difficulties of setting a practical threshold for this. Its rationale for using the written contract definition was that complaints could be dealt with contractually. Postcomm has not given any reason why it has switched to a different definition.
- 2.7 The proposals to exclude only bulk services, defined as 'over 4,000 items of mail of the same format, posted by a single user, from a single site', would result in the inclusion of a large number of contractual products and services used by business customers in both the redress scheme and the complaint handling standards. For example it would include PPI, Cleanmail (minimum posting 1,000 items) and response services products which were clearly not within the contemplation of BERR. Royal Mail believes that other licensed operators may be similarly affected.
- 2.8 In order to remain consistent with the BERR decision document, Postcomm should define the exclusion in relation to purchasers of postal services who have a written contract with their provider, as well as amending the definition of 'relevant consumer' to make the exclusion effective. We suggest a rewording of the definitions along these lines:

*"Relevant consumer" means any consumer of a relevant postal service, including an addressee of mail, but excluding any consumer of a relevant postal service who is a contract customer in respect of that service.*

*"Contract customer" means a consumer of a relevant postal service, where:*

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<sup>1</sup> Paragraph 5.6, Consumer Redress Schemes in Gas, Electricity and Postal Services, BERR, December 2007

*(a) the provision of the relevant postal service is governed by a legally binding contract between that consumer and the regulated provider; or*

*(b) the relevant postal service is provided by the regulated provider under an account which enables that consumer to make multiple postings.*

- 2.9 Royal Mail believes Postcomm may be concerned that using a contractual criterion will exclude social products such as Poste Restante, Redirection and Special Delivery Next Day not posted on account. All these products are currently sold to consumers under the Schemes made under S.89 of the Postal Services Act 2000, not contractually.
- 2.10 As Postcomm points out in paragraph 2.8 of its document, there will be a requirement to communicate to consumers, and also to set out for the postal redress provider, the products that would be considered licensed products and thereby subject to the complaint handling standards, as well as identifying non-licensed products that Royal Mail may wish to include. Royal Mail is considering this issue and will provide Postcomm with a draft list of these products within the next few days.

### **3. Proposals for complaint handling standards**

- 3.1 This chapter sets out Royal Mail's views on Postcomm's proposals for complaint handling standards discussed in chapter 3 of the consultation document.

#### Requirement to record complaints

- 3.2 Postcomm has added a number of additional requirements for recording complaints, along with a new complaint definition. Setting standards and creating obligations as to recording complaints is beyond what is required by the Act and what BERR discussed in their December 2007 decision document. Postcomm states at paragraph 3.42 of its document that it views these requirements as 'a regulatory formalisation of the current process of licensed postal operators' and also that the requirements are 'not unduly burdensome'. These new requirements have not been discussed in detail with Royal Mail and Royal Mail has serious concerns that, taken together with the definition of a complaint, some interpretations of the requirements may not be compatible with its current processes and have the potential to lead to considerable extra work for Royal Mail's Customer Services team and extended handling times for consumers.

- 3.3 Customers may contact Royal Mail via a number of channels in addition to Customer Services, chiefly to customer-facing staff at their local Delivery Offices or Mail Centres, or in Royal Mail's account or sales teams. Royal Mail's Customer Complaint Handling Procedures, agreed with Postwatch under Condition 5 of its Licence in March 2007, specifically allow for these situations, and set out the appropriate referral to Customer Services. Royal Mail does not record details of such contact, and its systems are not capable of doing so, until the customer contacts Customer Services.
- 3.4 Under the new Regulations there is an obligation upon Royal Mail to publicise effectively the proper channels for raising a complaint and in turn there is an obligation on the consumer to use these proper channels to complain. Royal Mail will only record and report complaints made via the published complaint handling procedure (which will be to Customer Services only) and not other channels which the customer may decide to use instead of these publicised arrangements. The Regulations should be amended so that it is explicit that they apply only to the published complaint handling procedure of the postal operator. This is addressed in 4.9 below.
- 3.5 Royal Mail's Customer Services only record complaints. They do not log calls from customers who are just expressing general dissatisfaction with Royal Mail. Royal Mail would not regard these as complaints as defined in the Regulations as they do not expect any action to be taken.

#### Complaints with no evidence base

- 3.6 Postcomm comments at paragraph 2.10 and again at paragraph 3.20 of its document upon the requirement to allow complaints with no evidence base to be dealt with. The BERR decision document makes clear that that a specific operator can have a process to handle these. For Royal Mail these processes will need not only to protect the business against fraud but also to be capable of identifying whether a complaint is proper to Royal Mail. Whilst Royal Mail accepts the principle of complaints with no evidence base, the Regulations do need to add the caveat that the complainant will still need to provide sufficient detail to enable the complaint to be investigated and to be able to identify the relevant postal operator, and an amendment is proposed at 4.8 below. Royal Mail agrees that the Common Operating Procedures should not be amended to require consumer complaints to be handled by the postal operator who receives the complaints.

## Vulnerable consumers and oral complaint handling

- 3.7 Postcomm states in paragraph 3.24 of its document that the complaint handling procedure must allow complaints to be made and progressed orally. As Royal Mail has made clear to Postcomm, most recently during the 2007 consultation on compensation<sup>2</sup>, a number of Royal Mail's complaint procedures involve the submission of documentation and a signed declaration, in order to protect against fraudulent or unwarranted claims. These procedures are an intrinsic part of Royal Mail's arrangements for loss and damage compensation, which Postcomm has accepted<sup>3</sup>. For example Schedule 3 of the Inland Letter Post Scheme and Schedule 8 of the Inland Parcel Post Scheme, as amended following the 2007 consultation on compensation, both require the complainant to submit such material in order to be paid compensation. In addition Postcomm's Direction on retail compensation for delay also allows for such material to be requested<sup>4</sup>. A recorded phone call is not an acceptable substitute for such material. Postcomm must therefore make it clear that the ability to make and progress a complaint orally does not prevent the postal operator from requesting such material and certification in order to progress a claim for compensation.
- 3.8 Whilst Royal Mail will assist vulnerable customers to complain and will allow a complaint to be made on someone else's behalf, all consumers will need to meet the evidential requirements for a claim if they wish to receive compensation. Royal Mail notes that Regulations 3(3)(iii) (v) and (vi) as currently drafted apply to any consumer, not just to vulnerable consumers as defined by section 12 of the Act.
- 3.9 The current Regulations 3(3) (iii), (v) and (vi) are at best unclear whether Royal Mail may request written evidence or certification where complaints are dealt with orally or with no evidence base, and at worst may prevent Royal Mail from doing so. In particular, Regulation 3(3) (v) allows complaints to be progressed entirely orally, which is capable of preventing Royal Mail from obtaining documentation. Neither the Act nor the BERR decision document make such a requirement.
- 3.10 In order to comply with data protection requirements, where Royal Mail is processing (i.e. including computer logging of) complaints it will need the consent of a customer where any third party is purporting to handle a complaint on their behalf. This is expected to involve a limited number of cases. Ensuring consent is given may involve obtaining a written letter of consent. The current Regulations are again

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<sup>2</sup> See for example the notes to paragraph 6 in Annex 2 of Postal Services Commission Review of Royal Mail's Compensation schemes for Loss, Damage and Delay Decision Statement, May 2008

<sup>3</sup> Postal Services Commission Review of Royal Mail's Compensation schemes for Loss, Damage and Delay Decision Statement, May 2008

<sup>4</sup> *Ibid* Annex 1 paragraph 3 note V

unclear as to whether Royal Mail may obtain such written consent and this lack of clarity is unnecessary and unhelpful.

- 3.11 Royal Mail therefore proposes a revision to Regulation 3(3) to deal with these issues, as set out in 4.8 below.

#### Publication of the complaint handling procedures

- 3.12 Royal Mail notes Postcomm's proposal in paragraph 3.32 to require licensed postal operators to ensure that details of how to make a complaint are available at its publicly accessible business premises. For Royal Mail, this would be at enquiry offices and Post Office™ branches. For other postal operators, Royal Mail notes that this would include their authorised agents for relevant postal products.

#### Consumer Direct

- 3.13 Postcomm has added a new requirement in paragraph 3.38 for postal operators to make complainants aware of Consumer Direct. The decision document does not sufficiently clarify that the role and remit of Consumer Direct is to inform customers of the due process to lodge and deal with a complaint and not to be part of the decision-making on the substantive appeal. This should be clarified.

#### Signposting the redress scheme

- 3.14 Postcomm states in paragraph 3.47 that it expects the postal operator to provide information about "any other independent guidance available" for circumstances where the redress scheme is not available, i.e. for non-licensed products and services for which it voluntarily decides to use the complaint handling procedures. It is not clear what independent guidance Postcomm is referring to. It is not practical for a postal operator to provide guidance about independent advice if it has taken a case that is not eligible for redress through the complaint process voluntarily. This creates an incentive for postal operators only to use the complaint handling processes for cases where they are obliged to do so.

#### Reporting of complaints data

- 3.15 Royal Mail notes Postcomm's intention at paragraph 3.52 to continue to require Royal Mail to undertake quarterly reporting on a similar basis as currently required by Condition 5(6) of its Licence, although the Complaint Handling Standards will only

require annual reporting of completed and uncompleted complaints for up to ten categories. Royal Mail will respond on this as part of Postcomm's proposed consultation on Condition 5 of its Licence (paragraph 3.54 of Postcomm's document).

- 3.16 Royal Mail agrees that it is not necessary to audit the complaint handling standards regulations. Such a requirement would add considerably to the cost of operating the regulations.

## 4. Draft Statutory Instrument

- 4.1 This chapter sets out Royal Mail's views on Postcomm's draft statutory instrument which forms Appendix 1 of the consultation document.
- 4.2 Regulation 2(1) sets out a number of definitions. The manner in which these definitions are 'nested' is not clear or transparent and has the potential to alter the meaning. Where the definitions in the Act have been adopted Royal Mail believes that it would be less ambiguous to reproduce these exactly.
- 4.3 In particular, "relevant postal services" is defined by the Act as 'any postal services provided in connection with the provision of a universal postal service (within the meaning of the Postal Services Act 2000) and any other postal services which are provided, or authorised or required to be provided, by a licence holder under Part 2 of that Act in accordance with a licence'. In the Regulations this becomes 'any postal services provided in connection with the provision of a universal postal service (within the meaning of the Postal Services Act 2000) and any other postal services which are provided, or authorised or required to be provided *by a regulated provider*' (RM italics). The regulated provider is then defined as 'a person holding a licence under Part 2 of the Postal Services Act 2000 whilst undertaking the conveyance of letters which in the absence of that Licence would give rise to an offence under Section 6 of that Act.' Whilst it is possible that this drafting does not change the practical meaning, the wording is not completely clear and is open to interpretation. Royal Mail does not see that the change to the definition is necessary, and therefore it seems sensible, so far as possible, to maintain the language of the Act. If the definition were construed to mean all services provided by a regulated provider, this would include non-licensed services. To apply the requirements to services other than licensed services would clearly be outside the scope of the Act. Therefore, in order to clarify this, Royal Mail suggests a reversion to the wording of the Act, i.e.:

*"Relevant postal services" means any postal services provided in connection with the provision of a universal postal service (within the meaning of the Postal Services Act 2000) and any other postal services which are provided, or authorised or required to*

*be provided, by a licence holder under Part 2 of that Act in accordance with a licence under that Part.”*

- 4.4 As discussed in 2.8 above, the definition of bulk mail should be removed and the definition of ‘relevant consumer’ should be amended as follows:

*“Relevant consumer” means any consumer of a relevant postal service, including an addressee of mail, but excluding any consumer of a relevant postal service who is a contract customer in respect of that service.*

*“Contract customer” means a consumer of a relevant postal service, where:*

*(a) the provision of the relevant postal service is governed by a legally binding contract between that consumer and the regulated provider; or*

*(b) the relevant postal service is provided by the regulated provider under an account which enables that consumer to make multiple postings.*

- 4.5 As discussed in 3.7 to 3.9 above, Regulations 3 (3) (iii, v, vi) must be amended to make it clear that a postal operator is not thereby precluded from requesting written material in order to validate a claim for compensation. Royal Mail considers that there is little value in inserting an explanatory note in this respect and would want to see clarification inserted into within the Regulations themselves, i.e. for the sake of authority and clarity.

- 4.6 As discussed in 3.10 above the Regulations also need to make it clear that the postal operator is not prevented from obtaining the appropriate consents where a third party is acting on behalf of a consumer.

- 4.7 For Regulation 3(3) (vi), as discussed in 3.6 above the Regulations need to add the caveat that the complainant will still need to provide sufficient detail to enable the complaint to be investigated and to identify the relevant postal operator.

- 4.8 Royal Mail’s suggested wording to cover all three points would be:

*Regulations 3(3) (iii), (v) and (vi) do not prevent a regulated provider, in the course of its handling of a consumer complaint:*

*(a) from requesting a complainant to provide such evidence, including written documents, which the regulated provider may require in resolving that complaint, or*

*(b) from requiring a person acting on behalf of a relevant consumer to provide evidence, including written documents, of the relevant customer’s consent to that person acting on his behalf.*

4.9 As set out in paragraphs 3.3 to 3.4 above there is a need to clarify that the Regulations only apply where the complaint handling procedure is followed. Royal Mail proposes the following amendments:

*3(2) A regulated provider must comply with its complaints handling procedure in relation to each consumer complaint **made through that complaints handling procedure.***

*4(1) Upon receipt of a consumer complaint **made through its complaints handling procedure** a regulated provider must record in a written or electronic format the following details ...*

*4(2) For each consumer complaint received **through its complaints handling procedure** the regulated provider must also record ...*

*5(1) A regulated provider must send a notice to a complainant in accordance with paragraph (2) on the date:*

*(i) the regulated provider becomes aware that it is not able to complete a consumer complaint **made through its complaints handling procedure** to the complainant's satisfaction ...*

*6(1) A regulated provider must allocate and maintain such level of resources as may reasonably be required to enable that regulated provider to receive, handle and process complaints **made through its complaints handling procedure** in an efficient and timely manner and in accordance with these Regulations.*

*7(1) A regulated provider must put in place appropriate arrangements to deal with section 12 complaints **made through its complaints handling procedure.***

4.10 Regulation 4(3) requires the postal operator to reopen a complaint classified as completed, and to treat this as uncompleted, if there is subsequent contact from the complainant which indicates that it is not a completed complaint. For practical purposes this cannot be indefinite - there needs to be a reasonable upper limit upon this, particularly in the case of Royal Mail, which Postcomm intends should provide quarterly reports. Royal Mail proposes a three month time limit after which further contact from the complainant on the issue may be treated as a new complaint.