

Holders of the Standard Licence

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Changes in consumer representation – Standard/DHL Express (UK) licence condition modifications

As you are aware Postcomm published a licence modification notice under section 14 of the Postal Services Act on 6 August 2008 (“the August Notice”). Postcomm received two responses to the August Notice from:

- the Mail Competition Forum (MCF) and
- Royal Mail.

Following the response from the MCF on behalf of its members, Postcomm has made minor changes to the proposed modifications of the Standard Licence. These changes do not alter the effect of the August notice.

Set out below is a response to the points raised in the MCF response regarding the Standard Licence:

Condition 1

As the MCF response highlighted, the August Notice incorrectly referred to a definition of ‘the Council’ instead of a definition of ‘Postwatch’. To clarify, the definition of ‘Postwatch’ currently found in the Standard Licence will be replaced with a definition of ‘the Council’ to reflect the abolition of Postwatch and the creation of Consumer Focus. The attached notice sets out in full the definition which is to be replaced and the new definition.

Condition 2

The MCF requested that with the exception of condition 2.1, all of condition 2 should be removed as it would be duplicated by the Complaint Handling Standards Regulations.

Postcomm does not agree that condition 2 only applies to complaint handling and therefore has not made the requested changes. Condition 2 relates to service provision as well as complaint handling. The changes being made are only those directly affected by the changes brought in by the Consumer, Estate Agents and Redress Act 2007. For condition 2, only the conditions relating to complaint handling will be duplicated by the Complaint Handling Standards Regulations. Therefore it is only those conditions which need to be removed from the licence.

The service provision conditions of condition 2 must remain at this time. However, the Standard Licence is to be reviewed as part of the regulatory framework consultation and licensees will have an opportunity to comment on proposals for the remainder of Condition 2 at that time.

Condition 8

Royal Mail in its response highlighted the fact that the legal authority for Consumer Focus to require information from Royal Mail is drawn from section 24 of the CEAR Act and that section 25 of the CEAR Act provides for an enforcement procedure which requires failure by a relevant provider to comply with a requirement to provide information to be referred to a “designated investigator” within the meaning of section 25(3) of the CEAR Act. Postcomm has accordingly modified the condition in all licences to reflect these points.

Condition 10

The MCF requested references to Postwatch be removed or replaced with a reference to Consumer Focus. As stated by the August Notice, references to Postwatch would be replaced by Consumer Focus. This includes Condition 10.

Royal Mail in its response highlighted the fact that the CEAR Act has replaced paragraph 17 of Schedule 2 to the Act with section 39 and 39A of the Act. Postcomm has accordingly modified the condition in all licences to make reference to section 39 and 39A of the Act (as amended), instead of paragraph 17, which entitles Postcomm to set licence conditions requiring payment by a licence holder of sums relating to the expenses of Consumer Focus.

Annex 1

The MCF requested references to Postwatch be removed from paragraphs 2.1, 7.6 and 7.7 of the Mail Integrity Code of Practice due to Consumer Focus's limited involvement in Mail Integrity issues and to minimise the regulatory compliance burden. As stated by the August Notice, references to Postwatch would be replaced by Consumer Focus. This includes Annex 1 to the Standard Licence, 'Protecting the Integrity of Mail – A Code of Practice' as Consumer Focus had confirmed its intention to be involved in Mail Integrity issues. Therefore Postcomm does not agree to the MCF request. The Code currently requires licensees to provide a report to both Postcomm and Postwatch and instead licensees will have to provide that report to Postcomm and Consumer Focus. Therefore there is no increase in regulatory burden from current requirements. The Royal Mail licence will also be changed to replace references to Postwatch with Consumer Focus.

The attached notice sets out the changes to be made to the Standard Licence. Licensees must provide consent for the changes to be made. If consent is not provided, Postcomm may have to refer the matter to the Competition Commission. Please email your consent to these changes to Kiera.Bower@psc.gov.uk by Friday 24 October 2008.

If you wish to discuss any of the modifications, please contact Kiera Bower.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'TB' with a flourish, written over a horizontal line.

Tim Brown

CHIEF EXECUTIVE

