



Royal Mail Wholesale

The future of letter deliveries:

Consultation proposing the Introduction of an Access Letters Contract Change Provision to enable timely introduction of any Ofcom Decision on Future of USO/ Access Condition

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Section 1

Introduction

- 1.1 We are consulting with you on making provision in the Access Letters Contract (ALC) to allow us to reflect and implement changes that Ofcom sets out in its decision document on the reform of the Universal Service in a timely manner.
- 1.2 In its call for input, published on 24 January 2024, Ofcom concluded that reform of the Universal Service is necessary, given the structural decline in letter volumes since 2004/05, coupled with increasing costs meaning that the Universal Service faces a very real and urgent financial sustainability challenge.
- 1.3 Royal Mail has been calling for reform of the Universal Service for more than four years. Ofcom calculates that providing the current Universal Service to the UK has a net cost to Royal Mail of £325 million to £675 million every year. Put another way, it costs the company £1 million to £2 million every day to provide the Universal Service to the UK. This is in the context of Royal Mail posting losses of £419 million in 2022/23 and £348 million in 2023/24.
- 1.4 Royal Mail absolutely agrees with Ofcom's conclusions that "the consequences of misalignment between the obligations and users' reasonable needs are significant. We estimate that the USO imposes a considerable net cost on Royal Mail".¹ We also agree with Ofcom's view "that the net cost [they] have calculated may represent an unfair financial burden on Royal Mail"² such that it "raises serious questions as to whether it is a cost Royal Mail should or even can be expected to continue to meet."³ The need for reform is therefore urgent.
- 1.5 Royal Mail's proposals, if implemented, would allow the business to continue to invest in modernising and transforming to provide products and services that customers want and could reduce the run-rate net cost of the USO to Royal Mail by up to £300m per year. Without any reform, either letter prices will have to rise substantially more than they otherwise would to recover the costs (leading to a vicious circle of unsustainability), or Government will have to fund the shortfall. The reforms we propose will create a more customer focussed, modernised, reliable and financially sustainable USO, giving greater confidence in a UK-wide universal service that can operate effectively in the digital age which will benefit both you and Royal Mail.
- 1.6 Therefore, Royal Mail is urgently calling for Ofcom to act faster on USO reform.

¹ Ofcom, The Future of the Universal Postal Service Call for Input 24 Jan 2024, paragraph 10.3.

² Ibid, paragraph 8.47.

³ Ibid, paragraph 10.3.

Section 2

Purpose of this consultation

- 2.1 We appreciate that Ofcom has its own due process to follow before coming to any decision in respect of the Universal Service moving forward. At the same time, the ALC contains its own change provisions, underpinned by specific notice periods for different scenarios.
- 2.2 If Ofcom ultimately decides to make regulatory changes, Royal Mail will need to work at pace to implement such changes across our network to ensure we can deliver a modern, reliable service to our customers. Therefore, and without pre-empting Ofcom's processes and decisions, we believe it is necessary to ensure that whatever Ofcom's eventual decision is, that outcome should be capable of being implemented in the ALC in a timely manner. To that end we look to amend the ALC to enable such potential changes.
- 2.3 This consultation seeks your views on the introduction of a new change provision into the ALC which would enable Royal Mail to make changes to the ALC on 70 days' notice to reflect Ofcom's decision (with such changes exempt from any consultation obligation).
- 2.4 We encourage our customers to send us their views on the proposals by 14 August 2024 via email to ravi.chauhan@royalmail.com.

Section 3

Our proposal

- 3.1 Under the ALC, to implement the changes brought in by Ofcom by its decision at the end of the USO review process, we would be required to notify Access contract holders of such changes on 190 days' notice under clause 13.2(a)(i), unless Ofcom explicitly requires us to make the changes in which case Royal Mail could implement the changes on 90 days' notice (or, if shorter, such period of notice as is required to allow us to comply with Ofcom's requirements).
- 3.2 It is unclear whether Ofcom will explicitly require us to make any changes. It may simply relax the USP Access Regulation to give us the freedom to make relevant changes, which would then arguably, under the current ALC, require us to give 190 days' notice of any changes. Accordingly, we believe it is in the mutual interest of customers and Royal Mail to amend this potential anomaly such that any USO reform which is decided upon by Ofcom is implemented as swiftly as possible to ensure we are providing the services that customers need with greater reliability, while also addressing the very real and urgent financial sustainability challenge being faced by Royal Mail.
- 3.3 Therefore, we are proposing to add a new change clause which would enable Royal Mail to make changes to the ALC on 70 days' notice to reflect Ofcom's decision, for example, in terms of the days we are required to deliver on and the delivery timescales, with such changes exempt from any consultation obligation. We note that ALC contract holders have already had an opportunity to provide feedback (through both Ofcom's call for input consultation, stakeholder workshops and further meetings), and will have further opportunities, to feed in their views on USO reform proposals to Ofcom through Ofcom's own consultation processes.
- 3.4 This change would provide greater flexibility to adapt the ALC more quickly following Ofcom's decision. We would also look to amend clause 13.2(b)(ii)(A) to note that changes to the parts of the ALC specified in this clause may also be made under the new change clause.
- 3.5 Royal Mail proposes to add a new clause within clause 13 of the ALC. Please see the draft wording below:

"The parties acknowledge that further to the Regulator's "Call for input: The future of the universal postal service" ("Call for Input") and any subsequent Regulator consultations following on from its Call for Input ("Consultations"), the Regulator may make changes to the Regulatory Conditions and/or Access Condition. If the Regulator decides to change the Regulatory Conditions and/or Access Condition following its Consultations, then we may change this Contract without your consent on giving you at least 70 days' notice to reflect the obligations placed on us under the revised Regulatory Conditions and/or Access Condition (as applicable). By way of illustration only, the types of changes that we may effect under this clause include, but are not limited to, changes to the days we deliver Mailing Items under this Contract and/or the delivery periods for Mailing Items under this Contract."

- 3.6 We understand that our customers need time to implement any change. However, in this specific instance we believe it is fair and reasonable to move to 70 days' notice rather than 190 days (see paragraph 3.1 above) since the regulatory changes being set out by Ofcom in its decision document will have been subject to extensive consultation and scrutiny over a significant period and it will have reflected any feedback from stakeholders such as yourselves.

3.7 It is important to make emphatically clear, that the above proposed change provision would solely seek to capture changes which are directly reflective of Ofcom's decision. Changes which are not directly reflective of Ofcom's decision, would continue to be governed by the appropriate change provisions within the ALC – see Section 4 below.

Questions

Q1. Do you agree with the proposal to add the above provision to the General Terms and Conditions of the ALC?

Q2. Do you have any comments on the proposed drafting?

Q3. Based on the [contract changes](#) presented by Royal Mail on 31 July 2024, do you have any specific observations on a 70 days' notice period to implement the changes?

Section 4

Other commercial priorities

We would like to engage with customers on a number of other changes that may flow from any USO reform.

Therefore, separately from this consultation, we are planning to run an engagement exercise with customers.

We will be in touch with you shortly to arrange the sessions.

Section 5

Next steps

We encourage our customers to send us their views on the proposal set out in Section 3 by 14 August 2024. Please send your feedback to Ravi Chauhan (Access Contract Manager) at ravi.chauhan@royalmail.com.

Following the closing date for comments, we will consider the responses with a view to finalising our proposals and sharing these with you in the form of a response document by 26 September 2024. During this period of dialogue, Royal Mail will seek to engage with all customers directly wherever possible to ensure a full understanding of their views.

We look forward to receiving your feedback.