

Ofcom consultation on the Royal Mail postal services Universal Services Obligation

ACRE is the national charity that works with rural communities throughout England to ensure that nobody from a rural location is unreasonably disadvantaged by where they live. Our network of 39 local rural development charities assists rural communities throughout England respond to local needs and develop local, community based, solutions.

1. Introduction

Ofcom has published a response form alongside an extensive consultation document setting out the research and rationale behind its proposed changes to the postal services USO. It has invited consultees to reply to some specific questions using this form. Our concerns about developments over the postal service USO go beyond the questions being asked and we are therefore submitting this wider response. Where we directly address any of the questions asked, we have noted this in bold in the text.

2. Scope of the consultation

The consultation over some detailed specific changes to the USO are important in themselves, but follow an extended period when the commercial viability, ownership and governance of the Royal Mail have been subject to much political attention and market speculation. We believe that the recent events, that have led Ofcom to accepting a call from the new owners of Royal Mail for a change in the USO, are not just the result of poor internal management of Royal Mail, as claimed by Ofcom. The malaise in the Royal Mail can be traced back to the way the Post Office and Royal Mail were fragmented, 'commercialised', portions competed over, and then the resulting 'ecosystem' re-assembled through regulation. Our comments on changes to the USO are therefore not just submitted to Ofcom as part of the consultation, but also directed at Ofcom and Government, as they comment on both organisations' decisions in contributing to the current situation where a change in the USO is being considered.

3. Why the Universal Service Obligation?

Our perspective is that of rural users of postal services, especially those potentially disadvantaged by their rurality. In rural areas, where populations are dispersed and there may not be enough consumers to form a big enough market to create effective competition,

the market for many things may not operate in a 'perfect' way and competition will not drive improvements in service. This is certainly true of postal services.

When an essential 'utility' service is passed into commercial hands, therefore, a requirement to provide an acceptable minimum service is essential. The USO should ensure this, as, without it, a commercially oriented operator could simply walk away from providing any service at all. Or could provide a service of poor, or infrequent, quality. **(Question 3.2)** Simply changing the definition of the USO when this happens, contains a real risk of a downward spiral of service reductions over the coming years.

4. How are the costs of the USO obligations met?

In order to deliver the minimum USO standard required, the commercial provider must have a business model that will pay for these 'non-commercial' elements of its 'business'. There are only two ways in which this can be done, by public subsidy or by cross-subsidy within the business from its other operations.

Government's direction has instructed Royal Mail to be opened-up to competition, not just from competing delivery businesses, but also by giving competing commercial entities access to Royal Mail's requirement under the USO to deliver to every house in the UK. This has enabled the competition to avoid incurring the costs of having to do this themselves. Government has gone further by encouraging other parts of the state to use these alternative competing services instead of the Royal Mail. In effect, Government has required Royal Mail to commercially subsidise the USO whilst taking away the income potential from being a state monopoly that would enable it so to do.

In choosing to pursue the cross-subsidy model Government, and Ofcom, see loss making by Royal Mail as a symptom of failure and thus fine it for non-delivery. Royal Mail may, indeed, be poorly run, but fining it and placing all the blame on its management risks a downward process of *reductio ad absurdum*. Instead, both Government and Ofcom should see losses as an indicator that the company has been regulated away from a business model that can support the USO, the main beneficiary of which, if properly run, would be rural people and rural communities.

There is a real danger that further pursuit of this approach, by both Government and Ofcom, will result in other commercial operators offering a cheaper first class, next-day, service but only in 'cherry-picked' urban postcodes that are cheaper to serve. This would further undermine the Royal Mail's ability to cross-subsidise services to rural areas. The combination of fines for failure to deliver and further requests to downgrade the USO will inevitably follow.

The Universal Service Obligation should be exactly that, both universal and an essential service. If it needs to be downgraded, this is a symptom of something else being wrong in the commercialisation of postal services and their regulation. **(Question 3.1)** There are other 'moving parts' in this highly complex semi-privatised, regulated, ecosystem that need to be looked at first.

5. The consultation's equality impact assessment

We fundamentally disagree that the USO should be downgraded in the way set out in the consultation. **(Question 5.1 and following)**

It is very encouraging to see Ofcom identify several ways in which people in rural areas will be differentially badly affected by this change and have effectively assessed rurality in the same way as groups affected the Equalities Act protected characteristics **(Question 2.1)**. We view this as good practice in such consultations and commend Ofcom for this approach.

However, it is deeply disappointing that the report goes on to ignore all of these considerations in its final conclusions.

6. Longer term solutions

We accept that in the short term small, temporary, changes to the USO may be required to stem the losses of Royal Mail in its current form. In this respect and, given that most second class mail is bulk mail, reducing the frequency of these deliveries may be the least bad option. However, this will place more emphasis on first class mail for essential communications and there would need to be a price cap placed on first class mail that makes it affordable and we would resist any drop in the post code area target to 87%. **(Question 6.2)**

Beyond this, we encourage Ofcom and Government to step back from the minutiae of the postal services USO and consider actions that need to be taken in the long term to ensure that especially rural communities have access to a range of services that are subject to 'market failure', and that could worsen over time.

The Government's mission for Growth will not be met in rural areas if essential financial and business infrastructure, including postal services, are further eroded. We recommend, therefore:

1. Active consideration is given to re-integration of the Post Office and Royal Mail under a single not-for-profit governance with a commitment to ensure retail access within all rural communities of more than 3000 population, and smaller in very dispersed population areas.
2. Ending of the requirement (and over-regulation) on Royal Mail to provide Access services to other delivery organisations. If there is a demand for this service a "new" Royal Mail should be able to maximise its income from bulk mail to cross-subsidise the delivery of the full USO in rural areas.
3. If necessary, and to ensure sufficient revenue to underpin the full USO, an adjustment to the regulatory structure to give Royal Mail a monopoly on 'final mile' deliveries of small packages.
4. An active review, engaging the FCA, CMA, HMT and Dept for Business and Trade along with UK Finance and community organisations, designed to overcome the strictures of competition law and maximise collaboration in providing access to postal and banking services to rural communities.

Contact

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Consultation coversheet

Basic details

Consultation title: Review of the universal postal service and other postal regulation
To: futurepostaluso@ofcom.org.uk
Name of respondent: Jeremy Leggett
Representing: Action with Communities in Rural England
Address: [x]

Confidentiality

We do not consider any part of our response to the consultation to be confidential.

Declaration

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom aims to publish responses at regular intervals during and after the consultation period. Our response is non-confidential, and we are happy for it to be published at any time.

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Policy Advisor
ACRE
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