

Recovering postal regulation and consumer advocacy costs

Response to Ofcom from
Citizens Advice



Contact: Anne Pardoe

anne.pardoe@citizensadvice.org.uk

03000 231132

Introduction

As the statutory consumer advocate for postal consumers in Great Britain, Citizens Advice welcomes Ofcom's consultation on how the costs of postal regulation and consumer advocacy are recovered. The shape of the market has changed considerably over the last decade. Letter volumes continue to decline while the rise in popularity of online shopping has led to a boom in the parcels sector. The UK parcels market increased in size from £6.3 billion in 2010 to £9.7 billion in 2016.¹ In this context, this consultation is a timely opportunity to consider whether the current distribution of costs across the sector is still appropriate.

Ultimately, how the costs of consumer advocacy in the postal sector are recovered is a matter for Ofcom. The statutory consumer advocacy bodies (CABs) in the postal sector (Citizens Advice, Citizens Advice Scotland, and the General Consumer Council for Northern Ireland) are funded through a grant from the Department for Business, Energy and Industrial Strategy (BEIS). In order to secure this funding, each year the CABs submit a proposed annual work plan, following public consultation, to the Secretary of State for approval. The Secretary of State determines whether the proposed work plan and budget are reasonable, and issues a grant letter to each CAB setting out the approved funding for the year, and any associated conditions. BEIS then instructs Ofcom to recover the qualifying costs from industry. Ofcom's right to levy these funds from postal operators is established in statute.² How Ofcom chooses to apportion these costs across industry is at its discretion.

However, we naturally have a view on how consumer advocacy is funded, which we set out below. We restrict our response to the recovery of funds for consumer advocacy work. We do not offer a view on how Ofcom recovers the costs of its own work.

¹ Apex Insight, UK Parcels: Market Insight Report 2017

² Section 51 of the Postal Services Act 2011.

Summary

Our response can be summarised as follows:

1. Ofcom's regulatory remit is narrower than that of the consumer advocacy bodies.
2. There is therefore, in principle, a case for recovering the costs of consumer advocacy from a wider range of postal operators, including parcel operators, as well as mail operators.
3. There may, however, be administrative complexity in broadening the scope of the consumer advocacy levy to include other postal operators.

1. Ofcom's regulatory remit is narrower than that of the consumer advocacy bodies

Ofcom's proposed approach to recovering consumer advocacy fees in the future mirrors its approach to recovering its own fees for postal regulation. In practice, this would mean that bulk mailers and access operators which reach the net revenue threshold of £5 million, net of access charges, may be considered 'relevant' postal operators, and therefore liable to cover a portion of consumer advocacy costs. Parcel operators would not.

We recognise the significant administrative efficiencies for Ofcom of this approach. Clearly, a shared mechanism for recovering costs, with 1 invoicing process and 1 verification process is less resource intensive than 2. Mirroring arrangements in this way is also consistent with 2 of the 8 charging principles set out in the consultation document: 'simplicity and transparency' and 'harmonisation.'

We also see the logic of requiring access operators and bulk mailers to contribute to the costs of consumer advocacy. Unlike Ofcom, as bulk mailers and access operators do not tend to interact with the end consumer directly, our work rarely looks directly at the operations of these firms. These organisations are, however, a vital link within the postal network - as Ofcom notes, bulk letter services account for the significant majority (58%) of letter volumes.³ Problems consumers experience, such as lost or delayed mail can occur at any stage in the delivery process - not just during the time it spends in the Royal Mail network. Our consumer education campaigns and online advice which help consumers to understand and exercise their rights, including when problems arise with lost or delayed mail, are similarly relevant. It is reasonable, therefore, for these firms to contribute to the costs of consumer advocacy under Ofcom's 'relevance' principle.

However, in principle there is a case to be made for a different approach to recovering the costs of consumer advocacy and regulation when it comes to parcel operators. As Ofcom outlines in the consultation document, it can only impose an administrative charge for its work on postal operators which provide services within the scope of the universal postal service. Although parcels

³Ofcom (2017) [Recovering postal regulation and consumer advocacy costs. A review.](#)

weighing up to 20kg delivered by Royal Mail through its network meet this definition, those delivered by other parcel operators do not.

In contrast, consumer advocacy is concerned with consumers of postal services more broadly. Our remit, as set out in legislation, includes mail services included in the Universal Service Obligation.⁴ However, the needs and experience of consumers of parcel services delivered by postal operators are also in scope.⁵ The legislation also makes clear that both the recipients *and* senders of mail and parcel services are considered consumers for the purpose of consumer advocacy.⁶ In practice, this means that consumer advocacy of postal users extends to the consumer needs and experiences within both the B2C and C2X segments of the parcels market. Unlike Ofcom, the CABs also have a statutory role to investigate ‘any matter relating to the number and location of public post offices’.⁷

The Postal Services Act 2011 grants Ofcom the power to impose consumer protection conditions on ‘every postal operator’, including requiring them to make payments in relation to the qualifying expenses of the consumer advocates. The regulator therefore has the powers it requires to recover a proportion of consumer advocacy fees from parcels operators should it decide to.⁸

⁴ Section 41 of the Consumers, Estate Agents and Redress Act 2007, read together with sections 27 and 65 of the Postal Services Act 2011.

⁵ Section 41 of the Consumers, Estate Agents and Redress Act 2007, read together with sections 27(1)-(3) and 65 of the Postal Services Act 2011.

⁶ Sections 3(4)(a) and 41 of the Consumers, Estate Agents and Redress Act 2007, read together with sections 27 and 65 of the Postal Services Act 2011.

⁷ See, in particular, section 16 of the Consumers, Estate Agents and Redress Act 2007 and section 93 of the Postal Services Act 2000. Currently this work is funded by Royal Mail. This appears to be a legislative hangover from the time when Royal Mail was privatised and legally split from Post Office Limited in 2012. The costs of consumer advocacy work in relation to post offices cannot legally be charged to Post Office Ltd. Under the Postal Services Act 2011, such costs may only be recovered from postal service operators and Post Office Ltd is not a postal service operator within the meaning of section 27(3) of that Act. Whether this position should be altered, and Post Office Ltd required to contribute to the costs of consumer advocacy, is a question for government.

⁸ Sections 27, 51(1)(a) and 65 of the Postal Services Act 2011.

2. In principle there is a case for recovering consumer advocacy costs from parcel operators as well as mail operators

As noted above, consumer advocacy in the postal sector extends to consumers of parcels delivered by postal operators. The importance of parcel services to consumers, the postal services sector and the wider economy has grown significantly in recent years as the rise of online shopping has led to a surge in parcel volumes at a time when mail volumes continue to decline. Parcels form an increasingly central part of how consumers use postal services and therefore an important part of the work of the CABs.

It is difficult to identify the precise breakdown of resources we allocate to parcel delivery services, partly because some work covers users of both mail and parcels, or the sector as a whole (see further discussion below). Nevertheless, as an indicator, we can identify a breakdown of the areas that our externally commissioned research has been primarily concerned with in recent years.

In 2016/17, externally commissioned research primarily concerned with the parcels market accounted for approximately 30% of our overall external research spend. In the previous year, this figure was closer to 3%. This year we expect it to account for approximately 11%.

Table 1: Estimated breakdown of Citizens Advice postal external research spend by segment

	Whole of sector analysis	Mail	Parcels	Post Offices
2015/16	45%	8%	3%	44%
2016/17	21%	14%	28%	36%
2017/18 (indicative)	34%	25%	11%	30%

The cost of this work is currently recovered solely from Royal Mail. Royal Mail currently makes up more than 50% of the parcels market by volume, and should therefore continue to contribute to these costs.⁹ However, the broader nature of the CABs' remit and work when compared to that of the regulator - which estimates that the parcels market makes up just 1% of its workload¹⁰ - means that, in principle, the costs of consumer advocacy should be spread more broadly than funding for postal regulation. Recovering a proportion of the costs of consumer advocacy from parcel operators is also consistent with a number of Ofcom's charging principles, including relevance, cost reflectiveness, fairness and equity, and adaptability.

It is worth noting that externally commissioned research is only a proxy for resources allocated to a particular part of the market. Evidence and insights gathered from in-house research, from previous years, or by a 3rd party (for example, Ofcom) often forms an integral part of consumer advocacy but may not be reflected in spending on externally commissioned research. Further, the level of resource allocated to advocacy (as opposed to research) will vary across issues.

⁹ Royal Mail PLC. Annual Report and Financial Statements 2016-17.

¹⁰ Ofcom (2017) [Recovering postal regulation and consumer advocacy costs. A review.](#)

3. There may be administrative complexity in broadening the scope of the consumer advocacy levy to include parcel operators

While there is an in-principle case for broadening the recovery of consumer advocacy costs to include parcel operators, doing so has the potential to add administrative complexity. As Ofcom notes in its consultation document, requiring parcel operators to contribute to the costs of consumer advocacy, but not to the costs of regulation, would require it to operate 2 different mechanisms for recovering these costs.

Further, recovering the costs of consumer advocacy in direct proportion to the resources allocated to different parts of the sector in a given year could be challenging for 3 reasons:

First, aspects of our work relate solely to products delivered by Royal Mail, or the post office network, which parcel operators are unable to access due to the exclusivity agreement between Royal Mail and Post Office Ltd. In 2016/17, this work accounted for approximately 50% of Citizens Advice's externally commissioned research spend.

Second, consumer advocacy projects often span different parts of the sector. For example, this year we are undertaking a project which will assess how well postal services are meeting the needs of disabled consumers. This project spans both parcels and mail services. Accurately dividing up the internal staff costs and external spend of this work between mail and parcel services would be difficult.

Third, as Table 1 above shows, the allocation of resource to different parts of the sector varies from year to year, and may differ from what can be estimated at the start of the year. We develop our work plan each year based on a range of factors, including whether external events, for example a planned regulatory review or piece of legislation on an aspect of the market, makes a piece of work particularly timely and areas where we have evidence of, or suspect, significant consumer detriment. This means that parcels may be a strong area of focus in 1 year, while other aspects of the market, such as the universal service obligation, may feature prominently in other years. In addition, CABs may need to respond

flexibly and alter plans in response to external events. Therefore, an estimate of the costs allocated to the parcels and mail segments at the start of the year may not reflect actual costs incurred .

While these challenges are not insurmountable, they would require careful consideration by Ofcom if it seeks to broaden the recovery of consumer advocacy costs.

We help people find a way forward

Citizens Advice provides free,
confidential and independent advice
to help people overcome their problems.

We advocate for our clients and consumers
on the issues that matter to them.

We value diversity, champion equality
and challenge discrimination.

We're here for everyone.



citizensadvice.org.uk

Submitted September 2017

Citizens Advice is an operating name of The National Association of Citizens
Advice Bureaux.

Registered charity number 279057.