

Agenda Item	9
Report No	TEC 57/13

Trading Standards – Internet Delivery Charges Project

Report by Director of Transport, Environmental & Community Services

Summary

This report updates Members on progress in relation to the Internet Delivery Charges Project, and invites Members to note the completion of the project, the outcomes achieved, and to approve the recommendations for further work in this area.

1. Background

- 1.1 A trend of increasing numbers of complaints about internet delivery charges from consumer and business buyers had been identified by Trading Standards and in 2012 a project was set up to take a more detailed and systematic look at the problems, which included matters such as: false claims of “Free Mainland Delivery”, late addition of surcharges and disproportionately-high charges.
- 1.2 The project involved a number of stages, including:
 1. An on-line survey to gather detailed information from the Highland public.
 2. A comprehensive investigation stage where website operators were contacted by Trading Standards Officers to change unfair practices.
 3. Partnership working with a range of Government, consumer and third-sector bodies.
 4. A local and national publicity campaign.
- 1.3 Report (TEC-67-12) to the TECS Committee on 15 November 2012 contains more information on the setting up and operation of the project, including further detail on many of the issues reported below and case studies.

2. Investigation Outcomes

- 2.1 Throughout 2012 and the first half of 2013, Trading Standards Officers investigated the very large amount of data compiled from the online survey. A wide range of businesses were contacted: from large multi-nationals to small micro-businesses. The approach taken by officers was consultative and positive, while at the same time it was made clear that compliance with legal requirements was compulsory. Clear advice was given as to how compliance could be achieved. In general, most businesses welcomed this approach and engaged with the process. Some resolved the problems by eliminating or reducing surcharges to the Highlands; others made changes to their websites to ensure that, while surcharges remained, these were indicated early in the buying process and no false claims were made.

- 2.2 In order to progress the investigations and achieve positive outcomes for Highland buyers, officers developed and effectively used some ground-breaking interpretations of relatively new pieces of European based legislation. This involved regulations prohibiting unfair trading¹ which were interpreted to require delivery charges to be fully declared right at the start of the buying process. This interpretation was supported by the Office of Fair Trading (OFT) and the national online advice to businesses and consumers was amended to take account of this issue. In another example, the UK Regulations implementing the EU Services Directive² were interpreted to require that delivery charges to consumers should not exceed the actual cost to the seller of sending the purchased items. This new approach on how the requirements of the regulations should be interpreted has also been supported by the OFT.
- 2.3 Report (TEC-67-12) to the TECS Committee on 15 November 2012 provides detail on the conducting of the investigations and case studies for illustration. Internet sellers identified by consumers in the online survey were separated into three broad categories:
1. Significant non-compliances and full investigation to be carried out
 2. Non-compliances marginal, not appropriate for full investigation but to receive detailed “Best Practice” advice
 3. Compliant and requiring no action from Trading Standards
- 2.4 The table and charts in **Appendix 1** detail the final outcomes. A total of 181 businesses were in categories 1 and 2 above, resulting in 109 being the subject of full investigation and 72 receiving detailed “Best Practice” advice. Note that the figures recorded of 79 online retailers changing their practices and 20 removing surcharges underestimate the actual position as these are based only on the full investigations with known outcomes. At least some of the companies receiving Best Practice advice and those referred to their local Trading Standards services are also believed to have changed their practices, but total figures are not available. The nine outstanding cases are still being considered and have been integrated into the on-going casework of the team.

3. Partnership Work and Publicity

- 3.1 Trading Standards has worked closely with a range of other agencies on this project, in particular the OFT, Consumer Focus Scotland (now renamed Consumer Futures) and Citizens Advice Scotland (CAS). One strand to this is the participation with each of these three organisations in the Scottish Parliament Cross Party Group (CPG) on Postal Issues at Holyrood. Along with MSPs from all parties, other members of this group include representatives from Royal Mail, Post Office, private carriers, Federation of Small Businesses (FSB), OFCOM and the CWU trade union. The issue of fair internet delivery charges has been prominent in the work of this group, which has enabled the sharing of information and development of ideas and proposals to take the matter forward.
- 3.2 The partnership with the OFT has involved close working on the new legal

¹ <http://www.legislation.gov.uk/uksi/2008/1277/contents/made>

² <http://www.legislation.gov.uk/uksi/2009/2999/contents/made>

interpretations pioneered by Highland Trading Standards and related law enforcement matters. Additionally, Trading Standards worked with the OFT on its “Call for Evidence” on market problems in rural communities. Again, the delivery charges issue was prominent in this piece of work.

- 3.3 Consumer Futures has a specific responsibility for postal issues and has prioritised internet delivery charges over the last year. Officers provided assistance on Trading Standards law to Consumer Futures as part of their investigation and report into the topic. Additionally, Consumer Futures organised two Delivery “Summits”, one held in Inverness on 23 November 2012, the other in Edinburgh on 6 February 2013, both attended by Scottish ministers and a wide variety of other interested parties. Highland Trading Standards was a major participant at both of these events.
- 3.4 CAS now has primary responsibility for consumer advice, education and advocacy in Scotland. Its survey on delivery – following excellent work by Skye & Lochalsh CAB – compiled a great deal of information about the problems encountered by consumers. This information has been provided to Highland Trading Standards and officers have already used some of it to inform their investigations. Highland Trading Standards is also strengthening its links and partnerships with local Citizens Advice Bureaux. A close ongoing working relationship with CAB/CAS is considered to be crucial to Trading Standards work on delivery charges.
- 3.5 Publicity work has also been central to this project. All of the partnerships described above have included joint publicity through news releases and other media work. In addition, a number of news releases have been issued solely about the Highland project and media coverage both locally and nationally has been very widespread and positive. This has been done partly to promote the work Trading Standards is carrying out, but more importantly is to educate and advise Highland buyers on the subject. Informed, empowered consumer and business buyers can make their own contribution to improving the situation by raising issues directly with sellers and carriers, and by reporting information to Trading Standards when necessary.

4. On-going Work

- 4.1 While it is thought that significant achievements have already resulted from the work done so far, problems persist. There are a number of continuing strands of work for Trading Standards on delivery charges. These include:
 - Enforcement action against a minority of non-compliant and uncooperative businesses
 - A major new enforcement project using the CAS survey data and involving Trading Standards from all the north of Scotland authorities
 - Developing a Code of Conduct for delivery issues and related trusted trader scheme
 - Continuing advisory, research and publicity work with key partners
- 4.2 Whilst most businesses have been co-operative and receptive to constructive approaches from Trading Standards, a few have not. Officers are currently considering formal enforcement action including reporting to the Procurator Fiscal for prosecution. This is likely to involve significant work as, in addition

to the detail required to take any case to court, the law relating to these matters is new and largely untested and legal advice may be required. Trading Standards Officers always prefer to work with business to resolve consumer problems, but court action is used when required and can be an effective way of sending a message that non-compliance will not be tolerated.

- 4.3 The data from CAS involved several thousand survey responses from across Scotland and named several hundred websites as being problematical regarding delivery. Some of these have now been dealt with through the Highland project. However, the majority remain to be investigated. This is simply too much work for Highland alone and so a consortium of North of Scotland local authority Trading Standards Officers has been put together. Led by Highland, officers from the following councils are also involved: Aberdeen City, Aberdeenshire, Comhairle nan Eilean Siar, Moray, Orkney, Shetland.
- 4.4 Report (TEC-67-12) tasked Trading Standards with exploring detailed options for a “trusted trader” type scheme, concentrating on preferred models as outlined in that report. This work was progressed and it was soon clear to officers that any scheme or set of best practice principles could be much more effective and credible if supported by government and other national organisations. Accordingly, the matter was discussed at the Delivery Charge Summits (see 3.3 above) and a working group has been set up with a view to producing a Code of Conduct for internet delivery. This group has the full support of the Minister for Energy, Enterprise & Tourism, and its membership consists of representatives of the following: Scottish Government, Consumer Futures, CAS, Highland Council Trading Standards (also representing the Society of Chief Officers of Trading Standards in Scotland (SCOTSS)), OFT, British Retail Consortium, FSB. The group first met on 1 July and the intention is to produce a Code of Conduct by the end of the year and that could potentially form the foundation of a future scheme. The success of the proposed Code and of any scheme would require industry buy-in and a suitable delivery mechanism to be developed. This is an issue will undoubtedly be raised within the Working Group and about which Members will be appraised of at a future date.
- 4.5 Highland Trading Standards continues to receive new enquiries about internet delivery on a weekly basis from consumers, businesses, political representatives and others. These enquiries are all handled, through a combination of advice and investigation as required. Linked informal contact with key partners such as Consumer Futures, CAS and OFT remains regular. Formal forums such as the Scottish Parliament CPG also continue.
- 4.6 The topic of delivery charges continues to evolve. For example, the role of carriers, as discussed in part 5 below, is becoming more central to the thinking of those seeking a fair deal for Highland buyers. Awareness raising and dialogue to seek solutions remains central to tackling this and all the other aspects of the internet delivery issue.

5. Role of Carriers

- 5.1 One of the findings of the Highland project was that a number of retailers who were apparently imposing inappropriately-large surcharges to the Highlands

were in fact simply passing on the charges imposed on them through their contracts with carrier companies. In some cases, they were even making a **loss** on the delivery element of the costs. In such cases, as long as the delivery charges are clearly indicated early in the on-line buying process, it is likely that no laws are being broken by the retailer and Trading Standards can take no further action. See **Appendix 2** for further details. This is one of the major themes going forward. The question here is whether anything can be done where delivery charges are based on actual costs and are clearly displayed, but seem excessive to Highland buyers.

5.2 There are a number of possibilities for tackling this problem:

- Increased use of Royal Mail
- More detailed investigation of delivery options by retailers and carriers
- The absorbing of some costs by retailers
- Restructuring of delivery pricing strategies by retailers

5.3 The promotion of increased use of Royal Mail is an idea that appears to be gaining traction. The basic idea is that retailers should offer a Royal Mail delivery option at Universal Service Obligation prices, i.e. those paid by an individual posting a parcel at a post office. This may be an attractive idea which if widely adopted could reduce delivery charges to the Highlands in many instances and use standardised charges that would broadly be considered fair by consumers. However, there are difficulties. Many online retailers – including small businesses – have a contract with a single commercial carrier which includes daily collection from the retailer’s premises. Making arrangements for other delivery mechanisms through Royal Mail will cause genuine extra costs for retailers and many will be reluctant to do so. During the Highland Trading Standards project, officers found that while some online retailers were positive about the idea of a Royal Mail option, many were not. A further complication is the issue of Parcelforce commercial accounts which are not covered by the Universal Service Obligation. Companies that employ Parcelforce to deliver their goods are surcharged for deliveries to remote locations. The minimum surcharge for the Highlands is £6.60, although it can be higher for larger items. These surcharges are regularly passed on by retailers to consumers. The consumers are then surprised to be charged a delivery amount higher than would be quoted to them under the Universal Service Obligation for a small item delivered by the Royal Mail Group (which includes Parcelforce). The Parcelforce website has full details on this at <http://www.parcelforce.com/send-uk/our-uk-prices/understanding-account-pricing>.

5.4 It must be recognised that there **are** extra costs in sending packages longer distances and to more remote places. However, what is not clear is the extent to which retailers and carriers have fully explored the options for reducing costs. Have retailers “shopped around” regarding carrier options? Have carriers investigated fully the sub-contracted options or other logistical arrangements that could bring down their costs? Ultimately these are private commercial decisions for the businesses involved, but the experience from the Trading Standards project is that more investigation of options could reduce delivery costs for all concerned and boost online retailers’ sales in the Highlands.

- 5.5 Several businesses contacted by Trading Standards during the project have chosen to “take a hit” on sales to the Highlands by charging less than the amount charged by their carrier. This will be an option for some retailers who can make such a policy work commercially for them. However, it is very unlikely to be a general panacea.
- 5.6 Another possible option is for retailers to consider the proportions in the geographical spread of their sales. In many cases, sales to the Highlands will be less than 1% of the business’s sales. It may be possible for a seller to charge customers in the other 99% a few pence more than the actual carrier charge to finance a significant discount in the delivery charge to Highland. While such a cross-subsidy may risk the wrath of consumers in the main centres of population of the UK, this is effectively what happens with all flat-rate charging such as with Amazon (free delivery anywhere in UK) or BT/DABS (changed to flat-rate charge of £15 across UK after intervention by Highland Trading Standards), models that consumers across the UK appear to accept. The flat-rate model may be better suited to very large companies such as Amazon and BT/DABS, but many smaller companies may be able to use some measure of cross-subsidy so that surcharges to the Highlands still exist, but are significantly reduced.

6. Implications

- 6.1 The resources required will be contained within the existing Trading Standards budget.
- 6.2 There are no legal implications arising from this report.
- 6.3 There are no equality implications arising from this report.
- 6.4 There are no climate change implications arising from this report.
- 6.5 There are no risk implications arising from this report.

7. Recommendations

- 7.1 Members are invited to note the completion of the Internet Delivery Charges project undertaken by Trading Standards and the outcomes achieved.
- 7.2 Members are invited to agree that Trading Standards staff continue their work in this area through the following methods:
- a) Leading the consortium of North of Scotland local authorities towards a conclusion of the enforcement activity generated from the CAS data;
 - b) Participation in the formation of a national Code of Conduct for internet delivery charges;
 - c) Pursue the consideration by the Working Group of the establishment of a viable Code of Conduct based approval scheme;
 - d) Engage with a range of partners to publicise and promote fair delivery charges to Highland buyers.

Designation: Director of Transport, Environmental & Community Services

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Investigation Outcomes

Table 1

Activity	Number of businesses
Non-compliances significant and full investigation conducted	109
Non-compliances minor, Best Practice information sent ³	72
Internet retailers brought in to compliance by Trading Standards investigations	79 ⁴
Internet retailers who removed surcharges to Highlands after investigations	20 ⁵
Internet retailers found to be compliant after apparent non-compliances were investigated fully.	13
Websites that ceased trading after investigation launched.	4
Cases referred to "Primary Authority" or "Home Authority" ⁶	11
Open cases still under investigation	9

³ This included a detailed letter explaining the issues and a copy of the ten-page guidance document on delivery charges written by Highland Trading Standards

⁴ This underestimates the actual total as it is known from subsequent contacts that some retailers dealt with in other ways (e.g. Best Practice advice or referral to Home/Primary Authority) also made positive changes to their practices

⁵ See 5 above

⁶ These are the Trading Standards services for the area in which a company has its head office. These cases were deemed to be best dealt with under ongoing home or primary authority arrangements where the local Trading Standards meets regularly with the company to discuss legal matters and devise methods of ensuring compliance.

Figure 1 – All Cases

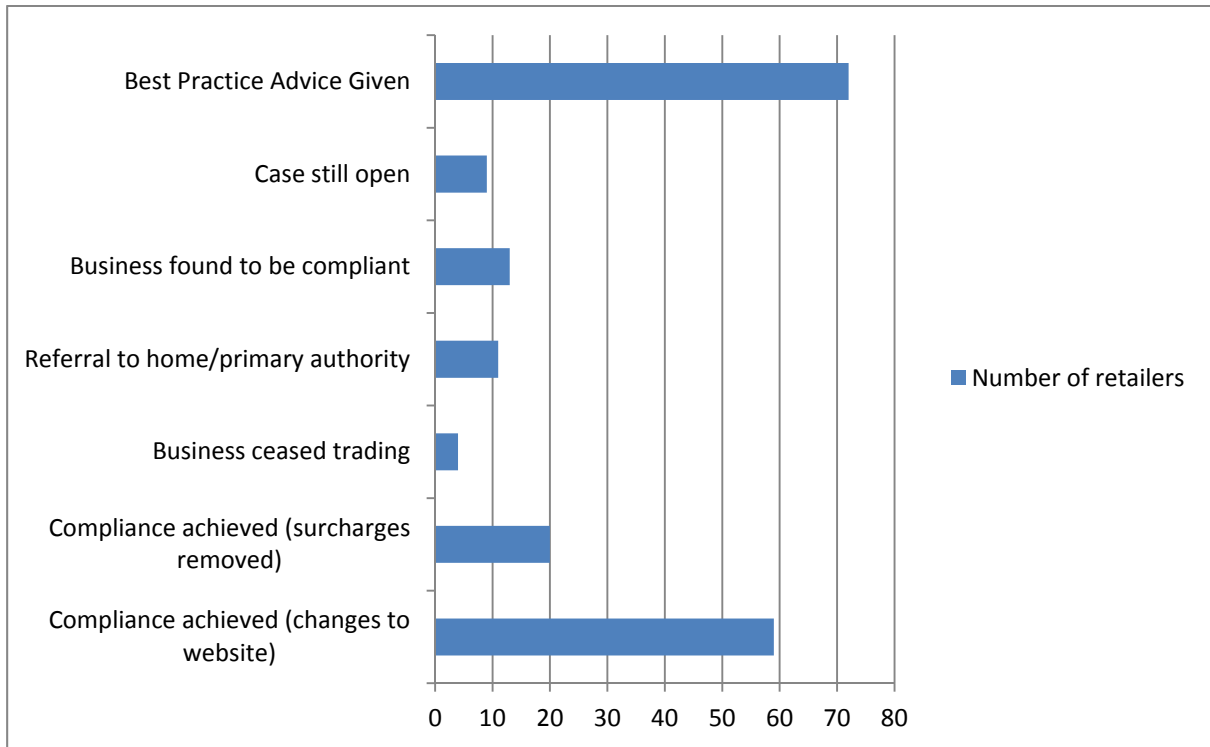
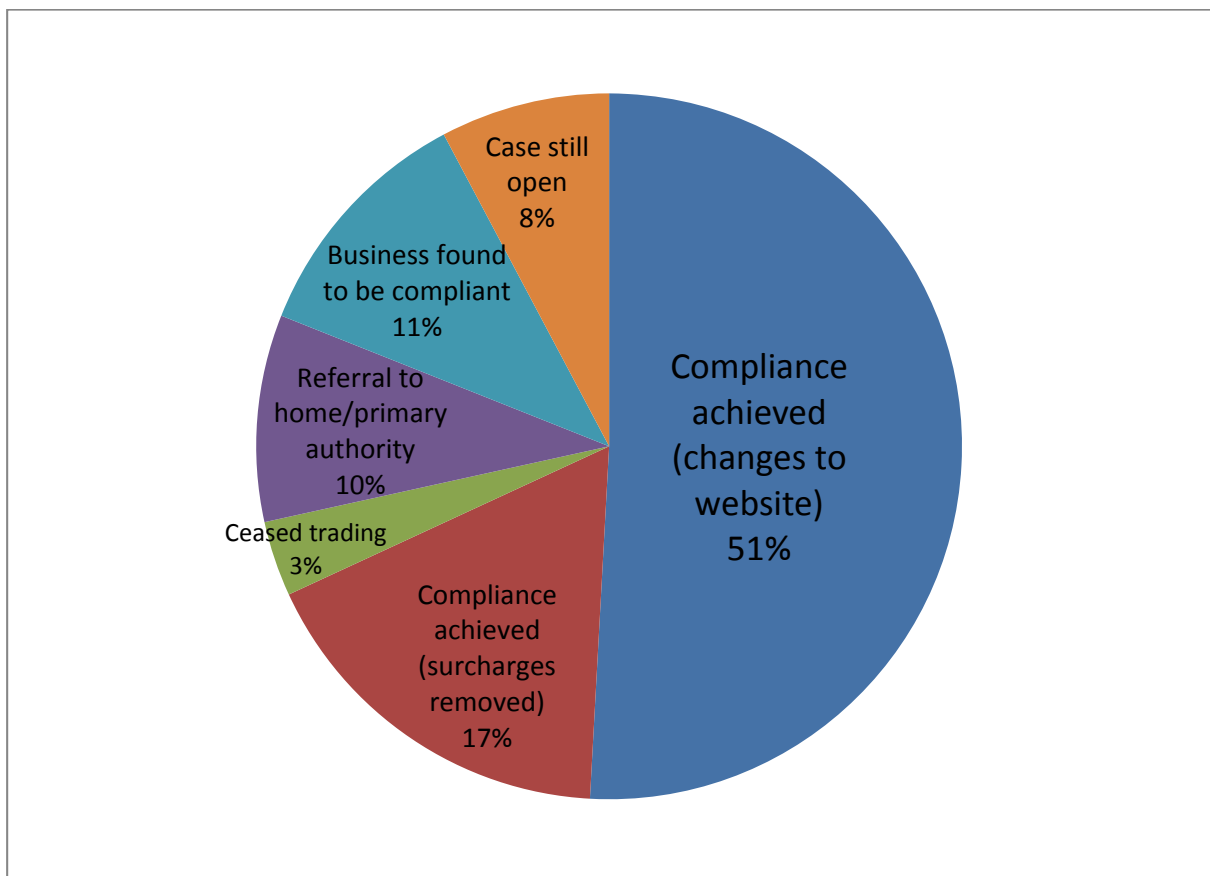


Figure 2 – Outcome of full investigations



Information about Carriers

As discussed in 5.1 above, several of the retailers investigated in the project gave information and opinions about the influence of carriers in the setting of delivery charges. Some of these are included in the table below. Note that all cases are anonymised and “T” is used to signify “trader”, i.e. the internet retailer under investigation and the carriers where identified by the trader are referred to as Carrier A, B etc.

Carrier Used	Surcharge to Highland	Detail
Carrier A	£18.50	T states: “This seems very odd to me when I can send a delivery to the South coast of England (450 miles) for £ 6.50 and yet Inverness at 150 miles costs 3 times as much”. On speaking to T, he is of opinion it is actually carriers and what they are charging that should be looked at and not the businesses trying to make a living.
Carrier B	£6.55	T will make delivery surcharge clearer to Highland consumers at time of purchase by amending website. Uses Carrier B for delivery and do not add any costs on just pass Carrier B charge to their customers. T has looked at absorbing delivery cost but can't afford it in present climate.
Carrier C	£16.23	They are going to introduce a standard del charge of £23.22 to Highlands and £39.42 to the Islands. Standard delivery to rest of UK is £6.99. They calculate the delivery surcharge directly from the rates provided by Carrier C. They are based on destination postcode and weight. T is based in Cornwall. T pointed out they actually subsidise a % of the delivery charge and have never knowingly made a profit from this charge and normally make a loss on postage to the Highlands.
Carrier D	£8.34 (plus more if larger item)	Extract from T's reply: “Before receiving your letter we had been in talks with our courier Carrier D over the problem of Highland postcode surcharge, after all it is in our interest to provide a competitive price on delivery. Therefore we have already been able to review the cost on our highland and island courier rate which has been kept at cost price. We do not charge any additional costs on to the customer to maintain the best price for these selected Highland postcodes.”
Various	As per quote, but gen in excess of £6.60	Text from file indicating T's view: T also wished to stress that he has researched this issue a lot in the past and has been very frustrated with carriers who he blames for making unreasonable charges to Highlands and other places. All charges made by this T are simply passing on actual carrier charges (and often "take a hit" and charge less). He is constantly seeking ways to reduce all his carriage charges and extend free del as much as possible.

Carrier D	£10 (Carrier charges T £12.74)	<p>Extract from T's reply "We use the carrier D For England, Wales and parts of Scotland we pay them £5.71 plus vat = £6.85 For various other parts of Scotland & Ireland we pay £16.32 plus vat = £19.59 this is more than we actually charge to send so are subsidising parts of the UK rather than over charging them ... I can understand why certain parts of the UK feel hard done by regarding carriage costs but this is not necessarily the fault of the retailer and something that should be taken up with the carriers" T actually charges £6.95 plus £10 surcharge = £16.95 for Highlands & Ireland claims courier actually charges them £19.59.</p>
Carrier E and others	£24.31	<p>T mainly uses Carrier E for their tracking services but also has 3 other couriers they occasionally use. Cake stands over 6 tiers are not accepted by Royal Mail as box is too big, Carrier E and all couriers will charge £20 plus to a Highland postcode with a graduation in cost from central belt. Knows it looks daft but genuinely can send abroad cheaper than to Highlands.</p>
Various	£12	<p>T advises that their delivery charges are what carriers charge them and no more, no profit made from it and therefore believe they can satisfy the objective criteria. They certainly want to keep and obtain all customers they can get but as charges are what carrier charges if they charged any less would be operating at a loss. Highlighted that he feels it is really carriers that need to be looked at.</p>
Various	£20-£25 (on gen high charges for heavy items)	<p>What T charge for delivery is what courier charges. Use two for Inverness/ Highlands one goes up to Inverness area and the other quotes on each one and can depend on whether they have a load going in that direction and space on van etc. Their furniture is all assembled not flat pack which means depending on style, size etc and obviously affects delivery costs. In example given del charge does seem excessive and feels they could probably have done a bit more work on sourcing alternative carriers advised item was a small 2 drawer mahogany writing desk They always try to source best del cost and only ever pass on what couriers charge.</p>
Carrier B, Carrier C, Carrier E	10%	<p>Nothing in it apart from the misunderstanding over Carrier B surcharges and possibility that T could list additional surcharges – but saying that if parcel huge maybe a problem. Remember surcharge is a minimum so perhaps if 25kg parcel 10% surcharge maybe £12. Difficult to list and no way could he not understand wasn't going to be a surcharge given obvious prompts.</p>
Carrier B Carrier C, Carrier F	Varies	<p>T uses Carrier B when they can as there is one set tariff for the whole UK but Carrier B will not deliver any product which is classed as hazardous liquids stopped this approx 2 yrs ago. Therefore has to use Carrier C or Carrier F who charge per pick up or drop off Carriers want to deliver in populated areas as they earn more revenue has written to Parcel Force to complain but rec no response</p>
Various		<p>Quote from T: "We wish we could charge ALL of our customers the same amount for carriage, but unfortunately we are held to ransom by parcel carriers companies when it comes to delivering parcels to the Scottish Highlands and offshore Islands."</p>

Various	Various	<p>T reply:</p> <p>We offer our customers ‘free delivery’ of goods when they make a purchase via our website. This offer applies to most mainland areas of the UK and approximately 97% of all orders placed with us do qualify for the free service.</p> <p>The customer’s order, selected from our diverse product range is fulfilled from any one of our twelve manufactures / suppliers. Some of the manufactures / suppliers have their own transport facilities and their mainland delivery charges are based purely on weight / volume / delivery timescale, whilst others also have to consider location.</p> <p>The manufactures / suppliers that use national courier companies pass on any additional charges the courier makes to us and I believe that all national couriers make additional charges to the Highlands.</p> <p>Wherever possible, we absorb the extra delivery costs imposed by the manufactures / suppliers / couriers, but with tight profit margins that we have to operate with, there are occasions that we have to pass on the additional delivery charges to our customers.</p> <p>So, we review every order placed that has a Highlands delivery address and take all the above criteria into consideration.</p> <p>To explain the above on our website would be difficult if not impossible as we do consider every individual Highland order on its merits and only make additional charges to cover our own costs. Please note, that any customer that may have used our website online payment facility, gets a full refund if they cancel the order because they do not want to pay the extra delivery costs.</p>
2 un-named carriers	£14.95	<p>T reply:</p> <p>I thought I’d respond to your letter as I believe you shouldn’t be sending it to us, and perhaps many other business, at all. I think your view it completely one-sided and doesn’t take into account the business and commercial realities.</p> <p>Prices we pass onto our customers are merely a reflection of what we are charged for delivery to the post codes you listed by various courier companies. Despite the fact that you refer to your area as UK Mainland no courier company does and I believe this should be addressed with the courier companies.</p> <p>Many courier companies actually break the entire region of Scotland into a number of delivery areas and charge different prices for each i.e. higher than the rest of the UK. Please see examples below. This is what we are actually charged by couriers (these are large and well-known companies).</p> <p>Courier 1</p> <p>The postcodes you refer to as Highlands of Scotland are referenced by them as ‘Zone 2’, but don’t cover exactly the same area.</p> <p>Courier 1 charges <u>us</u> for a delivery to zone 2</p> <p>£19.60 for a consignment up to 25kg + £0.70 for each kg afterwards + VAT.</p>

Courier 2

Their post code allocation is slightly different than in the case of courier 1, but not by much.

Courier 2 charges us for a delivery to zone 2

£16.40 for a consignment up to 20kg + £0.25 for each kg afterwards + VAT.

Courier 2 charges £34.99 for a 10kg consignment to IV41 - IV51 IV54 - IV56.

Charges to our customers

On an order up to 25kg delivery to IV24 post code area we charge £14.95 including VAT. These charges go lower as the value of the order increases. As you can see, we cover the difference from the profits we make and very often this results in a loss because of the weight / margin / delivery charges combination. That's easy to see when you take an example of 10kg tub of Wallpaper Adhesive which sells for some £14.

As you can see, customers make a contribution to the delivery cost and never pay the full price we are charged. Our delivery charges are posted throughout the website in as many places as possible with cross access from a number of pages.

Royal Mail area coverage and charges are perhaps related to their postal coverage and don't have any bearing on how courier companies charge – we don't post letters and light items. We don't use Royal Mail because of the exorbitant prices they charge for their service.

There's perhaps a misconception in the market as far as delivery areas are concerned and there should be a concerted effort made to:

- a) Educate people about the difference in sending a letter or light package using the Post Office to a particular postcode and sending a 30 kg consignment using a courier
- b) Lobby courier companies to include certain post codes in the UK Mainland area

I believe that you should approach courier companies and ask them about the charges and the geographical allocation of certain post codes. I don't believe we should be the recipients of your letters; however, if you'd like our support in your discussions let me know.