



**INFOCOMM DEVELOPMENT AUTHORITY
OF SINGAPORE**

**PUBLIC CONSULTATION ON
DRAFT POSTAL SERVICES REGULATIONS**

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**PUBLIC CONSULTATION
ON
THE DRAFT POSTAL SERVICES REGULATIONS**

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Introduction

- 1 On 5 February 2007, Dr Lee Boon Yang, the Minister for Information, Communications and the Arts, announced the Government's decision to end SingPost's monopoly in the Basic Mail Services¹ market on 31 March 2007. On 6 February 2007, the Infocomm Development Authority of Singapore ("IDA") issued a document on IDA's Decision and Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore. In developing the liberalisation and regulatory framework, the IDA took into consideration comments from the industry and members of the public in response to IDA's consultation paper on "Further Liberalisation of the Postal Services Sector in Singapore", issued on 18 August 2006.
- 2 The Government's decision to liberalise the Basic Mail Services market will require amendments to the Postal Services Act (Cap. 237A) ("PSA") and the accompanying Postal Services Regulations (Cap. 237A, Rg 1) ("current Regulations"). The Ministry for Information, Communication and the Arts ("MICA") had released a public consultation paper on the draft Postal Services (Amendment) Bill ("draft Bill") on 23 March 2007. The policy intents for the key amendments to PSA were explained in MICA's consultation paper.
- 3 With the close of MICA's public consultation on the draft Bill on the 9 April 2007, it is timely to seek the public and the industry's views on the accompanying draft Postal Services Regulations ("draft Regulations"). The current set of Regulations contains legislative details that would have impact on the operations of the postal licensees and the users of the public postal systems. IDA would like to seek views from the public on whether the draft Regulations would meet the policy intents as set out in this paper.
- 4 This Consultation Paper contains the following key sections:
 - Summary of Changes Under Postal Services (Amendment) Bill
 - Postal Services Regulations

¹ Under the existing Postal Services Act, Singapore Post Limited was granted the exclusive privilege via the Public Postal Licence to convey ordinary letters and postcard within, into and out of Singapore.

Part 1 — Summary of Key Changes in Postal Services (Amendment) Bill

- 5 The draft Bill revises and updates the current PSA to reflect a liberalised regime, and the changes were explained in the public consultation exercise carried out by MICA. Some of the proposed changes would have an impact on the Postal Services Regulations. Descriptions of some of these key changes are summarised in this Part, to facilitate a better understanding of the draft Regulations.

Definition of 'Letter'

- 6 There is a proposal to change the definition of "letter", which currently refers to *"any communication in the nature of current and personal correspondence"*, to *"any communication in written form on any kind of physical medium to be conveyed and delivered (otherwise than electronically) to a particular addressee or address indicated by the sender on the letter itself or on its wrapping, and includes a postal article containing such communication, but excludes any book, catalogue, newspaper or periodical"*.
- 7 The existing definition is not practical or sustainable in a multi-operator environment because it is increasingly difficult to tell what types of mail constitutes a *"communication in the nature of current and personal correspondence"*. The current approach does not offer clarity to service providers on the types of mail delivery that require licensing. It will also be confusing for end-users who need to decide whether a licensed service provider should be used for conveying the various mail types. Under the proposed definition, book, catalogue, newspaper and periodical are explicitly excluded².

Definition of 'Direct Mail'

- 8 There is a concern that the new definition of "letter" could unduly affect entities who are currently delivering addressed direct mails, that are not considered current or personal correspondences, and which currently does not require a licence. It is not the intent of the liberalisation policy to require these entities to now apply for a licence. For the avoidance of doubt, the Bill excludes the conveyance of "Direct Mail" from licensable postal activities. However, since the understanding of the term "Direct Mail" could vary from individual to individual, unlike the

² To provide greater clarity to the public, IDA will issue guidelines defining the four excluded items.

definitions of the four other excluded categories mentioned in paragraph 7, the Bill explicitly defines “Direct Mail” as “a letter consisting solely of advertising, marketing or publicity material and comprising an identical message (except for the addressee’s name, address and identifying number and other modifications which do not alter the nature of the message) which is sent to more than one addressee, to be conveyed and delivered at the address indicated by the sender on the letter itself or on its wrapping”.

Examination of Postal Articles

- 9 Currently, the Singapore Customs has the right to examine postal articles received by the existing Public Postal Licensee (“PPL”) from outside Singapore. In a liberalised environment, postal licensees other than the PPLs could also provide international postal services, and should similarly be subject to the same requirements prescribed under section 13 of the draft Bill.

Power to Deal with Postal Articles Sent in Contravention of this Act

- 10 There are currently provisions in both the PSA and the Regulations that stipulate the powers of the Postal Authority when dealing with articles sent in contravention of the PSA. In the current Regulations, regulation 5 (2) provides that the Postal Authority may order a PPL to detain any postal article that is suspected to be a prohibited article. Regulation 5 (3) then sets out what the PPL may do on receiving the order from the Postal Authority. To provide better clarity, regulation 5 (2) and (3) of the current Regulations have been included in section 23 of the draft Bill, and modified to govern all postal licensees.

Fraudulent Retention of Postal Article

- 11 Currently, section 36 of the PSA provides the PPL with the power to authorise other persons to retain and open the postal articles. This provision is no longer meaningful in a liberalised environment. While a PPL has the Universal Service Obligation (“USO”) to collect and deliver mail from any person in Singapore, and it has been given certain privileges to facilitate their fulfillment of the USO, the latter should not include the power to authorise other persons to retain and open postal articles. Hence, the Bill contains amendments such that this power will reside with the Postal Authority instead.

Part 2 — Postal Services Regulations

List of Prohibited Postal Articles

- 12 The current Regulations provides a list of prohibited postal items, such as fire arms, explosives, controlled drugs and poisons, where the sending, conveying and delivering of such items constitute an offence. Possession or handling of many of these items, without approval from the respective Government authorities, is an existing offence in other legislations. This list, however, should not be construed as a comprehensive list of items prohibited or restricted by legislations in Singapore. Furthermore, the treatment of some items in the current Regulations may no longer be of severe concern, for example, the sending via post of skimmed milk or plant with soil.
- 13 Therefore, it is proposed that the list of prohibited postal items be updated. The draft Regulations excluded two categories of items, with modification for three other categories of items. A majority of the existing prohibited items has been retained on the list, which includes explosives or flammable substances, drugs, poisons, dangerous articles when transported by air, and fire arms/weapons. The items proposed for removal or modification are:

(a) Machine-skimmed or hand-skimmed milk

Regulation 103 of the Food Regulations (Cap. 283, Rg 1) prescribes the labelling and matters relating to the composition of skimmed milk, but does not prohibit the possession, sending or delivery of the item. Given the absence of any outright prohibition on skimmed milk in Singapore, it is proposed that this item be removed from the draft Regulations' prohibited list.

(b) Plants with soil or other growing or potting medium from any country except West Malaysia

The Control of Plants (Plant Importation) Rules (Cap. 57A, Rule 4) previously prohibited the import of all plants with soil from all countries except West Malaysia. This regulation has been revoked and in its place is a provision that provides that no person shall import regulated plants without a permit. Given that there is no longer an outright ban on import of plants with soil from other countries, it is proposed that this item be removed from the draft Regulations' prohibited list. Should such plants be delivered through the postal system of a licensee, it

would be for the recipient, like any other importer, to obtain the necessary permits from the Agri-Food and Veterinary Authority.

(c) Bubble gum and dental chewing gum

Regulation 2 of the Sale of Food (Prohibition of Chewing Gum) Regulations (Cap. 283, Rg 2), currently prohibits only the sale or advertisement for sale of non-licensed chewing gum. The prohibitions against dental chewing gum have been relaxed. Hence, it is proposed that the outright prohibition against sending of bubble or chewing gum be amended to prohibit the sending of only those chewing gum prohibited by the above said parent legislation.

(d) Controlled items under the Misuse of Drugs Act (Cap. 185) ("MDA")

The current Regulations list controlled drugs under the MDA as one of the categories of prohibited postal articles. However, the group of prohibited items under MDA extends beyond just the controlled drugs. MDA also lists the equipment, materials or substances useful for manufacturing controlled drugs (details in the Third Schedule to the MDA) as prohibited items. Thus, it is proposed to align this sub-section with the intent of MDA by including in the draft Regulations the items listed in the Third Schedule to the MDA.

(e) Explosives and Firearms

Regulation 3 (1) (a) of the current Regulations prohibits the post, convey or deliver by post articles containing any explosive or flammable substance (paragraph (i)), and any arms, firearms ...etc (paragraph (vi)). These provisions ensure that dangerous items are not transported via the postal systems.

However, these two listed categories of items are not sufficiently robust or complete to ensure that similarly dangerous items within the same categories are included. Examples of dangerous items not within the scope of these two sub-sections include stun / replica guns, knuckle dusters, tear-gas and nunchaku. It is proposed to replace these two sub-sections with four new sub-sections that link to and encompass the prohibited items under the scope of the four related Acts. The four Acts are as follows:

- (i) Arms and Explosives Act (Cap. 14);
- (ii) Corrosive and Explosive Substances and Offensive Weapons Act (Cap. 65);

- (iii) Regulation of Imports and Exports Regulations (Cap. 272A, Rg 1); and
 - (iv) Private Investigation and Security Agencies Act (Cap. 249).
- 14 A new regulation 3(4) has been proposed for inclusion in the draft Regulations. In the current landscape where new security threats could arise in forms not envisioned at the point of a legislative review, it is not uncommon to expect that the national security and public safety agencies may prescribe security and public safety standards at a later stage. Therefore, it is the intent of the proposed regulation 3(4) to ensure that postal licensees heed such standards for the handling and conveyance of postal articles that are prescribed to ensure national security and public safety.

Licensees Affected by the Prohibited List

- 15 The current Regulations apply only to mail senders using the postal system of the PPL, i.e., SingPost's postal system today, and to the PPL itself (including its employees, such as the postmen). With the liberalisation of the postal market, new postal licensees licensed to convey letters weighing 500 grams and below would likely, on occasion, encounter prohibited or restricted articles in their course of service provision. It is therefore recommended that this part applies to postal articles sent through all postal licensees.
- 16 However, since this prohibition applies to all postal articles handled by the licensee, not just letters weighing 500 grams and below, and applies to individual employees, it is proposed that a provision be added to allow the licensees and their employees or agents, when charged with such an offence, a defence such that if they could prove that having taken reasonable measures, they are not aware that they were conveying a prohibited item.
- 17 Today, the Regulations does not apply to Express Letter Services Operators ("ELSOs"). IDA proposes not to impose the prohibited items clause on the ELSOs. This maintenance of status quo takes into consideration that the operating conditions for ELSOs are not expected to change dramatically upon liberalisation. The ELSOs typically directly receive the postal articles to be delivered from their clients face-to-face, with signatures of the sender and recipient captured in document form. Due to the traceability of senders and recipients, there is lesser need to apply the prohibited items clause on the ELSOs,

beyond the primary legislations that prohibit the illegal possession of these items today.

Powers of the PPL in Detaining Prohibited Articles

- 18 The current Regulations prescribe the circumstances under which the PPL could detain prohibited postal articles. Section 23 of the draft Bill contains similar provisions. It is proposed that all such provisions governing the treatment of prohibited articles are consolidated in the draft Bill to provide better clarity to the licensees, as well as to provide enforcement clarity for the Postal Authority in cases of non-compliance. Hence, these provisions in regulation 5 of the Regulations will be deleted.

Prescriptions and Treatment of Printed Papers

- 19 While the delivery of printed papers is not a licensable activity currently, prescriptions and treatment of printed papers are needed in the Regulations to differentiate them from letters. With the change in the definition of “letters” and in the licensing scope, there is no longer a need for such differentiation. Thus this part of the current Regulations will be deleted.

Issue of a Postal Services Guide (“PSG”)

- 20 The current Regulations requires a PPL to issue a PSG covering details of services offered, charges and other related matters. A similar requirement exists in the PPL’s licence, which requires the PPL to publish details about the services it provides, including descriptions and pricing of services, terms and conditions. The PSG requirement will be removed from the Regulations and be consolidated under the PPL’s licence instead.

Scope of Regulations on Express Letter Licensees

- 21 As IDA has proposed that ELSOs be exempted from certain clauses under the draft Regulations, when the draft Regulations comes into effect, an exemption for this group of licensees from the relevant provisions of the draft Regulations will be issued and published in the *Gazette*.

Invitation to Comment

IDA would like to seek the views and comments from the industry and members of the public on whether the draft Regulations suitably meet the policy intents as set out in this Consultation. This will allow IDA to have a better understanding of the issues and the different needs and requirements of the different interested parties.

All views and comments should be submitted in writing and in both hard and soft copies (Microsoft Word Format), and should reach IDA by **12 noon, 30 May 2007**. Respondents are required to include their personal or company particulars, correspondence address, contact number and email address in their submissions. IDA will make all or parts of any submissions made in response to this Consultation Paper public and disclose the identity of the source. Any part of the submission which is considered commercially sensitive must be clearly marked and placed as an annex to the comments submitted. IDA will take this into account in its review. All comments should be addressed to:

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