



***INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF
SINGAPORE***

**IDA'S EXPLANATORY MEMORANDUM ON
THE POSTAL SERVICES REGULATIONS**

ISSUED ON 2 MAY 2008

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**IDA'S DECISION AND EXPLANATORY MEMORANDUM ON
THE POSTAL SERVICES REGULATIONS**

2 MAY 2008

PART 1

EXECUTIVE SUMMARY

- 1 The amendments to the Postal Services Act (Cap. 237A) ("**the Act**") herald a new phase of liberalisation in Singapore's postal market. The other legislative changes necessary to regulate the liberalised market include the proposed amendments to the Postal Services Regulations ("**Regulations**"). IDA conducted a public consultation on the proposed amendments to the Regulations in May 2007. At the close of the public consultation on 30th May 2007, IDA had received responses from two parties ("**Respondents**"), namely Asian Mailing Association ("**AMA**") and Singapore Post Limited ("**SingPost**"). IDA thanks the Respondents for their comments.
- 2 The Respondents' comments can generally be grouped into five main areas, and IDA has given careful consideration to their views and suggestions. This Explanatory Memorandum sets out IDA's views and decisions in relation to the amendments of the Regulations.
- 3 One area of concern relates to the unauthorised use of letterbox masterdoor keys for access to letterboxes. IDA has carefully considered the matter but has decided against adopting the suggestion to make unauthorised use of the keys as an offence under the Regulations. Instead, the illegal possession and unauthorised use of such keys would more appropriately be dealt with under the Penal Code. IDA would like to clarify that while the possession and use of "Pigeonhole Masterdoor Keys" by Postal Service Operators ("**PSOs**") is prohibited unless authorised by IDA, IDA does not prohibit any postal licensees from directly obtaining the "Aperture Masterdoor Keys" from building developers/owners to facilitate delivery of mail.
- 4 In response to the comments from a Respondent, IDA has refined the definition of terms used for UPU-related matters for greater clarity. IDA agrees that Singapore's position on the Extra Territorial Offices of Exchange ("**ETOE**s") would need to be updated in view of the fully liberalised postal services market. We will update the UPU of our policy position at the next appropriate time.

- 5 IDA notes the suggestion for certain provisions to be included in the Regulations to ensure that Direct Mail is easily distinguishable from other letters in day-to-day delivery. IDA however does not believe that guidelines on modification and annotation to Direct Mail, packaging and labelling of Direct Mail, and procedures to inspect or reject Direct Mail should be prescribed in the Regulations. These are operational matters that would be better addressed by the Public Postal Licensee (“PPL”) and the industry, rather than prescribed in the Regulations, which may limit the flexibility of industry players in agreeing to other arrangements to meet their specific needs.
- 6 One of the Respondents suggested amending the scope of offence and related defence for posting, conveying and delivering by post of prohibited articles. IDA would like to re-iterate that the list of prohibited articles in the Regulations contains dangerous items that should not enter the public postal systems. IDA has already provided postal licensees with a defence against a charge under Regulation 3(2). IDA considers the defence provided to be reasonable and sufficient, and sees no compelling reason to further relax the burden of proof on the postal licensee.
- 7 IDA notes the concern of a Respondent that with potentially more players offering international mail services in Singapore, there is a need for greater clarity on how undelivered international mail originating from other postal licensees in Singapore, but returned to the postal administration in Singapore by the foreign postal administrations, should be handled. However, since this issue concerns domestic handling of mail between postal licensees in Singapore, IDA believes that this matter would more appropriately be addressed in the Postal Operations Code, which would contain the principles, standards and procedures for inter-operator dealings between different postal licensees.
- 8 In addition to the above, IDA has made further refinements to the Regulations, particularly on clauses relating to Postage Evasion and Class Licence Exemption. IDA has also expanded the categories of prohibited articles under Regulation 3.

PART 2

INTRODUCTION: PUBLIC CONSULTATION

9 As the Postal Authority, IDA undertook a review of the Regulations, and issued the draft Regulations for public consultation in May 2007. For the purpose of the consultation, IDA also explained the various proposed amendments to the Regulations.

10 IDA has grouped the comments received from the Respondents into the following five areas:

- Access to Letterbox Masterdoor Keys
- Universal Postal Union related matters
- Direct Mail
- Burden of Proof for Defence under Regulation 3
- Handling of Undelivered International Mail

This Explanatory Memorandum sets out IDA's views and decisions on these areas in relation to the amendment of the Regulations.

PART 3

ACCESS TO LETTERBOX MASTERDOOR KEYS

- 11 The issues of letterbox design and access to letterbox masterdoor keys were already extensively considered and addressed in IDA's consultation and decision papers on further liberalisation of the postal services sector in Singapore¹.
- 12 To recap, there are two main types of letterbox designs: the older 2-way design that has only one masterdoor which, when unlocked, reveals all the pigeonholes, and a newer 3-way version, which includes another masterdoor that reveals only the open apertures. For ease of reference, IDA will refer to masterdoor keys that fully reveal the pigeonholes as **"Pigeonhole Masterdoor Key"** and masterdoor keys that reveal only the apertures as **"Aperture Masterdoor Key"**.
- 13 In Part 5 of an earlier Explanatory Memorandum released by IDA on 5th February 2007, IDA had stated that *"SingPost, as the designated PPL, will be given the letterbox masterdoor keys to facilitate its performance of the USO. Other than designated PPLs, other licensees will not be given these masterdoor keys but IDA will facilitate their access to SingPost's delivery network..."*. For the avoidance of doubt, IDA would like to clarify that the reference to "keys" in the 5th February 2007 Explanatory Memorandum refers to Pigeonhole Masterdoor Keys.
- 14 One Respondent suggested making the unauthorised use of the masterdoor keys an offence in the Regulations, and only the designated PPL or anyone authorised by the Minister could use the masterdoor keys. "Use" would include the opening of the masterdoor with the keys and the giving, selling, bartering, duplicating, or destroying of such keys.
- 15 IDA has considered the suggestion with the understanding that "letterbox masterdoor keys" here refers to the Pigeonhole Masterdoor Keys. IDA understands that, typically, all the Pigeonhole Masterdoor Keys are kept by the relevant authorised parties, which would include the designated PPL, which is currently SingPost, or in some cases, the building developers/owners/managing agents (e.g. Town Councils). IDA had recommended that all building developers/owners/managing agents hand over the Pigeonhole Masterdoor Keys to SingPost only, in order to ensure

¹ See IDA's Public Consultation on Further Liberalisation of the Postal Services Sector in Singapore (pg 40-43); and IDA's Decision and Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore (Pg 16-17)

that only one postal licensee would be held accountable for the security and integrity of the mail². If only SingPost possesses these Pigeonhole Masterdoor Keys, then it would be clear that other third parties possessing such keys would have obtained it improperly. This could then be treated as a case of theft, an offence under the Penal Code, that could be referred to the Police for investigation.

- 16 Since there are already existing enforcement mechanisms against illegal use of Pigeonhole Masterdoor Keys, IDA believes that it is not necessary to make it an offence in the Regulations. IDA would also like to remind postal licensees that only designated PPL can have access to the Pigeonhole Masterdoor Keys.
- 17 IDA would also like to take this opportunity to explain that IDA does not prohibit any postal licensees from obtaining Aperture Masterdoor Keys from building developers/owners/managing agents. For the purpose of mail delivery, having Aperture Masterdoor Keys would be equivalent to having access to the letterboxes with open apertures. There is minimal threat to mail security or integrity with multiple postal licensees holding Aperture Masterdoor Keys for mail delivery.
- 18 However, IDA would not intervene in or facilitate discussions between building developers/owners/managing agents and the interested postal licensees for access to Aperture Masterdoor Keys. IDA would leave the decision of providing postal licensees with these Aperture Masterdoor Keys to the building developers/owners/managing agents.
- 19 Postal licensees without access to Aperture Masterdoor Keys would have the option of delivering their mail through SingPost's last mile delivery network. The framework for access to SingPost's delivery network will be provided under the Postal Competition Code.

PART 4

UNIVERSAL POSTAL UNION RELATED MATTERS

- 20 The Universal Postal Union ("UPU") is a specialised agency of the United Nations that acts as a primary forum for cooperation between postal sector players. At this forum, recommendations for international mail exchanges and associated matters are discussed. Singapore is a member of the UPU, and for the purpose of fulfilling Singapore's role and

² See Letterbox Guidelines, para 3.7, <http://www.ida.gov.sg/Policies%20and%20Regulation/20060612154757.aspx>

accession to the UPU Convention, the Regulations include clauses dealing with UPU-related matters.

- 21 IDA had proposed including a new definition for “**postal administration**” in the Regulations. Postal administration will be defined as “*a postal operator that has been designated to be the postal administration of this country to be responsible for fulfilling the obligations under the UPU Convention*”. One of the Respondents suggested amending the definition to include “rights” instead of just “obligations”. The respondent explained that certain functions in the UPU Convention might be treated as a right rather than obligation, and the proposed definition should be amended to reflect this.
- 22 IDA has considered the suggestion. IDA's view is that the definition of "postal administration" does not exclude or limit any rights which a postal operator may have. However, it is not the purpose of the definition to define such rights but to highlight that for the purposes of the Regulations, the postal administration is responsible for fulfilling obligations under the UPU Convention. Nonetheless, IDA accepts the general suggestion for more clarity in the definitions and has included definitions of the various terms used for UPU-related matters.
- 23 One Respondent suggested that in view of the postal services market liberalisation, Singapore may need to review its policy position on Extra Territorial Offices of Exchange (“**ETOE**”)³ and use of UPU documents for customs clearance. The Respondent recommended that the revised policy position should provide a “level playing field”, and pointed out that the postal administration of Singapore could “benefit from the expedited customs clearance process at destination” through the use of UPU documents while other licensees could not. IDA understands that “destination” here refers to the overseas destinations of international mail.
- 24 IDA acknowledges that Singapore’s policy position on ETOEs would need to be updated since Singapore’s postal service market is now fully liberalised. An updated policy position would be submitted to UPU at the next appropriate time. IDA would like to explain that there is no prohibition against the setting up of ETOEs in Singapore, before or after the liberalisation of the postal market. However, the ETOEs must be postal licensees in order to deliver letters.

³ An ETOE is an office or facility operated by or in connection with a postal operator outside its national territory, on the territory of another country, and that these offices are established by postal operators for commercial purposes to draw business in markets outside their own national territory.

- 25 With regard to comments on the use of UPU documents (also known as CN documents), this issue was already discussed and decided during the public consultation on the further liberalisation of the postal services market. Please refer to our position in IDA's Decision and Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore⁴.

PART 5

DIRECT MAIL

- 26 Direct Mail ("**DM**") is defined in the Act 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*". The Act specifically carved out DM from the postal licensing regime. One of the Respondents commented that it is important for the PPL to be able to clearly distinguish DM from other letters for the following two reasons:
- a. Undelivered letters are treated differently from undelivered DM; and
 - b. Different standards of service, and consequentially different postal rates, would be applicable for the different groups of letters and DM.
- 27 The Respondent suggested amendments to retain certain clauses on printed matter so as to enable the PPL to distinguish DM easily from other letters in day-to-day delivery. In particular, the Respondent suggested that the Regulations should include guidelines on modification and annotation to DM, packaging and labelling of DM, and procedures to inspect and reject DM that does not conform to the permitted modifications and annotations.
- 28 IDA understands the need for the PPL to easily distinguish DM from other letters. However, where guidelines on what constitutes "printed matters" were previously required in the Regulations due to the old definition of "letter", there is now no compelling reason to include such guidelines on DM specifications. This is because DM and letters are now clearly defined in the amended Act.

⁴ See pages 42-43.

- 29 Instead, IDA believes that any guidelines on modification and annotation to DM, packaging and labelling of DM, and procedures to inspect DM are operational matters to be addressed by the PPL in its commercial negotiations with its customers, rather than prescribed in Regulations. Having these details negotiated between the PPL and its customers has the added advantage of providing flexibility where certain customers may want to customise their DM, for example, to exclude certain annotations on the envelopes, to suit their own needs.

PART 6

BURDEN OF PROOF FOR DEFENCE UNDER REGULATION 3

- 30 Clause 3 of the draft Regulations makes it an offence if a person post, convey or deliver by post any of the prohibited articles. One Respondent commented that this is a strict liability imposed on the postal licensee, although the Respondent noted that the inclusion of the proposed Regulations sub-clause 3(3) provides a defence against the charge. In order to invoke the defence, the postal licensee has to prove that it has taken reasonable measures, was not aware and could not reasonably be expected to have been made aware that prohibited articles have entered the postal system. The burden of proof to employ such a defence is on the postal licensee.
- 31 The Respondent suggested amending the proposed Regulations sub-clauses 3(2) and 3(3) to remove the burden of proof on the postal licensee. The Respondent opined that the burden should instead be on the prosecution to establish knowledge or awareness on the part of the offender. The Respondent further suggested that IDA set out more details on what would constitute “reasonable measures”.
- 32 IDA would like to clarify that the purpose of Regulation 3 is to prevent the transportation of prohibited articles through the postal system. Many of the prohibited articles are dangerous items, for example firearms, explosives, and controlled drugs. The postal licensee, as the first line of defence, has the responsibility to ensure that such items do not enter the public postal system. To shift the burden of proof away from the postal licensee would undermine the effectiveness of this safeguard.
- 33 IDA has already given due consideration to the fact that postal licensees could technically breach the Regulations if these prohibited articles somehow enter the postal system without their knowledge, despite their best efforts to prevent them. Therefore, IDA would consider it a defence if the licensee could prove that they have taken reasonable measures, were

not aware and could not reasonably be expected to have been made aware that prohibited articles have entered the postal system. IDA considers the defence provided to be reasonable and sufficient, and sees no compelling reason to further relax the burden of proof on the postal licensee.

- 34 Regarding the query on what would constitute “reasonable measures”, IDA would leave the postal licensees to work out the appropriate details and arrangements with the relevant security agencies. These measures may be different when new security threats emerge. It is therefore impractical to prescribe the measures in the Regulations in any exhaustive manner. IDA has also expanded the categories of prohibited items⁵ in a more comprehensive manner.

PART 7

HANDLING OF UNDELIVERED INTERNATIONAL MAIL

- 35 Part VI of the Regulations sets down the procedure for handling undelivered international mail between different postal administrations. Under the Regulations, foreign postal administration could return undelivered postal articles to the postal administration in Singapore, which may include postal articles that were not sent via the latter’s postal system. A Respondent sought clarification on the handling of undelivered international mail originating from another postal licensee in Singapore. Under the Regulations, the postal administration in Singapore would have to return such undelivered mail to the addressee or the sender, depending on the circumstances. The Respondent suggested that it should have the option to return the undelivered international mail to the originating postal licensee in Singapore.
- 36 IDA agrees with the suggestion that the undelivered international mail could be returned to the originating postal licensee. However, since this issue concerns domestic handling of mail between postal licensees in Singapore, IDA believes that this matter would be more appropriately addressed under the proposed Postal Operations Code which deals with principles and procedures concerning inter-operator dealings between different postal licensees⁶. Nonetheless, IDA has amended Part V to

⁵ The additions include items under Biological Agents and Toxins Act, Chemical Weapons (Prohibition) Act, Environmental Pollution Control Act, and flammable material within the meaning of Part IV of the Fire Safety Act.

⁶ IDA is in the midst of finalising the Postal Operations Code after considering the feedback from the public consultation exercise.

make it clear that Part V only applies to articles transmissible by post in accordance with the UPU Acts.

PART 8

POSTAGE EVASION & EXEMPTION FOR CLASS LICENCE

- 37 IDA has also amended the Regulations on “Posting of correspondence in another country for delivery by the postal administration in Singapore” to provide greater clarity on the payment of evaded postage, and disposal of the postal article in the event that both the sender and the foreign postal administration decided not to pay such postage.
- 38 IDA has also included a clause on “Application for postal licence”, and exempted class licensees from these Regulations since class licensees are already regulated under the Postal Services (Class Licence) Regulations 2005.
- 39 The amended Regulations can be found on IDA’s website at www.ida.gov.sg under the “Policies and Regulation” section.