



REPUBLIC OF SINGAPORE

INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

**PUBLIC CONSULTATION ON
THE PROPOSED POSTAL COMPETITION CODE 2007,
POSTAL SERVICES OPERATIONS CODE 2007 AND
POSTAL SERVICES (CONTROL OF DESIGNATED
POSTAL LICENSEES) REGULATIONS 2007**

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TABLE OF CONTENTS

- 1 INTRODUCTION**
- 2 POSTAL COMPETITION CODE 2007**
 - 2.1 Overview
 - 2.2 Summary of Key provisions
- 3 POSTAL SERVICES OPERATIONS CODE 2007**
 - 3.1 Overview
 - 3.2 Summary of Key Provisions
- 4 POSTAL SERVICES (CONTROL OF DESIGNATED POSTAL LICENSEES) REGULATIONS 2007**
 - 4.1 Summary of Key Provisions
- 5 REQUEST FOR COMMENTS**

PUBLIC CONSULTATION ON THE PROPOSED POSTAL COMPETITION CODE 2007, POSTAL SERVICES OPERATIONS CODE 2007 AND POSTAL SERVICES (CONTROL OF DESIGNATED POSTAL LICENSEES) REGULATIONS 2007

1 INTRODUCTION

- 1.1 On 5 February 2007, Dr Lee Boon Yang, the Minister for Information, Communications and the Arts, announced the Government's decision to end Singapore Post Ltd's ("**SingPost**") monopoly in the Basic Letter Services market on 31 March 2007 and to liberalise the market on 1 April 2007. On 24 August 2007, the Postal Services Act (Cap. 237A) (the "**Act**") was amended by the Postal Services (Amendment) Act 2007 (Act 34 of 2007) to provide the legislative framework for liberalising the Basic Letter Services market in Singapore.
- 1.2 The liberalisation of the Basic Letter Services market creates the potential for the development of a more competitive market. IDA's assessment showed that business users – who are the largest group of users of postal services and who account for more than 90% of the total domestic mail sent (Business-to-Business and Business-to-Consumer mail) – will stand to benefit from a competitive environment with price reductions (especially for bulk mail), better service quality, and greater choices of services. International mail users are likely to similarly benefit from competition. Competition will also promote further innovations in the local postal industry and will increase the incumbent's incentive to improve its service quality and efficiencies. Liberalisation of the Basic Letter Services market will also see spill-over benefits into the growing printed paper segment, and other segments of the economy such as enhancing Singapore's position as a regional printing hub.
- 1.3 In order for this potential to be realised, however, a suitable regulatory regime must be put into place to promote and preserve competition. This regime must prevent abuses by operators not yet subject to the constraints of market forces, set forth rules designed to facilitate entry by additional operators and adopt an enforcement regime that will police actions that threaten competition once it has been established. In addition, potential issues which are likely to arise in a multi-operator environment, such as consumer confusion and inter-operator mail handling errors, should also be pre-empted and addressed, so as to preserve the public's confidence in the public postal system.
- 1.4 In the Explanatory Memorandum on the Liberalisation of the Postal Services Sector issued by the IDA on 5 February 2007, IDA had indicated that IDA would be establishing a competition framework to facilitate and preserve fair and sustainable competition in the Basic Letter Services markets. A code of

practice would also be introduced to address inter-operator issues, such as mis-posted mail, to ensure that such issues are dealt with fairly and promptly in a multi-operator environment¹.

- 1.5 IDA has drafted the **proposed Postal Competition Code 2007** and the **proposed Postal Services Operations Code 2007**, pursuant to sections 24 and 26C of the Act. IDA has also drafted the Postal Services (Control of Designated Postal Licensees) Regulations 2007 (the “**Draft Regulations**”), which sets out the legal framework for IDA to regulate parties who acquire control over designated Licensees, pursuant to section 26H(1) of the Act.
- 1.6 This Cover Note summarises the key provisions contained in the two proposed Codes and the Draft Regulations, and where necessary, seeks to explain IDA’s policy rationale behind them. Section 2 describes the proposed Postal Competition Code 2007. Section 3 describes the proposed Postal Services Operations Code 2007. Section 4 describes the Draft Regulations. Unless otherwise defined, all capitalised terms used in this Cover Note shall have the meanings assigned to these terms in the respective proposed Codes and the Draft Regulations.

¹ This was first proposed in IDA’s 18 August 2006 public consultation on liberalisation of the Basic Letter Services market. Respondents to the consultation agreed that there would be a need to ensure fair competition in a liberalised environment, and to deal with operational issues that will arise in a multi-operator environment. On 5 February 2007, in IDA’s Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore, IDA indicated that it would establish a competition code for the Basic Letter Services market, modified from the one IDA had set up for the telecommunications sector, and largely aligned with the Competition Act (Cap. 50B) under the purview of the Competition Commission of Singapore. IDA also indicated that a separate code of practice would be established to set out the duties and obligations of Licensees relating to common operational issues. Further details can be found on IDA’s website at www.ida.gov.sg.

2 POSTAL COMPETITION CODE 2007

2.1 Overview

2.1.1 IDA has developed the proposed Postal Competition Code 2007 by drawing on the “best practices” of several benchmark jurisdictions, including those in Europe and in the United States, and building on the experiences that IDA has gained in facilitating competition in the Singapore telecommunications sector. The framework also reflects the market environment and operational conditions unique to the Basic Mail Services market in Singapore, and is largely aligned with the Competition Act (Cap. 50B) of Singapore.

2.1.2 Specifically, the proposed Postal Competition Code 2007 will use both *ex ante* regulation – designed to facilitate the transition of the Basic Letter Services market from a monopoly to a competitive market – and *ex post* enforcement based on general competition law to police any abuses by Licensees subject to its jurisdiction. The proposed Postal Competition Code 2007 places significant reliance on market forces. Where effective competition exists, Licensees would be subject to minimal regulatory requirements. At the same time, the proposed Postal Competition Code 2007 recognises the need for IDA to take resolute measures where Licensees are not subject to effective competition or where they take actions that would unreasonably restrict competition.

2.1.3 The Competition Act prohibitions currently do not apply to (among other things):

- (i) any agreement or conduct relating to any goods or services to the extent that another written law or a code of practice under another written law gives another regulatory authority jurisdiction in the matter;
- (ii) any agreement or conduct relating to the supply of ordinary letter and postcard services by a person licensed and regulated under the Postal Services Act; and
- (iii) any merger that is:
 - (a) approved by a regulatory authority pursuant to any requirement for such approval imposed by any written law; or

(b) under the jurisdiction of any regulatory authority under any written law relating to competition or a code of practice relating to competition issued under any written law.²

2.1.4 In IDA's 5 February 2007 decision and Explanatory Memorandum on the postal liberalisation framework, IDA had explained that the provision of Express Letter services, which has been fully liberalised since 1995 and has been governed by the Competition Act, shall continue to remain under the purview of the Competition Commission of Singapore ("CCS"). As Express Letter licensees have been operating in a largely competitive and liberalised environment and are subject to the Competition Act, IDA considers that there is no reason to impose new regulatory obligations in this market. In addition, economic activities and agreements governing all postal services, other than Basic Letter Services, are subject to the Competition Act, and will continue to fall under the purview of the CCS.

² See Third Schedule to the Competition Act, paragraphs 5 and 6, and the Fourth Schedule to the Competition Act, paragraph 1.

2.2 SUMMARY OF KEY PROVISIONS

- 2.2.1 The proposed Postal Competition Code 2007 contains nine sections.
- 2.2.2 **Section One** sets out the goals of the proposed Postal Competition Code 2007 and explains its legal basis and legal effect. The proposed Postal Competition Code 2007 shall apply to all Licensees providing a “**Basic Letter Service**,” where “Basic Letter” is defined as a Letter, other than a Direct Mail or an Express Letter, of up to 500 grams in weight, and “Basic Letter Service” means a Postal Service for the conveyance of Basic Letters.
- 2.2.3 Section One also sets forth IDA’s basic regulatory principles and includes provisions for IDA to modify or remove, or for Licensees to petition IDA to modify or remove, burdensome regulations that cease to be necessary as competition develops. Finally, Section One contains a list of definitions of terms used in the proposed Postal Competition Code 2007.
- 2.2.3 **Section Two** contains provisions for classifying Licensees as dominant or non-dominant. Non-dominant Licensees, whose conduct is constrained by market forces, will be subject to minimal regulation. By contrast, Dominant Licensees, who are not subject to effective competition, will be required to comply with more extensive regulatory requirements. Section Two also contains the standards and procedures for IDA to remove a Dominant Licensee classification, and for IDA to exempt a Dominant Licensee from certain Dominant Licensee obligations.
- 2.2.4 As SingPost has enjoyed exclusive right to provide Basic Letter Services in Singapore prior to 1 April 2007, **IDA intends to classify SingPost as a Dominant Licensee in all the Basic Letter Services markets.**
- 2.2.5 **Section Three** specifies the duties that Licensees have to their Customers. All Licensees must disclose to its Customers in advance the prices, terms and conditions (including quality of service) of its Basic Letter Services. Furthermore, unless the Licensee clearly informs the Customer of the service level that it will provide and the Customer agrees to such a lower quality of service standard, all Licensees must comply with any minimum quality of service standards imposed by IDA.
- 2.2.6 **Section Four** contains the duties that would be imposed on a Dominant Licensee to ensure it provides Basic Letter Services to Customers and other Licensees on just, reasonable and non-discriminatory prices, terms and conditions. These duties would include the duty to file tariffs with IDA for approval, and to publish key terms and conditions of the tariffs. A Dominant

Licensee must also provide Basic Letter Services on a non-discriminatory basis and on an unbundled basis, *i.e.*, priced and sold separately. Unless directed to do so by IDA, a Dominant Licensee would not be required to offer to other Licensees any wholesale Basic Letter Service, which these other Licensees would use as an input to in turn provide services to Customers. Nonetheless, if a Dominant Licensee chooses to provide such wholesale Basic Letter Services, it would have to offer them on just, reasonable and non-discriminatory prices, terms and conditions, and would neither be allowed to restrict the ability of another Licensee to use, nor require the Licensee to disclose that it is using, the Dominant Licensee's wholesale services as an input to provide another service.

2.2.7 **Section Five** sets out IDA's proposed requirement for a Licensee that controls facilities which are costly or difficult to replicate, but are required for the delivery of Basic Letters and Direct Mail (weighing 500 grams and below) to recipients in Singapore, including the domestic delivery of inbound international Basic Letters and Direct Mail³. IDA would designate such a Licensee as a Mandated Licensee and would require the Mandated Licensee to provide specified access services ("**Mandated Services**") to competing Licensees for the conveyance of Basic Letters and Direct Mail (weighing 500 grams and below).

2.2.7 Section Five is the only section in the proposed Competition Code 2007 that covers the Licensees' delivery of Direct Mail weighing 500 grams and below, *i.e.*, the Mandated Licensee is required to similarly provide Mandated Services to competing Licensees of Basic Letter Services for delivery of Direct Mail weighing 500 grams and below. Although IDA has decided not to license the conveyance of Direct Mail to ensure minimal disruption to traditionally unlicensed services, IDA recognises that the delivery of a Direct Mail is not significantly different from the delivery of a Basic Letter addressed to a recipient. To ensure mail recipients continue to receive Direct Mail delivered by competing Licensees, IDA believes that it is reasonable to require the Mandated Licensee to similarly provide Mandated Services to competing Licensees for the delivery of Direct Mail weighing 500 grams and below. On the other hand, IDA considers Letters weighing above 500 grams to be more parcel-like that typically require face-to-face delivery. Therefore, it is not necessary to require the Mandated Licensee to provide Mandated Services for such postal articles.

³ As stated in IDA's 5 February 2007 Decision and Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore, IDA will neither facilitate nor encourage the domestic delivery of outbound international mail.

2.2.8 IDA proposes that the Mandated Services include *downstream delivery services* at the following two access points:

- (i) the Mandated Licensee's central mail sorting centre; and
- (ii) premises at which the Mandated Licensee post office boxes or mail boxes are located.

2.2.9 To effectively facilitate access by competing Licensees to Mandated Services, Section Five requires the Mandated Licensee to develop a Reference Access Offer ("**RAO**") that would contain the prices, terms and conditions, which would be approved by IDA, on which competing Licensees could obtain such access. IDA also proposes the standards on which the prices for Mandated Services should be derived.

2.2.10 Notwithstanding the presence of a RAO, a new entrant could, if it prefers, commercially negotiate with the Mandated Licensee for individualised prices, terms and conditions to better meet its service requirements and needs, especially if the RAO does not meet the entrant's unique requirements. If both Licensees fail to voluntarily reach agreement within 90 days of formal negotiations, either Licensee could request IDA to resolve the dispute. Once IDA issues its decision on the appropriate resolution, the Licensees would either have to submit to IDA an agreement that complies with IDA's decision, or inform IDA that they will no longer enter into an agreement. IDA would publish on its website the key prices, terms and conditions of all network access agreements offered by the Mandated Licensee.

2.2.11 **IDA intends to designate SingPost as a Mandated Licensee, and to require SingPost to provide the Mandated Services** described in paragraph 2.2.9, in recognition of the significant economies of scale and scope SingPost enjoys along all parts of the postal value chain, especially in its large-scale automated sorting facility and its nation-wide delivery network. These advantages inherited by SingPost as a result of its historical monopoly are likely to become a barrier to entry for new players in a liberalised market. Access to SingPost's delivery network is necessary especially since other Licensees will not have access to the masterdoor keys of certain letterboxes. This will facilitate other Licensees' delivery of mail to recipients in Singapore, including the delivery of inbound international mail to letterboxes in Singapore.

2.2.12 IDA believes that by requiring SingPost to offer the Mandated Services, it will avoid the likely protracted delays in commercial negotiations between competing Licensees and SingPost, which may in turn delay and frustrate market entry by competing Licensees.

2.2.13 IDA may designate other Licensees as Mandated Licensees in the future if such Licensees control facilities that are sufficiently infeasible, difficult or costly to replicate such that requiring other Licensees to do so would create a significant barrier to entry by an efficient competitor. IDA may also revise the list of Mandated Services from time to time. In each instance, IDA will consult the industry before adopting any revision.

2.2.14 In **Section Six**, IDA sets out the competition rules that would prohibit a Licensee with significant market power from abusing its market position. These rules are based on competition law principles adopted internationally and in the Competition Act. In particular, a Licensee may not engage in pricing abuses, predatory pricing, price squeeze, anti-competitive cross-subsidisation and discrimination. Section Six also prohibits Licensees from engaging in unfair methods of competition. Licensees are prohibited from leveraging their affiliates' market power to unreasonably restrict competition in any Basic Letter Services market in Singapore. Licensees are also prohibited from degrading the availability or quality of other Licensees' Basic Letter Services, and improperly using information regarding competing Licensees' Customers.

2.2.15 **Section Seven** prohibits Licensees from entering into agreements with other Licensees that unreasonably restrict competition. These prohibitions are based on competition law principles adopted internationally and in the Competition Act. This section sets out an analytical framework by which IDA will assess the permissibility of such agreements. Licensees are prohibited absolutely from entering into certain types of agreements, such as price fixing arrangements or output restrictions. The permissibility of Licensees entering into other agreements, such as joint research or marketing ventures, would be assessed based on their actual or likely impact on competition. IDA reserves the right to impose penalties on Licensees that violate these restrictions.

2.2.16 Mergers, acquisitions and similar consolidations between Licensees are addressed in **Section Eight**. While in general, most voluntary transactions would result in an efficient allocation of the society's resources, in certain limited cases, they can have an adverse impact by reducing competition. Such transactions include those between competing Licensees that create or entrench market power, or facilitate concerted anti-competitive conduct. Transactions between entities at different levels of the supply chain, where at least one entity possesses significant market power or participates in a concentrated market, can also adversely affect competition by eliminating a potential competitor or by creating market distortions through leveraging on significant market power. This section makes clear that IDA will not approve a

request to assign a licence; transfer control over a licence; or for a change in shareholding arrangement where IDA determines that it is likely to result in a substantial lessening of competition in any Basic Letter Services Market, or it is in the public interest to do so. This section establishes a procedure for notifying IDA of such proposed changes, and sets forth the procedures by which IDA will seek to determine – based on actual market conditions – whether a proposed change is likely to substantially lessen competition.

2.2.17 Section Eight draws its legal powers from the Act and the Draft Regulations (set out in Section 4 of this document), which set out the legal framework for IDA to regulate parties who acquire control over designated Licensees. At the outset, IDA will designate Public Postal Licensees such as SingPost as Designated Postal Licensees⁴. In addition, IDA also proposes to designate all other Postal Services Operators as Designated Postal Licensees as changes in control to either class of Licensees could adversely affect competition in the Basic Letter Services market. There could also be other public interest concerns.

2.2.18 Section Eight of the proposed Postal Competition Code 2007 sets out the details and procedures IDA will adopt in implementing the proposed Regulations. Specifically:

- (i) Acquisitions of voting shares or control of voting power of less than 5% need not be disclosed to nor approved by IDA, given IDA's presumption that such transactions are unlikely to raise competition or regulatory concerns.
- (ii) Acquisitions of voting shares or control of voting power of at least 5% but less than 12% would have to be disclosed, through a written notification to IDA within 5 working days of the Designated Postal Licensee becoming aware of it. Although IDA presumes that such transactions are unlikely to raise competitive concerns, post-acquisition notification is however appropriate because the acquisition of a 5% or more of voting shares or control of voting power could be the first step in the acquiring party's effort to acquire more voting shares or control of voting power over the Designated Postal Licensee that may ultimately raise competition or regulatory concerns.

⁴ Part IVA of the Act and the Postal Services (Control of Designated Postal Licensees) Regulations will only apply to designated postal licensees. Section 26A(1) of the Act defines a Designated Postal Licensee as one which: (a) has been specifically declared by the Postal Authority by notification published in the Gazette; or (b) is within a class of postal licensees which has been declared by the Postal Authority by notification published in the Gazette

- (iii) Acquisitions of voting shares or control of voting power of at least 12% but less than 30% must be approved in advance by IDA, given IDA's presumption that, while the acquiring party may be unlikely to exercise effective control over the Designated Postal Licensee, it may still have the ability to use its voting shares or control of voting power to substantially lessen competition or harm public interest.
- (iv) Acquisitions of voting shares or control of voting power of 30% or more, or where the acquiring party acquires the business of the Designated Postal Licensee as a going concern, or where the acquiring party has effective control over the Designated Postal Licensee, would have to be approved in advance by IDA. Such transactions constitute a consolidation.

2.2.19 The application for approval must be made jointly by all the acquiring parties (as the case may be) and the Designated Postal Licensee. If the application for approval is not made, or if IDA deems any transaction as likely to substantially lessen competition or likely to be against public interest, the Act gives IDA the powers to direct:

- (i) the acquiring party to divest all or part of the voting shares which it may have acquired in the Designated Postal Licensee; or
- (ii) the Designated Postal Licensee to restrict the voting rights or dividends rights that the acquiring party has through its ownership interest in the Designated Postal Licensee.

2.2.20 IDA may introduce guidelines on the processes and standards that IDA would use to assess consolidation applications, including the terms and conditions that IDA may impose in granting approvals.

2.2.21 **Section Nine** sets out the administrative procedures that IDA would use to implement the proposed Postal Competition Code 2007. They include enforcement mechanisms, time limits for compliance in respect of enforcement actions, means by which IDA can gather information, provision for parties to seek confidential treatment of information submitted to IDA and channel of appeal to the Minister.

2.2.22 The proposed Postal Competition Code 2007 is attached as **Annex A**.

3 POSTAL SERVICES OPERATIONS CODE 2007

3.1 Overview

3.1.1 The objective of the proposed Postal Services Operations Code 2007 is to minimise Licensee and consumer confusion in a multi-operator environment, thereby ensuring prompt handling and delivery of Basic Letters. The proposed Postal Services Operations Code 2007 will also help to maintain mail integrity, preserve Customers' confidence in the public postal system, and provide operational certainty to new entrants. IDA believes that the proposed Postal Services Operations Code 2007 is especially important during the infant stages of liberalisation, and it should remain relevant even in the long-term to protect consumer interests.

3.1.2 Given SingPost's dominant position in the Basic Letter Services market, IDA intends to require SingPost to propose a Reference Offer ("RO"), a standard offer that would set out the processes and arrangements that SingPost would commit to adopting to address the common inter-operator issues between SingPost and the new entrants. As for operational issues between new entrants *inter se*, IDA believes that they should have the commercial incentives to commercially negotiate and agree on the most efficient arrangements among themselves. Otherwise, SingPost's RO could be used as the benchmark. IDA will not intervene in commercial negotiations among new entrants so long as the arrangements comply with the principles set out under the proposed Postal Services Operations Code 2007.

3.2 SUMMARY OF KEY PROVISIONS

3.2.1 The proposed Postal Services Operations Code 2007 contains ten sections.

3.2.2 **Section One** sets out the goals of the proposed Postal Services Operations Code 2007 and contains a list of definitions of the terms used in the proposed Code. Section One makes clear that the proposed Postal Services Operations Code 2007 applies to only Licensees in respect of their provision of Basic Letter Services. Given that IDA does not license the conveyance of Direct Mail, the proposed Postal Services Operations Code 2007 will not address inter-operator issues in relation to this segment. However, Licensees can, on their own accord, apply the same principles prescribed in the proposed Postal Services Operations Code 2007 to address inter-operator issues in relation to the conveyance of Direct Mail. Section One further explains how a Licensee can seek exemptions from all or any provisions of the proposed Postal Services Operations Code 2007. It also reserves IDA's authority to modify the proposed Postal Services Operations Code 2007.

- 3.2.3 Section One further specifies that upon notification by IDA, SingPost must propose a RO to share postal code information and to establish reciprocal arrangements with other Licensees to address the common inter-operator requirements specified in the proposed Postal Services Operations 2007. SingPost must publish its RO, once approved by IDA.
- 3.2.4 **Section Two** specifies that each Licensee would have to register with IDA an Identifier Mark that could be used to easily identify the Licensee. Section Two further provides that, in the chain of conveyance, each Licensee which handles a Basic Letter are required to place their Identifier Mark on the Letter. This is to ensure that there is accountability during the entire chain of conveyance, and it would enable both Licensees and the mail recipients to trace and identify the Licensees tasked with handling the Basic Letters.
- 3.2.5 **Section Three** specifies that SingPost, as the administrator designated by IDA to establish, maintain and administer the Singapore postal code, must offer to share the use of the Singapore postal code with other Licensees on just, reasonable and non-discriminatory terms. IDA will require SingPost to share the use at rates that are no worse off than that offered to its retail customers.
- 3.2.6 **Section Four** specifies that any Licensee offering Letter Redirection Services must make available, at no cost, to other Licensees, information on the redirected addresses of its customers upon request, provided that consent has been given by the customer to share such information. As Licensees offering Letter Redirection Services would already be recovering their costs directly from their customers, IDA considers that there is no basis to impose any additional charge for sharing the information with other Licensees. To educate consumers, any Licensee that wishes to offer Letter Redirection Services should also clarify to their customers the limitations of the service, *i.e.*, it does not guarantee that Basic Letters delivered by other Licensees would also be redirected to the new address.
- 3.2.7 Sections Five to Eight specify the procedures that Licensees would adopt, in various situations, where they come into possession of Basic Letters for which they are not the intended Licensee for delivery.
- 3.2.8 **Section Five** specifies that when a Licensee receives Misdirected Letters (*i.e.*, Basic Letters that have been conveyed in error by a postal operator ("**Sender Operator**") to the wrong delivering Licensee), the Licensee must make available the Misdirected Letters for collection by the Sender Operator, at a minimum, twice a week. IDA believes that this would not place any

unreasonable burden on the Licensee that receives the Misdirected Letters, and would also help to minimise any undue delay in delivery as a consequence of the misdirection.

3.2.9 In the situation where the Misdirected Letters have entered the sorting facility of the Licensee such that it is not reasonably practical to return the Misdirected Letters to the Sender Operator, IDA will require the Licensee to deliver the Misdirected Letters. In such circumstances, IDA would allow the Licensee to recover any reasonable cost from the Sender Operator for delivering the Misdirected Letters. IDA believes that such an approach balances the need to ensure public confidence in the postal system for timely delivery of Basic Letters and the burden to Licensees in handling Misdirected Letters intended for delivery by other Licensees.

3.2.10 **Section Six** specifies that when a Licensee receives Misposted Letters (*i.e.*, Basic Letters which due to a sender error have entered the postal facility of a Licensee other than the intended Licensee), the Licensee should make available the Misposted Letters for collection by the intended Licensee, at a minimum, twice a week. The same considerations and approach adopted in Section Five to deal with Misdirected Letters apply to Misposted Letters.

3.2.11 **Section Seven** sets out procedures for handling Miscollected Letters (*i.e.*, Basic Letters that have been collected in error by a Licensee which is not the intended Licensee). In this situation, as the fault lies with the Miscollecting Licensee, IDA considers it reasonable that the Miscollecting Licensee be made to bear all the costs of returning the Miscollected Letters to the intended Licensee by the next working day, or at the latest, on the next working day the mistake was discovered; or, if returning is not practical because the Miscollected Letters have entered its sorting facility, to deliver the Miscollected Letters, at its own cost, in a timely and non-discriminatory manner.

3.2.12 **Section Eight** sets out procedures for handling Misdelivered Letters (*i.e.*, Basic Letters which are delivered to the wrong address by a Licensee). In such a case, since the intended Licensee has already collected the fees for the delivery, IDA will only require the Licensee that receives the Misdelivered Letters to inform the intended Licensee and make those Misdelivered Letters available for collection by the intended Licensee, at a minimum, twice a week. IDA believes that this will not place any unreasonable burden on the Licensee that receives the Misdelivered Letters, and it will also help to minimise any undue delay in delivery as a consequence of the misdelivery. IDA also considers it reasonable that all Licensees bear their own costs of handling

Misdelivered Letters, as this is an issue that arises from a multi-operator environment and which affects every Licensee equally.

3.2.13 **Section Nine** specifies that all Licensees, unless as permitted by IDA, are prohibited from using masterdoor keys or any other methods which allow full access to the pigeonholes of the letterboxes for the deposit and retrieval of mail.

3.2.14 IDA believes that allowing only IDA-appointed Licensees to have full access to letterbox pigeonholes will preserve mail security and integrity in the public postal system and safeguard consumers' interests. However, Licensees without the masterdoor keys may still attempt to deliver mail to letterboxes with open apertures or to the recipients' doorstep.

3.2.15 **Section Ten** sets out procedures and the measures that IDA would use to enforce the proposed Postal Services Operations Code 2007, as well as the standards IDA will use to impose sanctions on Licensees found to have contravened the proposed Postal Services Operations Code 2007. This section also specifies that Licensees could request IDA to assist in resolving any dispute which may arise in relation to the proposed Postal Services Operations Code 2007.

3.2.16 The proposed Postal Services Operations Code 2007 is attached as **Annex B**.

4 POSTAL SERVICES (CONTROL OF DESIGNATED POSTAL LICENSEES) REGULATIONS 2007

SUMMARY OF KEY PROVISIONS

4.1 Regulation 3 – Holding of Voting Shares

4.1.1 Regulation 3 specifies when a person holds a voting share and draws reference to the Companies Act. This will be used in determining whether a person is a 12% controller or 30% controller of a designated Licensee arising from holding the relevant percentage of voting shares in the Licensee.

4.2 Regulation 4 – Control of Voting Power

4.2.1 Regulation 4 specifies how control of a percentage of voting power is determined. This will be used in determining whether a person is a 12% controller or a 30% controller of a designated Licensee arising from his position to control a relevant percentage of voting power in the licensee. The definition of voting power will take into account a person's *actual* control over shareholder votes in a designated Licensee, especially through indirect means, regardless of whether he holds any direct voting shares in the Licensee.

4.3 Regulation 5 – Associates of Acquiring Party

4.3.1 Regulation 5 specifies the circumstances under which two parties are deemed to be associates. This will be used in determining whether a person is a 12% controller or a 30% controller of a designated Licensee arising from voting shares or voting power in the Licensee held by his associates.

4.4 Regulations 6 and 7 – Procedures for Notifying IDA and Seeking IDA's Approval under Section 26B of the Act

4.4.1 Regulations 6 and 7 set out the procedures for the relevant parties to notify IDA or obtain IDA's approval, as the case may be. They specify the time frame for notification or application for approval, the information for submission to IDA, and the consolidation application fee payable.

4.5 Regulation 8 – Requirements under Section 26D(9) of the Act

4.5.1 Regulation 8 sets out the requirements for section 26D(9)(b) of the Act. This relates to situations where a person has contravened section 26B of the Act and has failed to seek IDA's approval for becoming a 12% or 30% controller

of a designated Licensee or for entering into a consolidation with a designated Licensee. Section 26D(9) of the Act provides that it shall be a defence for the person to prove that he was unaware that he had contravened the provision in question, and that he has within 14 days of becoming aware, notified the Postal Authority and taken such actions as the Postal Authority may direct. This regulation sets out the actions required of the person to notify the Postal Authority of the contravention, including the information to be submitted and the payment of the fee required under Regulation 7.

4.6 Regulation 9 – Denial or Approval of Applications

4.6.1 Regulation 9(1) clarifies the circumstances under which IDA may deny an application for approval under section 26B of the Act, that is, where approval may result in a substantial lessening of competition or where denial of the application is in the public interest.

4.7 Regulation 10 – Waiver

4.7.1 In order not to impose undue burden or significant compliance costs on acquiring parties, regulation 10 allows IDA to waive any procedural requirement, or reduce or extend any period specified in regulations 6, 7 or 8 in certain circumstances, including: (i) the applicant's inability to comply with the requirement due to circumstances beyond his reasonable control; (ii) compliance with the requirement would be unduly burdensome or would prejudice the legitimate commercial interests of the applicant; or (iii) reduction or extension of the period would be appropriate having regard to the circumstances.

4.8 The Draft Regulations is attached as **Annex C**.

5 REQUEST FOR COMMENTS

- 5.1 IDA would like to seek the views and comments from the industry and members of the public on the proposed Postal Competition Code 2007 (see **Annex A**), the proposed Postal Services Operations Code 2007 (see **Annex B**) and the Draft Regulations (see **Annex C**). Parties may organise their submission as follows: (a) cover page; (b) table of contents; (c) summary of major points for each proposed Code and the Draft Regulations; (d) statement of interest; (e) comments for each proposed Code and the Draft Regulations; and (f) conclusion. Respondents should clearly link each view or comment to the relevant proposed Code or the Draft Regulations. Any proposed amendments or revisions should be clearly explained and supported by respondents. Supporting material may be placed in an annex.
- 5.2 All views and comments should be submitted in writing in soft copies (such as Microsoft Word or PDF Format), and should reach IDA by 12 November 2007. Respondents are required to include their personal or company particulars, correspondence address, contact number and email address in their submissions. IDA will make public all or parts of any submissions made in response to this Consultation and disclose the identity of the source. Respondents are required to clearly mark any part of the submission that is considered commercially sensitive and place the information separately as an annex to the submission. IDA will not disclose information identified as commercially sensitive or confidential but will take them into consideration in its review.
- 5.3 All comments should be addressed to:
- Mr. Andrew Haire
Deputy Director-General (Telecoms)
Infocomm Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038988
- Soft copies should be made via email to: IDA_Consultation@ida.gov.sg
- 5.4 Respondents may also submit a hardcopy via fax to fax number: (65) 6211 2116.