



SINGAPORE POST LIMITED

**SUBMISSION TO
THE INFOCOMM DEVELOPMENT AUTHORITY OF SINGAPORE ("IDA")**

**PUBLIC CONSULTATION ON
THE PROPOSED POSTAL COMPETITION CODE 2007
POSTAL SERVICES OPERATIONS CODE 2007 AND
POSTAL SERVICES (CONTROL OF DESIGNATED POSTAL LICENSEES)
REGULATIONS 2007
ISSUED ON 20 SEPTEMBER 2007**

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**SUBMISSION BY SINGAPORE POST LIMITED IN RESPONSE TO THE PUBLIC
CONSULTATION ON THE PROPOSED POSTAL COMPETITION CODE 2007,
POSTAL SERVICES OPERATIONS CODE 2007 AND POSTAL SERVICES
(CONTROL OF DESIGNATED POSTAL LICENSEES) REGULATIONS 2007**

INTRODUCTION

- 1 Singapore Post Limited (“**SingPost**”) welcomes the opportunity to provide the submissions herein on the proposed Postal Competition Code 2007 (the “**Postal Competition Code**”), the Postal Services Operations Code 2007 (the “**Postal Operations Code**”) and the Postal Services (Control of Designated Postal Licensees) Regulations 2007.

PART A – POSTAL COMPETITION CODE

Section 2.2: Standards and Procedures for Classifying a Licensee as a Dominant Licensee

- 2 Section 2.2 of the Postal Competition Code provides as follows:

“Standards and Procedures for Classifying a Licensee as a Dominant Licensee

- (a) *Upon issuance of this Code, IDA may classify a Licensee as a Dominant Licensee in all Basic Letter Services markets if prior to 1 April 2007, the Licensee enjoyed the right to provide any Basic Letter Service on an exclusive basis. In such cases, the Dominant Licensee will be subject to the special obligations applicable to Dominant Licensees in all Basic Letter Services markets until such time, if ever, as IDA reclassifies the Licensee as non-dominant, pursuant to section 2.3, in any Basic Letter Services market in which IDA has previously classified it as a Dominant Licensee.*
- (b) *At any other time, IDA may classify a Licensee as a Dominant Licensee in a specific Basic Letter Services market if IDA determines, based on the factors specified in section 2.5, and after providing an opportunity for public comments, that the Licensee*

has Significant Market Power in that market. In such cases, the Dominant Licensee will be subject to the special obligations applicable to Dominant Licensees only in that Basic Letter Services market in which IDA has determined that the Licensee has Significant Market Power.

- (c) *Where IDA classifies a Licensee as a Dominant Licensee, IDA will issue a notice in the Gazette. In doing so, IDA will indicate the basis or bases on which it has declared the Licensee to be dominant and, where applicable, the specific market or markets in which IDA has found the Licensee to be dominant.”*

SINGPOST SHOULD NOT BE CLASSIFIED AS A DOMINANT LICENSEE FOR INTERNATIONAL MAIL (OUTGOING)

- 3 SingPost submits that it should not be classified as a Dominant Licensee for International Mail based on either of the two criteria provided for under the Postal Competition Code:
- (a) its historical monopoly in the Basic Mail Services market (pursuant to Section 2.2(a)); or
 - (b) on the basis that it has Significant Market Power (pursuant to Section 2.2(b).
- 4 For the criterion in Section 2.2(a), SingPost submits that it would be an unfair competitive assessment if SingPost is deemed a Dominant Licensee by way of its legacy as the designated monopoly provider. Any competitive assessment should take into account the imminent changes to the structure of the market, rather than merely a static assessment of the current structure of the market. The assessment should reflect the realities of the market, including the actual and potential competitors in the market.
- 5 For Section 2.2(b), SingPost submits that it does not possess Significant Market Power in the International Mail market and therefore it should not be classified as a Dominant Licensee in the International Mail market. In particular, SingPost submits that based on the factors specified in Section 2.5 of the Postal Competition Code for determining a Licensee’s ability to exercise Significant Market Power, SingPost does not fulfil the criteria of a Dominant Licensee in the International Mail market.

Section 2.5: Determining a Licensee's Ability to Exercise Significant Market Power

6 Section 2.5 of the Postal Competition Code provides as follows:

“Determining a Licensee’s Ability to Exercise Significant Market Power”

IDA will determine whether a Licensee has the ability to exercise Significant Market Power in a market as follows:

- (a) *IDA will first determine the relevant product or service, geographic and functional market or markets in which the Licensee participates.*
- (b) *For each relevant market, IDA will conduct a competitiveness assessment by:*
 - (i) *determining the market participants and their market shares;*
 - (ii) *considering other factors that would increase or decrease the ability of the Licensee to act anti-competitively; and*
 - (iii) *considering evidence of actual market performance.”*

7 SingPost submits that based on the factors in Section 2.5 above, SingPost does not possess Significant Market Power for International Mail services. This is further elaborated below:

FACTOR (a) OF SECTION 2.5 – MARKET DEFINITION

8 Market definition is the process of identifying all the products on the demand side that buyers regard as reasonable substitutes for the product under investigation (the “**focal product**”) and all the sellers who supply the focal and substitute products, or who could potentially supply them. It includes defining the geographical reach of the relevant market which may extend beyond the area where the focal product is sold. This is traditionally known as the SSNIP (“small but significant non-transitory increase in price”) test. (**Confidential Annex, Note 1: Examples of SSNIP test**)

9 The applicability of the SSNIP test in the context of the International Mail market has to be seen in the context of the following:

- (a) first, the traditional preoccupation with technical features of a supply network in classical network industries (e.g. gas is an imperfect

substitute for electricity and fixed-line services are not fully substitutable for cable-based access) does not apply to a comparable extent to postal services; and

(b) second, e-commerce and online services assert significant competitive constraints on postal services. Email and digital communication are becoming almost costless and ubiquitous alternatives for postal services customers.

10 Any assessment of market dominance should be based on the definition of the relevant market as defined pursuant to the SSNIP test and taking into the factors outlined above. Singapore's International Mail market comprises:

(a) stamped mail (from public) ("**Stamped Mail**");

(b) franked mail ("**Franked Mail**");

(c) Singapore-origin bulk outgoing letters ("**Singapore Bulk Mail**"); and

(d) overseas-origin bulk outgoing letters via Singapore ("**Overseas Bulk Mail**").

Stamped Mail

11 SingPost recognises that, in a liberalised environment, other Licensees may not be interested in serving the public through the provision of posting boxes and post offices. For its Universal Service Obligation ("**USO**") towards the public, SingPost agrees to the tariffing requirements set out in Section 4.4 of the Postal Competition Code, but only in relation to Stamped Mail.

Franked Mail

12 In respect of Franked Mail, although SingPost provides posting boxes and post offices for collection of the mail, it asserts that it has no Significant Market Power in this market segment. This is because the entry barriers for this market segment are very low: on-site collection can be easily done by other providers in the express market once the Basic Letter Service is liberalised.

13 Express players are able to provide collection for all their contract customers. Some Licensees will be express players and their current collection process could be easily extended to include International Mail. There is therefore a high level of supply-side substitutability.

Singapore Bulk Mail and Overseas Bulk Mail

- 14 As for Singapore Bulk Mail and Overseas Bulk Mail, where competition is aggressive among local and global players, SingPost must remain competitive, flexible and responsive. In this case (unlike the case for Stamped and Franked Mail), SingPost submits that the relevant geographic market should be the worldwide market. This is because the printing and freighting of international mail can be done out of any country.

High supply-side substitutability

- 15 International Mail services providers are competing globally for contracts as business customers may choose to print and freight their mail outside of Singapore and have their mail delivered by other International Mail service providers. **(Confidential Annex, Note 2: SingPost's International Mail Trends)**
- 16 An example would be in the case of American Express credit card statements of Singapore users which are printed and delivered by International Mail service providers overseas (e.g. Australia Post, Hong Kong Post). From a demand-side substitutability perspective, customers are able to substitute between International Mail service providers across geographic regions.
- 17 The fact that the Singapore Bulk Mail and Overseas Bulk Mail market segments will face global competition post-liberalisation is a foregone conclusion. There are already a multitude of potential competitors both foreign and domestic who are able to enter the market seamlessly post-liberalisation. This includes express letters services providers and international courier services providers with a presence in Singapore.
- 18 Such competitors do not require SingPost's facilities for delivery of outgoing International Mail. From a supply-side substitution perspective, such potential competitors should also be included in the relevant market for international mail.
- 19 As mentioned above, International Mail also faces supply-side substitution in the form of electronic substitutes. One example is Singapore Airlines which had, since July 2007, stopped sending frequent flyer statements by physical mail. This development was published on its website.

Decision-making is global

- 20 Furthermore, competition for Singapore Bulk Mail and Overseas Bulk Mail is from international players at a global level. **(Confidential Annex, Note 3: Companies in Singapore with Global Contracts)**

To illustrate:

- (a) negotiation of contracts for International Mail, especially for Multi-national Companies (“MNCs”), is often done at the global level; and
- (b) most of the MNCs have global contracts for express mail already in place; global express players will leverage their Significant Market Power in the express market to include the provision of International Mail. Costs and efforts will be incremental in terms of account management, collection, administration, billing, etc)

- 21 In view of the above, the International Mail market should not be confined to Singapore but considered as worldwide with global players and high substitutability especially in the form of e-substitution and where award decision is also carried out at the global level.

FACTOR (b) OF SECTION 2.5 – COMPETITIVE ASSESSMENT

For each relevant market, IDA will conduct a competitive assessment by:

- (i) Determining the market participants and their market shares

- 22 SingPost submits that in determining market participants and their market share, IDA should take into account the potential competitors who can quickly and easily enter into the market and the consequential change in the market shares. Any competitive assessment should take into account the imminent changes to the structure of the market, rather than merely a static assessment of the current structure of the market. The assessment should reflect the realities of the market, including the actual and potential competitors in the market.
- 23 In this respect, SingPost is, as illustrated above, constrained by global competitors for the provision of International Mail. Accordingly, SingPost submits that it should not be classified as a Dominant Licensee.
- 24 SingPost also reiterates that it is being unfairly penalised in being labelled a dominant undertaking in relation to the International Mail market when competition in this market is inherently intense and where the market is both open and the barrier of entry continues to be low.

25 The International Mail market will therefore be a fragmented and commodotised one with fierce price competition where it is not sensible or meaningful for there to be a Dominant Licensee.

(ii) Considering other factors that would increase or decrease the ability of the Licensee to act anti-competitively

26 SingPost's current market position is a result of its legacy as the monopoly postal services provider. However, the market realities are that SingPost would not be in a position to act anti-competitively in the provision of International Mail services. Given the characteristics of the International Mail market in Singapore, such as the low entry barriers, potential competitors would be able to easily enter the market in response to any supra competitive prices in the market. Also, business customers are able to exercise countervailing buyer power, by easily switching to other International Mail service providers who are able to offer better prices, products and/or services.

27 It would also not be plausible for SingPost to exclude competitors from the market through a refusal to grant access to its postal networks. In some industries, the network, or a certain segment of it, is of such a nature that, in order to be able to provide services to the customers, access to this network is essential, and the network or component involved cannot be reproduced or prohibitively expensive to reproduce. Some examples would be telecommunications or the electricity industries where competitors would have to gain access into the incumbent's network in order to compete in the market. This is not the case, especially for outgoing International Mail. Competitors do not need access through SingPost, and hence it is not for SingPost to refuse to grant access. Collection networks and mail sorting facilities for International Mail are incremental costs to express players and do not require highly skilled labour. It would not be prohibitive to establish a competing network for outgoing International Mail.

(iii) Considering evidence of actual market performance

28 IDA has in its Decision and Explanatory Memorandum on the Framework for Further Liberalisation of the Postal Services Sector in Singapore (the "**IDA Decision Paper**") issued on 5 February 2007, on page 23, acknowledged that "*global couriers, such as Federal Express, United Parcel Services, DHL, TNT and foreign incumbent operators such as Swiss Post, Royal Mail, Deutsche Post and Sweden Post, have already established a presence in the postal services sector in Singapore*".

29 These operators have each established an extensive global delivery network or have established bilateral arrangements with postal operators overseas. Singapore, being an air and transshipment hub, also offers extensive

international flight and shipping connections for new entrants without such established networks. It was stated that hence IDA believes that it is not necessary for new entrants to rely on SingPost's network for sending international mail out of Singapore. Operators with established global networks may also provide more competitive alternatives for sending international mail other than through SingPost. **(Confidential Annex, Note 4: SingPost's Experience in Distribution Networks)**

- 30 SingPost also submits that with the liberalisation of the express letter services in Singapore since 1995, there has been observable growth in the number of competitors in the market, both domestic players and international players. SingPost is of the view that with liberalisation of the Basic Mail Services Market, express letter services providers that are already established in Singapore may expand their operations to enter into the provision of International Mail, if they meet IDA's licensing requirements.
- 31 Accordingly, SingPost submits that given the strong competitive pressure in the market for International Mail services and countervailing buyer power, it would not be able to behave independently of its competitors and customers. Hence, SingPost would not be in a position to exercise any Significant Market Power in the liberalised market for International Mail, and should therefore, not be classified as dominant. This would be in line with positions taken in international best practices for competition law analyses.
- 32 Paragraph 3.3 of the Competition Commission of Singapore Guideline on the Section 47 Prohibition, published pursuant to Section 61 of the Competition Act (Chapter 50B) states that "an undertaking will not be deemed dominant unless it has substantial market power. Market power arises where an undertaking *does not face sufficiently strong competitive pressure* and can be thought of as the ability to profitably sustain prices above competitive levels or to restrict output or quality below competitive levels."
- 33 The European Commission's DG Competition Discussion Paper on the Application of Article 82 of the Treaty to exclusionary abuses, issued December 2005, also states in paragraph 20 that "dominance is a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by affording it the power to *behave to an appreciable extent independently of its competitors, its customers and ultimately of the consumers.*"
- 34 In addition to the above assertions that SingPost should not be classified as a Dominant Licensee for International Mail because of its historical monopoly legacy and that SingPost does not possess Significant Market Power in the International Mail market, SingPost would also like IDA to consider the

development of the worldwide postal industry and its ramification on Singapore as we are now ahead of the liberalisation curve.

- 35 It is critical that the designated Public Postal Licensee is not encumbered by the obligations of a Dominant Licensee and is able to compete in a level playing field among global players in our liberalised market.

A level playing field among global players in the International Mail market

- 36 SingPost has demonstrated in the paragraphs above that it has no Significant Market Power in an International Mail market which is highly competitive.

- 37 In an International Mail market where all Licensees are subject to the same competitive forces, SingPost should not be singled out as a Dominant Licensee to comply with additional and more stringent regulatory obligations in that market when neither the other Licensees nor the other international competitors are required to do so. This is further elaborated below.

- 38 By way of background, public policy is customarily a relevant factor in determining exceptions to any finding of an infringement under competition law. Singapore is no exception. In fact, the then Second Minister for Trade & Industry Raymond Lim who proposed Singapore's competition law said during the parliamentary debate which took place at the Second Reading of the Competition Bill that: "The bigger point is, in fact, that there are times when the goals of public policy may need to trump the market and that is why this Competition Act should not be an overarching blunderbuss law".

- 39 It is important to bear in mind that while Singapore's International Mail market is fully liberalised, the home markets of these foreign postal operators in Singapore remain closed to competition and will continue to be for some time. In the European Union, some countries are delaying full liberalisation till 2012 and are considering opening markets only based on the principle of reciprocity (i.e. equal access to each other's market). In Singapore, being ahead of the liberalisation curve, means that SingPost is prevented from entering and competing in the reserved areas of closed markets. However, if SingPost is designated as a Dominant Licensee and subject to greater regulatory requirements, it will be further encumbered in competing against such foreign postal operators.

- 40 The International Mail market is a highly competitive market where global players are extremely mobile in choosing hub locations for producing and distributing international mail based on competitiveness of offerings. Many newly industrialised economies seek to be a distribution hub in Asia-Pacific.

- 41 If SingPost were to be designated a Dominant Licensee with requirements for full disclosure in pricing and terms of offering, it would be difficult for SingPost to respond and react to offerings from other competing economies. Singapore has maintained its competitiveness because of the Government's efforts in offering integrated packaging of services to attract global players into Singapore
- 42 SingPost is not seeking protectionism or preferential treatment. Instead, SingPost is merely seeking not to be saddled with Dominant Licensee obligations when other Licensees and international competitors are not similarly tied down. SingPost is seeking to be treated on equal footing in the International Mail market so that it can compete equally.

Illustration: Alignment with Singapore's vision of developing hubs

- 43 The ability to compete equally on equal footing is important as it would allow SingPost to play a part in realising Singapore's vision of developing hubs.
- 44 The Singapore Government has traditionally been instrumental in promoting the financial, education and pharmaceutical industries in Singapore. The postal industry is no exception. There are opportunities for Singapore companies, including SingPost, to align and collaborate with the Government in ensuring that the supporting infrastructure help Singapore remain competitive and attractive as a regional hub for global companies.
- 45 By way of illustration, the background below shows how the collaboration among Singapore companies led by the Singapore Government had helped realise Singapore's vision of developing the publishing industry.
- 46 This is best summarised in a speech by Mr Ko Kheng Hwa, Managing Director, Singapore Economic Development Board ("**EDB**") at the official opening ceremony of Sage Publications Asia-Pacific Pte Ltd on 24 January 2007. He reported that Singapore is "now the regional headquarters location for four of the top five journal publishers in the world". He emphasised that "EDB is committed to develop the publishing industry in Singapore, which already employs more than 6,000 people in mostly knowledge-based jobs..... The Government has committed S\$13 billion in R&D spending in the next 5 years". Mr Ko also indicated that Singapore is "investing in the supporting infrastructure to ensure that Singapore remains a competitive location for publishers to undertake the full value-chain of publishing activities". He recognised that "Printing in Singapore allows publishers to take advantage of Singapore's efficient and reliable global distribution network". He added that the knock-on benefits included "shared services functions such as multi-lingual customer support, IT services and data-hosting. These are among the

reasons Blackwell chose Singapore to establish its first and only publishing services headquarters to provide printing, customer services and IT support to all its publishing entities globally.”

- 47 Additional “knock-on benefits” to Singapore include business activity in the related industries in Singapore of printing, stationery supplies, packing materials, freight, warehousing, local transport, air and sea conveyance, data centre, and IT services. In the case of Blackwell, it has moved its IT support, customer service support, production team, and editors to Singapore. This has developed the logistics industry, and also increased the international reputation of Singapore, creating new jobs and developing new skills not previously available in Singapore.
- 48 Moving away now from the example of publishing, Singapore continues to compete aggressively in the financial industry for printing and distribution of bank and credit card statements and for data centres to be managed in Singapore. The recent move of the printing and distribution of the American Express credit card statements from Australia to Hong Kong demonstrates that such markets are extremely competitive and mobile.
- 49 In order for SingPost to continue competing for and winning International Mail contracts (and thereby creating “knock-on benefits” for postal and adjacent industries), it would need to be able to respond to international pricing strategies by global competitors in a flexible and responsive manner. It would not be able to do so if it was burdened with the obligations imposed on a Dominant Licensee which would put it at a competitive disadvantage. Such obligations include having to disclose commercially sensitive information such as pricing and requiring IDA’s written approval prior to offering or modifying the terms of offer. **(Confidential Annex, Note 5: SingPost’s Experience with Blackwell)**

Flexibility also required in managing total costs

- 50 The peculiarity in the International Mail market is that the postal operators are subject to the operational and terminal dues settlement requirements of the Universal Postal Union (“UPU”). As such:
- (a) in the International Mail market, prices are very sensitive to the routing matrixes, the mail profile to the destination country and the weight of each mail piece;
 - (b) mail profile also influences the total costs of mailing to a specific destination. This is because under the terminal dues system, the settlement among postal operators is usually determined by the mail profile. In attaining the optimum items per kilogram (“IPK”) of mail in

its mail profile, a postal operator can then manage its total cost to a specific destination thereby translating it into more efficient costs for its customers and the public;

- (c) a postal operator would therefore require flexibility to price contracts at different points of time differently so as to attract the desired mail profile and achieve an optimal cost structure; and
- (d) in managing its total cost structure, it will help to keep tariffs competitive, for both Singapore and overseas origin mail.

(Confidential Annex, Note 6: SingPost’s Experience in Responding to the Terminal Dues System)

51 In a fully competitive International Mail market where SingPost does not have Significant Market Power, classifying SingPost as a Dominant Licensee for International Mail would hamper SingPost’s ability to compete effectively with global competitors to win contracts for International Mail and would therefore be regressionary. In addition, such a classification adds further encumbrances to SingPost’s ability to remain competitive and to be responsive to the Government’s initiatives in promoting Singapore as a regional business hub.

Summary of Comments and Proposal

SingPost submits that it should not be classified as a Dominant Licensee for International Mail because of its historical monopoly legacy and that SingPost does not possess Significant Market Power in the International Mail market.

Historical Monopoly Legacy

SingPost submits that it would be an unfair competitive assessment if SingPost is deemed a Dominant Licensee by way of its legacy as the designated monopoly provider.

Any competitive assessment should take into account the imminent changes to the structure of the market, rather than merely a static assessment of the current structure of the market. The assessment should reflect the realities of the market, including the actual and potential competitors in the market.

Significant Market Power

SingPost submits that based on the factors specified in Section 2.5 for determining a Licensee’s ability to exercise Significant Market Power, SingPost does not fulfil the criteria of a Dominant Licensee in the International Mail market:

- the International Mail market should not be confined to Singapore but considered as worldwide with global players and high substitutability especially in the form of e-substitution and where award decision is carried out at the global level
- in respect of Stamped Mail, SingPost recognises that the validity of arguments in favour of the need for price regulation and consumer protection in relation thereto and therefore accepts that the tariffing requirement for International Mail as set out in Section 4.4 of the Postal Competition Code should apply only for Stamped Mail
- the competitive assessment of relevant markets shows that:
 - the International Mail market will be a fragmented and commodotised one with fierce price competition where it is not sensible or meaningful for there to be a Dominant Licensee;
 - it will not be prohibitive for competitors to establish a competing network for outgoing International Mail; and
 - given the strong competitive pressure in the market for International Mail services and countervailing buyer power, SingPost would not be able to behave independently of its competitors and customers.
- this is in line with positions taken in international best practices for competition law analyses. The Competition Commission of Singapore and the European Commission clearly define dominance only in relation to substantial market power affording it to behave to an appreciable extent independently of its competitors, its customers and ultimately of the consumers. This is not the case for SingPost.

Level Playing Field

SingPost is not seeking protectionism or preferential treatment. Instead, SingPost is merely seeking not to be saddled with Dominant Licensee obligations when other Licensees and international competitors are not similarly tied down. SingPost is seeking to be treated on equal footing in the International Mail market in order that it can compete fairly.

To continue competing for and winning International Mail contracts (and thereby creating “knock-on benefits” for postal and adjacent industries), SingPost would need to be able to respond to international pricing strategies by global competitors in a flexible and responsive manner i.e. without being burdened with the obligations imposed on a Dominant Licensee.

A Dominant Licensee classification adds further encumbrances to SingPost's ability to remain competitive and to be responsive to the Government's initiatives in promoting Singapore as a regional business hub.

Section 3.2 – Duty to Comply with IDA’s Quality of Service Standards

52 Section 3.2 of the Postal Competition Code provides as follows:

“Licensees must comply with any minimum quality of service standards applicable to Basic Letter Services issued by IDA. However, a Licensee and a Customer may agree to a low quality of service standard. In such cases, the Licensee must clearly inform the Customer of the service level that it will provide and the fact that it does not comply with IDA’s minimum quality of service standards.”

53 The term “minimum quality of service standards applicable to Basic Letter Services issued by the IDA” requires clarification.

54 A brief history in relation to the “minimum quality of service standards (**“QoS”**)” is as follows:

- (a) IDA has traditionally established a minimum set of QoS for the collection and delivery of ordinary letters and postcards for the Public Postal Licensee (**“PPL”**). One of the requirements is for Next Day Delivery (**“NDD”**), i.e. s to deliver 99% of the mail within the Central Business District (**“CBD”**) by the next working day and to deliver 98% of mail outside CBD areas by the next working day;
- (b) in IDA’s Public Consultation on Further Liberalisation of the Postal Services Sector (the **“First Public Consultation”**) issued on 18 August 2006, IDA sought views on whether there is a need for QoS to be extended to all Postal Services Operators (**“PSO”**) licensees. Specifically, IDA indicated that all PSOs are required to inform their customers in advance of the terms and conditions of their services, including QoS standards adopted for each service, so that customers can make an informed choice;
- (c) responses to the First Public Consultation included comments that all PSOs should be subject to QoS commitments which should be made known to consumers to minimise consumer confusion and frustration and to provide a level playing field for all; and
- (d) IDA has in its Decision Paper noted that it would require all PSOs to publish their service quality levels, or any service level guarantee that they will provide, to allow consumers to make informed choices when selecting their service providers. IDA has further mentioned that it would monitor market development and reserve the right to place appropriate QoS standards on all PSOs should there be a need.

- 55 SingPost submits that, based on IDA Decision Paper, all PSOs should publish:
- (i) their service quality levels for each service; and
 - (ii) any service level guarantee that they will provide.
- 56 In addition, SingPost submits that PSOs should be required to undertake monthly audits and to publish this information when the QoS requirement has not been complied with. This would avoid both Sender's and Recipient's confusion and frustration resulting from any "performance gap" between a Customer's expectations (of compliance with QoS standards) and the actual delivery standards experienced by such Customer as recognised in IDA Decision Paper. SingPost submits that such a requirement can be imposed pursuant to IDA's stated right to place appropriate QoS standards on all PSOs should there be a need to do so.
- 57 Further, the concept of a "Licensee and Customer agreeing to a lower quality of service" is potentially unworkable where such a "Customer" is a sender of mail rather than an end-recipient. This is because it is end-recipients to whom NDD would matter and who must therefore be kept informed of any "performance gap" in order to manage their expectations accordingly. Where a Licensee and a sender agree to a QoS lower than NDD, end-recipients who are not aware of such an arrangement may be disappointed and may perceive that the postal system is either inefficient or ineffective.
- 58 This would be counter-intuitive, as a recent survey by leading market research agency TNS Singapore on the quality of postal services in Singapore, revealed that end-users perceived NDD standards as a reflection of the high level of quality and efficiency of Singapore's postal service and a reflection of a country's or its Government's overall development and efficiency. Further, the survey also found that users deemed NDD as a must, relying on it to ensure that their mail is delivered punctually. A copy of the survey findings is attached. **(Annex 1 – Perception of Postal Services: Extract of a study on the quality of Singapore Postal Services conducted in June 2007 by TNS)**
- 59 The following provisions are suggested as an addition to Section 1.8 and a revised Section 3.2 respectively:

Proposed addition to Section 1.8:

"Recipient" means an end recipient of Basic Letter Services."

(Amendments underlined)

Proposed Section 3.2:

“All Licensees must comply with any minimum quality of service standards (“**QoS**”) applicable to Basic Letter Services issued by IDA from time to time. However, a Licensee and a Customer may agree to a low quality of service standard. In such cases, the Licensee must clearly inform the Customer and the Recipient of the service level that it will provide and in each instance that it does not comply with the minimum QoS.”

(Amendments underlined)

- 60 SingPost suggests that the Recipient may be informed about a Licensee’s QoS by way of publishing by the Licensee on its website of their service quality levels, any service level guarantee that they will provide; and any failure by the Licensee to comply with the requisite service quality level. In addition, SingPost also suggests that the delivery standards outside of the minimum QoS should be clearly and legibly indicated on the envelopes so that Recipients are aware of such standards and can be informed and kept updated. An example of this is as seen in the example of Royal Mail (UK), where different coloured postage stamps, i.e. 1st and 2nd class stamps are used to denote the difference in the delivery standards so that the public or anyone for that matter is instantly able to distinguish between the delivery standards of the mail.

Summary of Comments and Proposal

Section 3.2

- To ensure that the confidence of end-recipients in the quality and efficiency of Singapore’s postal service is maintained, the following changes are proposed:

Proposed addition to Section 1.8:

“Recipient” means an end recipient of Basic Letter Services.”

(Amendments underlined)

Proposed Section 3.2:

“All Licensees must comply with any minimum quality of service standards (“QoS”) applicable to Basic Letter Services issued by IDA from time to time. However, a Licensee and a Customer may agree to a low quality of service standard. In such cases, the Licensee must clearly inform the Customer and the Recipient of the service level that it will provide and in each instance that it does not comply with the minimum QoS.”

(Amendments underlined)

- Informing can be by way of:
 - the Licensee publishing on its website its service quality levels and service level guarantee
 - indicating the delivery standards outside of the minimum QoS clearly and legibly on the envelope e.g. Royal Mail 1st and 2nd class stamps

Section 4.4.2.1 - Information to be Included

- 61 SingPost acknowledges that a Dominant Licensee in a Basic Letter Services market must file its tariffs with IDA and obtain the necessary written approvals set out in Section 4.4.1. SingPost acknowledges IDA's interest in receiving filings of its tariffs.
- 62 However, SingPost submits that full disclosure of such tariffs may not be desirable. SingPost submits that tariff filings should be confidential and for the information and use of IDA only.
- 63 SingPost submits that there is a need to balance the desire for transparency with the fact that certain agreements between Licensees and their customers or third parties are rigorously negotiated and privately compromised documents which should not as a matter of default be publicly reviewable. Disclosing all such documents as a matter of course could have various negative effects.
- 64 First, "default transparency" could artificially enhance the rigour with which agreements are negotiated: parties who are aware that their agreements with a Licensee would be made public would negotiate with an excessively strong hand.
- 65 Second, publishing all requisite information in its duty to publish tariff requirements may give rise to the "suction effect" of customers placing all of their requirements with SingPost instead of leaving part of their consumption contestible. SingPost submits that regulation should instead be targeted at making the requirements objective and fairly applied.
- 66 SingPost submits that the entire Section 4.5 of the Competition Code (Duty to Publish Tariffs) should be deleted.
- 67 Alternatively, even if the entire Section 4.5 is not deleted, it is proposed that the granularity of tariff information required to be published should be reduced in the following manner:
- (a) the last line of Section 4.5 should be deleted: "The information must, at a minimum, include a service description, prices (including any discount structures), service availability and eligibility requirements"; and
 - (b) in relation to Section 4.4.2.1(b), SingPost submits that very often, "prices, terms and conditions (including eligibility requirements)" may be commercially sensitive in that such prices and terms and conditions are usually a result of rigorously negotiated agreements between the Licensee and its customers.

68 SingPost submits that where tariff submissions are to be published in part only, the parts to be redacted should be decided by SingPost. This is because firstly, IDA may not be in a position to know the confidentiality obligations which are owed by the relevant Licensee to its customers, and should rely on the submissions of the Licensee as to whether any relevant information is disclosable. Secondly, it is consistent with the practices of antitrust regulators generally, and Section 9.5 of the Postal Competition Code (Confidential Treatment of Information), that redaction should be at the initiative of the submitting parties.

Section 4.4.2.2(b) – Review Criteria

69 Section 4.4.2.2(b) of the Postal Competition Code provides as follows:

“In assessing whether a proposed tariff is just and reasonable, IDA will apply the following criteria:

(b) In case of a tariff for a wholesale Basic Letter Service offered under section 4.3, IDA will seek to determine whether the prices, terms and conditions are no less favourable than the prices, terms and conditions on which the Dominant Licensee offers any comparable service to its Customers.”

70 SingPost would like to clarify that in the case of a tariff for a wholesale Basic Letter Service, reference should specifically be made to the agreements with Requesting Licensees and consolidators rather than that for direct customers. To avoid confusion, section 4.4.2.2 (b) should therefore reflect the prices, terms and conditions set out in the network access agreements, including the RAO. As such, the “prices, terms and conditions” should follow the pricing methodology as spelt out in paragraph 2.1.2 of the Appendix of the Postal Competition Code and prices, terms and conditions on which the Dominant Licensee offers any comparable services to consolidators.

71 The following provisions are suggested as a revised Section 4.4.2.2(b):

Proposed Section 4.4.2.2(b)

“In assessing whether a proposed tariff is just and reasonable, IDA will apply the following criteria:

(b) In case of a tariff for a wholesale Basic Letter Service offered under section 4.3, IDA will seek to determine whether the prices, terms and conditions are no less favourable than the prices, terms and conditions on which the Dominant Licensee offers to consolidators and Requesting Licensees adopting the methodology set out in paragraph 2.1.2 of the Appendix to the Postal Competition Code.”

(Amendments underlined)

Section 4.7 – Review of Effective Tariffs

72 Section 4.7 of the Postal Competition Code provides as follows:

“Once IDA allows a tariff to go into effect, IDA will presume that the prices, terms and conditions are just, reasonable and non-discriminatory. IDA may review the effective tariff periodically to determine whether the prices, terms and conditions remain just, reasonable and non-discriminatory, and may direct the Dominant Licensee to make appropriate modifications. In addition, any party that believes that the prices, terms and conditions on which a Dominant Licensee is providing Basic Letter Services pursuant to an effective tariff are unjust, unreasonable or discriminatory may petition IDA to review those provisions. The petitioner must provide the basis for its belief. IDA may also take enforcement action if it concludes that an effective tariff, or the Dominant Licensee’s implementation of an effective tariff, contravenes any provision of this Code.”

- 73 SingPost submits that it is not sufficient that the petitioner referred to in Section 4.7 provides the basis for its belief that the prices, terms and conditions on which a Dominant Licensee is providing Basic Letter Services pursuant to an effective tariff are unjust, unreasonable or discriminatory.
- 74 Instead, it should be a requirement that the petitioner must lodge the complaint in good faith and that IDA should not entertain complaints which are not lodged in good faith or which are not otherwise based on persuasive evidence.
- 75 The rationale for this is that a Licensee which is a target of complaints made in bad faith (whether ad hoc or as part of a systematic approach) could be prevented from competing effectively due to the channelling of resources towards defending claims which are in the first place baseless or unfounded. It is conceivable that considerable resources may be required to defend against complaints even when they are made in bad faith, malevolent or just plainly frivolous.

Section 5.6.3.2(d)(iv) – Additional Terms Required

76 Section 5.6.3.2(d)(iv) of the Postal Competition Code provides as follows:

“The RAO must contain the following:

(d) statements that:

(iv) the Mandated Licensee will not unreasonably withhold consent from a Licensee seeking to assign its rights and obligations to another Licensee.”

77 SingPost submits that the Mandated Licensee should have full discretion in deciding whether to withhold consent from a Licensee seeking to assign its rights and obligations to another Licensee. Alternatively Section 5.6.3.2(d)(iv) could be amended to provide that the said assignee Licensee should be a related corporation of the assignor Licensee. SingPost submits that the problem with a liberal assignment policy is that it may result in a situation whereby Licensees who are likely to be granted RAO rights by the Mandated Licensee are approached by potential assignee parties/Licensees to obtain the rights from SingPost with a view to such rights being subsequently assigned to the parties/Licensees.

Section 5.8(b) and (c) – Publication of Network Access Agreement

78 Section 5.8(b) and (c) of the Postal Competition Code provides as follows:

“(b) IDA reserves the right to require publication of the entire Network Access Agreement. Before doing so, IDA will provide the parties with notice and an opportunity to comment.

“(c) In any case in which the entire agreement is to be published, IDA may, on its own motion or at the request of either of the Licensees, withhold from publication any portion of a Network Access Agreement if IDA determines that it contains proprietary or commercially sensitive information.”

79 SingPost agrees with IDA that IDA reserves the right to require publication of the Network Access Agreement as stated in Section 5.8(b). However, SingPost submits that IDA should not determine in its sole discretion if a Network Access Agreement contains information which is “proprietary or commercially sensitive”. There are two reasons for this. Firstly, IDA may not be in a position to know the confidentiality obligations which are owed by the relevant Licensees to third parties. It should therefore rely on the submissions of the Licensees as to whether any relevant information is disclosable. Secondly, it is consistent with the practices of antitrust regulators generally, and Section 9.5 of the Postal Competition Code, that redaction should be at the initiative of the submitting parties.

Section 5.9 – Enforcement of Agreements

80 Section 5.9 of the Postal Competition Code provides as follows:

“In the event of a dispute arising out of any Network Access Agreement with a Mandated Licensee, either party may request IDA to resolve the dispute. If IDA declines to intervene, the Licensees may resolve the dispute in any mutually agreeable manner.”

81 SingPost submits that the Postal Competition Code should specify the instances in which IDA will intervene.

82 Certainty of the circumstances under which IDA will intervene are important to establishing certainty for the Licensees of the regulatory environments in which they operate.

83 To this extent, it is noted that IDA has in its Decision Paper stated in paragraph 64(iii) on page 24 that it will, in respect of the international mail market, “neither encourage nor facilitate the sending of outbound international mail through SingPost’s network” and that “IDA will not intervene in the case of disputes”.

Summary of Comments and Proposal

Section 4.4.2.1:

- There is a need to balance the desire for transparency with the fact that certain agreements between Licensees and its customers or third parties are rigorously negotiated and privately compromised documents which should not be publicly reviewable.
- Disclosing all such documents could have negative effects of third parties negotiating with an excessively strong hand, and an anti-competitive “suction effect”.

Section 4.4.2.2:

- Tariffs for a wholesale Basic Letters Service should be made to Licensees and consolidators. The following changes are therefore suggested:

Proposed Section 4.4.2.2(b):

“In assessing whether a proposed tariff is just and reasonable, IDA will apply the following criteria:

- (b) In case of a tariff for a wholesale Basic Letter Service offered under section 4.3, IDA will seek to determine whether the prices, terms and conditions are no less favourable than the prices, terms and conditions on which the Dominant Licensee offers to consolidators and Requesting Licensees adopting the methodology set out in paragraph 2.1.2 of the Appendix to the Postal Competition Code.”

Section 4.7:

- Petitioners who lodge complaints that a tariff is unjust; unreasonable or discriminatory should be required to do it in good faith or based on persuasive evidence.

Section 5.6.3.2:

- Mandated Licensees should have full discretion in deciding whether to withhold consent from a Licensee seeking to assign its rights and obligations to another Licensee.

Section 5.8:

- SingPost agrees with IDA that IDA reserves the right to require publication of the Network Access Agreement as stated in Section 5.8(b). However, SingPost submits that IDA should not determine in its sole discretion if a Network Access Agreement contains information which is “proprietary or commercially sensitive”.

Section 5.9:

- The Postal Competition Code should specify the instances in which IDA will intervene pursuant to Section 5.9, namely that IDA will “neither encourage nor facilitate the sending of outbound international mail through SingPost’s network” and that “IDA will not intervene in the case of disputes”.

Section 9.2.1.1(iii) & 9.2.1.2 – Submission of Written Requests for Enforcement & IDA’s Response to Request for Enforcement

84 Section 9.2.1.2 provides as follows:

(b) *Where IDA determines that the Request for Enforcement raises novel or complex issues, IDA may, by written notification to the Party Requesting Enforcement, extend the review period by up to 30 days:*

(i) *IDA will find that a Request for Enforcement involves a novel issue when disposition of the Request for Enforcement requires IDA to consider an issue that IDA has not previously addressed, either under this Code or in a prior enforcement request.*

(ii) *IDA will find that a Request for Enforcement involves a complex issue when disposition of the Request for Enforcement requires IDA to obtain significant factual information to resolve difficult legal, factual or policy issues that cannot be adequately resolved within the ordinary 15-day period.*

85 SingPost submits that the period of 15 days for preparation of a Response is too short especially if the Request for Enforcement is made pursuant to Section 9.2.1.2(b) and especially in instances where novel and/or complex issues are raised. Hence, SingPost proposes a period of 30 days instead.

Section 9.4 – Request for Information

86 Section 9.4 provides as follows:

- “(a) *In carrying out its duties and functions under this Code, IDA may, by notice in writing, require a Licensee or other party specified in this Code to produce specified documents or to provide specified information by a specified timeframe. IDA may also request a party to participate in an interview or require a party to allow IDA to physically inspect its account, documents, records, facilities and operations.*
- “(b) *All information submitted to IDA by any Licensee or other party pursuant to the provisions of this Code must, to the best of that Licensee’s or party’s ability and knowledge, be accurate, complete and responsive. At the time it submits the information, the Licensee or party must submit a statement in a form acceptable to IDA, certifying that it has satisfied this obligation.*”

87 SingPost submits that the information request powers are wide and may result in vast amounts of commercially sensitive information being produced to the IDA which may not be directly relevant to the matter at hand.

88 It is therefore submitted that the following provisions are suggested as a new Section 9.4(a):

- “(a) In carrying out its duties and functions under this Code, IDA may, by notice in writing, require a Licensee or other party specified in this Code to produce extracts of directly relevant documents or to provide directly relevant information by a specified timeframe where such documents and information must relate directly to the Mandated Services and not any other part of the Licensee’s business. IDA may also request a party to participate in an interview or require a party to allow IDA to physically inspect its account, documents, records, facilities and operations.”

(Amendments underlined)

Appendix to the Postal Competition Code:

Paragraph 2.1.2(b):

89 Paragraph 2.1.2(b) in the Appendix of the Postal Competition Code provides as follows:

“Unless IDA mandates or allows the use of a different methodology, a Mandated Licensee must offer to provide “downstream delivery services” using the following pricing methodology:

(b) for delivering other unsorted and heterogeneous domestic mail, the access prices will be determined using the standard of retail price for delivery of such mail minus avoidable costs; and”

90 SingPost proposes that the access prices for delivery of unsorted and heterogeneous domestic mail should be determined using the standard of “a rate higher than the rate charged for homogeneous mail but lower than retail price”, as this would be clearer and more easily understood by other postal operators.

91 The reason is that the present suggestion in the proposed Competition Code of “retail price minus avoidable costs” does not take into account additional handling costs occasioned by handling of unsorted and heterogeneous mail.

Paragraph 2.1.2(c):

92 Paragraph 2.1.2(c) in the Appendix of the Postal Competition Code provides as follows:

“Unless IDA mandates or allows the use of a different methodology, a Mandated Licensee must offer to provide “downstream delivery services” using the following pricing methodology:

(c) for delivering incoming international mail to recipients in Singapore, the access prices will be determined using the Universal Postal Union Terminal Dues Rates as reference points.”

93 SingPost submits that the phrase “Terminal Dues System” should be used instead of “Terminal Dues Rate” as it is more accurate.

94 To elaborate:

- (a) The present terminal dues system comprises two sub-systems: a target system and a transitional system. The target system is applied for relations between industrialized countries and with other countries wishing to belong to this system. The transitional system is applied in relations with developing countries not yet ready to join the target system; and
- (b) Terminal dues under the target system are based on two elements: a rate per item and a rate per kg, calculated on the basis of a percentage of the charge for a priority letter in the destination country's domestic service. Terminal dues under the transitional system also comprise a rate per item and a rate per kg, but these rates are based on world average costs.
- (c) A reference to terminal rates per se would therefore be inaccurate.

Paragraph 2.2.1:

95 Paragraph 2.2.1 in the Appendix of the Postal Competition Code provides as follows:

“A Mandated Licensee must offer to provide Requesting Licensees with the following in its RAO:”

96 SingPost proposes that the conditions in respect of paragraph 2.2.1 in the Appendix of the Postal Competition Code can only apply to homogeneous mail. Accordingly the first line of paragraph 2.2.1 in the Appendix of the Postal Competition Code should read:

“A Mandated Licensee must offer to provide Requesting Licensees with the following in its RAO (some of which can only apply to homogeneous mail) and in accordance with and subject to the specifications as set out in the Mandated Licensee’s Terms and Conditions.”

Paragraph 2.2.1(e):

97 Paragraph 2.2.1(e) in the Appendix of the Postal Competition Code provides as follows:

“A Mandated Licensee must offer to provide Requesting Licensees with the following in its RAO:

(e) the sortation requirement options that the Mandated Licensee will offer, if a Requesting Licensee chooses to pre-sort Basic Letters and/or Direct Mail. This should include grouping addresses into selections. At a minimum, the Mandated Licensee must offer the same pre-sortation options that the Mandated Licensee offers to Customers as part of any bulk mail contract;”

98 SingPost submits that the concept of “grouping addresses into selections”, especially if this is mandated by the Requesting Licensee, is widely onerous on the Mandated Licensee. Instead, sorting should be based on the Mandated Licensee’s prevailing protocols.

99 Accordingly, it is proposed that paragraph 2.2.1(e) in the Appendix of the Postal Competition Code should read:

Proposed Paragraph 2.2.1(e):

“the sortation requirement options that the Mandated Licensee will offer, if a Requesting Licensee chooses to pre-sort Basic Letters and/or Direct Mail. This should include grouping addresses by postal sectors as used and specified by the Mandated Licensee.”

(Amendments underlined)

Paragraph 2.2.1(l):

100 Paragraph 2.2.1(l) in the Appendix of the Postal Competition Code provides as follows:

“A Mandated Licensee must offer to provide Requesting Licensees with the following in its RAO:

(l) the delivery standard for Basic Letters and/or Direct Mail received at the specified time, the percentage target for achieving this standard, and compensation to Requesting Licensee upon failure to meet the target;”

101 SingPost refers to the statement “the delivery standard for Basic Letters and/or Direct Mail received at the specified time and the percentage target for

achieving this standard". Accordingly, SingPost submits that in the event that the Requesting Licensee requires independent auditing or testing of the delivery standard, such independent auditing or testing shall be conducted by one of the international accounting firms carrying on business in Singapore, and shall be in consultation with the Mandated Licensee and all such related costs should be borne by the Requesting Licensee.

Paragraph 2.3.2:

102 Paragraph 2.3.2 in the Appendix of the Postal Competition Code provides as follows:

"A Mandated Licensee must offer to deliver Basic Letters and/or Direct Mail to Post Office Boxes on prices, terms and conditions approved by IDA. Any charges, if applicable, must be based on the incremental cost of providing such access."

103 SingPost submits that the phrase "any charges, if applicable, must be based on the incremental costs of providing such access" should be deleted. This is because access to the Post Office Boxes will depend largely on the proximity to the Post Office in question and also the different timing required at each Post Office in connection with the timing of the postman's delivery schedule. Mail items are not delivered to the Post Office by the retail staff at the Post Office, but are delivered by the postman as part of their delivery routes.

Summary of Comments and Proposal

Section 9.2.1.2:

- SingPost submits that the period of 15 days for preparation of a Response is too short especially if the Request for Enforcement is made pursuant to Section 9.2.1.2(b) and in instances where novel and/or complex issues are raised. Hence, SingPost proposes a period of 30 days instead.

Section 9.4:

- SingPost submits that the information request powers are wide and may result in vast amounts of commercially sensitive information being produced to the IDA which may not be directly relevant to the matter at hand.
- It is submitted that the following provisions are suggested as a new Section 9.4(a):

"(a) In carrying out its duties and functions under this Code, IDA may, by notice in writing, require a Licensee or other party

specified in this Code to produce extracts of directly relevant documents or to provide directly relevant information by a specified timeframe where such documents and information must relate directly to the Mandated Services and not any other part of the Licensee's business. IDA may also request a party to participate in an interview or require a party to allow IDA to physically inspect its account, documents, records, facilities and operations.”

(Amendments underlined)

Paragraph 2.1.2(b), Appendix:

- SingPost proposes that the access prices for delivery of unsorted and heterogeneous domestic mail should be determined using the standard of “a rate higher than the rate charged for homogeneous mail but lower than retail price”, as this would be clearer and more easily understood by other postal operators.

Paragraph 2.1.2(c), Appendix:

- SingPost submits that the phrase “Terminal Dues System” should be used instead of “Terminal Dues Rate” as the former is more accurate.

Paragraph 2.2.1, Appendix:

- SingPost proposes that the conditions in respect of paragraph 2.2.1 in the Appendix of the Postal Competition Code can only apply to homogeneous mail. Accordingly the first line of paragraph 2.2.1 in the Appendix of the Postal Competition Code should read:

“A Mandated Licensee must offer to provide Requesting Licensees with the following in its RAO (some of which can only apply to homogeneous mail) and in accordance with and subject to the specifications as set out in the Mandated Licensee's Terms and Conditions.”

(Amendments underlined)

Paragraph 2.2.1(e), Appendix:

- SingPost submits that the concept of grouping into selections, especially if this is mandated by the Requesting Licensee, is widely onerous on the Mandated Licensee. Instead, sorting should be based on the Mandated Licensee's prevailing protocols.
- Accordingly, it is proposed that paragraph 2.2.1(e) in the Appendix of the Postal Competition Code should read as:

Proposed Paragraph 2.2.1(e):

“the sortation requirement options that the Mandated Licensee will offer, if a Requesting Licensee chooses to pre-sort Basic Letters and/or Direct Mail. This should include grouping addresses by postal sectors as used and specified by the Mandated Licensee.”

(Amendments underlined)

Paragraph 2.2.1(l), Appendix:

- SingPost submits that in the event that the Requesting Licensee requires independent auditing or testing of the delivery standard, such independent auditing or testing shall be conducted by one of the international accounting firms carrying on business in Singapore, and shall be in consultation with the Mandated Licensee and all such related costs should be borne by the Requesting Licensee.

Paragraph 2.3.2, Appendix:

- SingPost submits that the phrase “any charges, if applicable, must be based on the incremental costs of providing such access” should be deleted. This is because access to the Post Office Boxes will depend on the proximity to the Post Office in question and also the different timing required at each Post Office in connection with the timing of the postman’s delivery schedule.

PART B – POSTAL OPERATIONS CODE

Section 2 – Identifier Marks

104 Section 2 of the Postal Operations Code provides as follows:

“2.1 Every Licensee must register its Identifier Mark with IDA in accordance with its licence. The Identifier Mark must be easily identifiable as the mark belonging to the relevant Licensee. IDA may specify requirements relating to the design and use of the Identifier Mark.

2.2 Every Licensee must ensure that its Identifier Mark, together with a date stamp, is clearly and legibly marked in accordance with industry practice on each Basic Letter that it handles for the purpose of being conveyed by post.

2.3 A Licensee must not tamper with the Identifier Mark of another Licensee marked on a Basic Letter. This includes any act which renders the Identifier Mark or date stamp of another Licensee unrecognisable or illegible.”

105 SingPost agrees that every Licensee must ensure that its Identifier Mark and date stamp (where applicable) is clearly and legibly marked on each Basic Letter that it handles. In addition, each Licensee handling the Basic Letter should also ensure that its mark is clearly and legibly imprinted on the Basic Letter for accountability.

106 SingPost submits that this clarification will:

- (i) promote accountability by ensuring that each Licensee handles or processes the mail promptly; and
- (ii) ensure that any enquiry process is shortened, thereby instilling customers' confidence in the postal system.

107 SingPost further submits that Licensees who do not require downstream access to SingPost's delivery network should ensure that the only Identifier Mark imprinted is that of the Licensee, and not the joint Identifier Mark design as may from time to time be designated for use when the Licensee requires downstream access to SingPost's delivery network.

Section 4 – Letter Redirection Services

108 Section 4 of the Postal Operations Code provides as follows:

“4.1 Any Licensee that offers a Letter Redirection Service must, upon reasonable request, make available in a timely manner to other Licensees the redirected address of any Recipient who has requested for the Letter Redirection Service (“Redirection Information”), provided that consent has been granted by the Recipient to share the Redirection Information with other Licensees. In this respect, the Licensee providing the Letter Redirection Service must make it known to such Recipients that unless the Recipient expressly opts out, the Licensee may share the Redirection Information with other Licensees for the purposes as permitted by the Recipient.

4.2 Any Licensee that obtains the Redirection Information of any Recipient must not use such information for any purpose other than as permitted by the Recipient.

4.3 The Licensee providing the Letter Redirection Service must not charge other Licensees for the Redirection Information. Instead, the Licensee may only recover costs from Recipients who request for the Letter Redirection Service.”

109 The Postal Operations Code applies only to Basic Letter Services. However, the Postal Operations Code does not cover the return of Direct Mail and other non-regulated mail items. SingPost therefore proposes that the Postal Operations Code provides for the Licensees to agree on commercial terms for mail categories other than Basic Letter Services that are not covered under the Postal Operations Code.

110 SingPost further submits that the phrase “make available in a timely manner” as set out in Section 4.1 should be to “make available within a reasonable time” instead.

111 SingPost further disagrees with the phrase “must not charge other Licensees for the Redirection Information. This conflicts with the immediately following sentence and should therefore be deleted. Instead, the reference should only be made to the fact that the Licensee may recover costs from Recipients who request for the Letter Redirection Service” as set out in Section 4.3.

- 112 On a related note, SingPost's current software system provides and only allows for operational processes and does not cater to ad hoc and regular enquiries.
- 113 Hence, SingPost proposes that in the event that a new software system is required to be developed for this purpose, it may have to offer this service to the other Licensees possibly on a monthly subscription to cover costs due to required system modifications and recurrent maintenance costs.

Sections 5, 6, 7 and 8 – Treatment of Misdirected, Mispasted, Miscollected and Misdelayed Letters

- 114 In relation to Sections 5, 6, 7 and 8 of the proposed Postal Operations Code, SingPost asserts that the Postal Operations Code applies only to Basic Letter Services and that the Postal Operations Code does not cover the return of Direct Mail and other non-regulated mail items. SingPost therefore proposes that the Postal Operations Code provides for the Licensees to agree on commercial terms for mail categories other than Basic Mail Services that are not covered under the Postal Operations Code.
- 115 Currently, only SingPost has an extensive island-wide Street Posting Boxes and Return Mail Boxes. The public will therefore most likely return all mail, including PSO mail via SingPost’s extensive return network.
- 116 SingPost therefore proposes that IDA allows SingPost to conduct periodic reviews on the “reasonable return quantity” with a view to allowing the Licensees to agree among themselves the commercial terms for charging any quantity above a reasonable threshold.
- 117 In particular, in relation to Section 7 for the treatment of Miscollected Letters, SingPost would like to highlight another possible scenario for treatment of Miscollected Letters. An example would be where Licensee A goes to his Customer’s premises and correctly collects a mail bag belonging to Licensee A. However, the Customer had erroneously placed mail items intended for Licensee B in Licensee A’s mailbag. In such a situation, Licensee A would not be at fault and should not be penalised by having to “deliver the Miscollected Letters at its own costs and in a timely and non-discriminatory manner as set out in Section 7.3”. Accordingly, SingPost proposes that the same procedures, as described in Section 5.1 to 5.4 be applied here.

Summary of Comments and Proposal

Section 2:

- SingPost agrees that every Licensee must ensure that its Identifier Mark and date stamp (where applicable) is clearly and legibly marked on each Basic Letter that it handles.
- SingPost submits that Licensees who do not require downstream access to SingPost’s delivery network should be made to ensure that the only Identifier Mark imprinted is that of the Licensee, and not the joint Identifier Mark design as may from time to time be designated for use when the Licensee requires downstream access to SingPost’s delivery network.

Section 4:

- Hence, SingPost proposes that in the event that a new software system is required to be developed for this purpose, it may have to offer this service to the other Licensees possibly on a monthly subscription to cover costs due to required system modifications and recurrent maintenance costs

Sections 5, 6, 7 and 8:

- The Postal Operations Code should provide for Licensees to agree on commercial terms mail categories other than Basic Letter Services that are not covered by the Postal Operations Code.

PART C – POSTAL SERVICES (CONTROL OF DESIGNATED POSTAL LICENSEES) REGULATIONS 2007

Regulation 7(1)(d) – Application for approval under section 26B of the Act

118 Regulation 7(1)(d) of the Postal Services (Control of Designated Postal Licensees) Regulations 2007 provides as follows:

“An application for approval under section 26B of the Act shall be made jointly by the acquiring party, the designated postal licensee and all relevant associates of the acquiring party and shall be submitted —

(d) in all other cases, not more than 90 days and not less than 60 days before the acquiring party intends to enter into a transaction, exercise an option to acquire voting shares or exercise a right to have voting shares transferred to him that would result in the acquiring party becoming a 12% controller or 30% controller of the licensee or entering into a consolidation with the licensee. “

119 SingPost submits that the period of not less than 60 days and not more than 90 days is too long and is not realistic from the perspective of market practice. It also has no precedent under the equivalent competition guidelines of the telecommunication and media sectors.

Regulation 10 – Waiver

120 Regulation 10 of the Postal Services (Control of Designated Postal Licensees) Regulations 2007 provides as follows:

“(1) The Postal Authority may, upon the written request of an applicant —

*(a) waive any requirement of regulations 6, 7 or 8;
or*

(b) reduce or extend any period specified in or under regulation 6, 7 or 8,

if the Postal Authority is satisfied that —

- (i) *the applicant is unable to comply with the requirement due to circumstances beyond his reasonable control;*
 - (ii) *requiring the applicant to comply with the requirement would be unduly burdensome for the applicant or would prejudice the legitimate commercial interests of the applicant; or*
 - (iii) *a reduction or extension of any such period would be appropriate having regard to the circumstances of the case.*
- (2) *A waiver granted under paragraph (1) shall be notified in writing to the applicant and, where the Postal Authority considers it appropriate, any other person who is required to submit an application with the applicant, and need not be published in the Gazette.”*

121 SingPost submits that it should be made clear that one of the requirements of Regulation 6 for which waiver may be sought is “joint applications”. This would be consistent with the equivalent competition guidelines of the telecommunication sector.

122 SingPost further submits that the waiver contemplated under Regulation 10 should also apply to Regulation 5. This is because full compliance of Part IVA with the Post Services Act (Chapter 231A) may not be practicable or feasible given the width of the definition of “associates” in certain cases. Where this is the case, parties should always have the option of applying to the Postal Authority for waiver from the Part IVA requirements.

Summary of Comments and Proposal

Regulation 7(1)(d):

- SingPost submits that the period of “not less than 60 days and not more than 90 days” is too long and is not realistic from the perspective of market practice. It also has no precedent under the equivalent competition guidelines of the telecommunication and media sectors.

Regulation 10:

- SingPost submits that it should be made clear that one of the requirements of Regulation 6 for which waiver may be sought is “joint applications”. This would be consistent with the equivalent competition guidelines of the telecommunication sector.

- SingPost further submits that the waiver contemplated under Regulation 10 should also apply to Regulation 5.