



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

CONSUMER ADVISORY PANEL

SUBMISSION

ON THE

DRAFT REGULATIONS ON THE CONVEYANCE OF MAIL, 2024

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1. BACKGROUND

The Independent Communications Authority (the Authority) has published the Draft Regulations on the Conveyance of Mail, 2024 (the Regulations) for public comment. The Authority drafted the Regulations after conducting the Inquiry into the effectiveness of the Conveyance of Mail Regulations, 2019. The Review of the Regulations yielded the following Results:

- ✚ "The definitions are insufficient and do not cater for the entire process of mail conveyance.
- ✚ There is no adequate protection of consumers against loss and damage of goods and the availability of insurance facilities.
- ✚ There is no provision for personnel security when handling prohibited and dangerous goods.
- ✚ There are no provisions that deal with disaster management.
- ✚ There are no provisions for rebate payable to the sender where there has been a delay in the delivery of an item/article without a notification for such delay.
- ✚ There are no provisions that incorporate technological developments such as digital register and publishing of all the necessary information online".

The Inquiry Results lay a foundation for the repealing of the Regulations on the Conveyance of Mail, 2009 to modernise and streamline the regulatory framework governing mail transportation, aligning it with evolving industry practices and technological advancements also factoring in the economic conditions and high crime levels in South Africa.

2. INTRODUCTION

South African economy is marred by low economic growth and a high unemployment rate and as a result, there are high crime levels. Business cannot thrive well in the high levels of hijackings threatening the functioning of the Conveyance of Mail. Hence it is crucial to factor Security into the Regulations as stated above.

Two Articles written by MyBroadband reveal the following situations that affect the security of the conveyance of Mail and the employment rate in South Africa:

1. Courier and logistics companies deliver large amounts of goods as pointed out by the World Wide Worx Report. The Report states that the value of retail e-commerce has increased from 29 percent between 2022 and 2023 to R71 billion following an increase of 35 percent during the Lockdown, that is, between 2021 and 2022.
2. The e-commerce industry has consequently, attracted well-organised syndicates who are sometimes highly skilled and dangerous. There has been a high level of hijacking in the sector. SkyNet Worldwide Express Commercial Executive, Diederick Stopforth highlights the fact that about 20 to 25 delivery trucks and vans were hijacked daily. Parcel delivery van drivers are among the most hijacked and the delivery personnel are not trained on the security risks¹.

¹ Hanno Labuschagne, Online Shopping deliveries under siege in South Africa. MyBroadband. 27 October 2024.

3. Another issue is that the Courier Sector hire illegal foreigners. The Department of Home Affairs and the Department of Employment and Labour in partnership with the Law Enforcement have recently targeted restaurants to clamp down employment of illegal employment. The parliamentarians have proposed that the same partnership be implemented in other Sectors².
4. The state of the South Africa Postal Office (SAPO) is analysed in terms of the sites that are either inactive, temporarily closed or permanently closed (please see Table 1):

Table 1: Summary of the South African Post Office Sites showing active, inactive, temporarily and permanently closed sites

| SITE | NUMBER |
|--------------------|--------|
| ACTIVE | 642 |
| INACTIVE | 230 |
| TEMPORARILY CLOSED | 81 |
| PERMANENTLY CLOSED | 485 |

Source of data: <https://www.postoffice.co.za/index.html> (13 March 2024)

The number of Active Sites is **642**, whereas the number of Inactive, Temporarily Closed and Permanently Closed Sites is **796**. Therefore, the number of Inactive Sites surpasses the number of Active Sites. On 31 October 2024, the Department of Communications and Digital Technologies indicated that SAPO would not receive a bailout from the government³.

²Myles Illidge, Checkers Sixty60 and Uber driver crackdown looms in South Africa. MyBroadband. 31 October 2024.

³Babalalo Ndenze, Godongwana: There's no money in adjustment budget to bail out SA Post Office. EYEWITNESS News. 31 October 2024.

The poor state of Postal Services makes it imperative for the Authority to monitor and evaluate the level of service delivery by ensuring that the objectives of Postal Services Act No. 124 of 1998 (PSA) are achieved. Section 2 (c) specifically states that the purpose of the Act is to: “make progress towards the universal provision of postal services”.

3. SPECIFIC COMMENTS

The Consumer Advisory Panel (CAP) propose the following amendments be made to the Draft Regulations:

3.1 DEFINITIONS

“Conveyor” - CAP suggest that the definition of Conveyor reads as follows:

“Conveyor” means a licenced or registered person whose business is to carry, transfer or deliver mail from a sender to an addressee or displayed address;

CAP believe that it is not the intention of the Authority to regulate people who are not licenced. Also, the amended definition of “Conveyor” will tally well with the definition of “courier service” (provided by PSA) means a service provided by a person licensed or registered to provide such a service in terms of this Act;

“Mail”- According to the Postal Services Act No. 124 of 1998 the definition of “Mail” means every article collected for conveyance by post and includes loose and individual articles and every mailbag, vessel or conveyance of any kind by which postal articles are carried, whether or not it contains any such articles and every person conveying or delivering mail or postal articles.

CAP believes that the definition of Mail seems to be inadequate as it has not factored in the inclusion of Mail that is delivered via technology. It would therefore

be difficult to read the definition of Mail in isolation from the definition of “Conveyance of Mail”.

It would therefore be efficient to include the definition of “Mail” in the Draft Regulations to make it easy to tie it together with the definition of “Conveyance of Mail”. Thus, CAP proposes that the definition of “Mail” be inserted and if possible, be amended to accommodate the conveyance of Mail via technology. For instance, the definition of “Mail” may have to include Electronic Mail (email) etc. The Authority has also, after conducting the Inquiry concluded that there is a need for a change in the definition of Mail.

3.2 SCOPE AND APPLICATION OF THE REGULATIONS

CAP propose that the Scope and Application of the Regulations read:

The Regulations apply to all registered conveyors of Mail. The reason for the amendment is because in terms of the Act, some of the couriers are exempted from registering in terms of the Act, whereas some operate outside of the scope of the Act as they transmit Mail that is above thirty kilograms.

3.3 DANGEROUS GOODS

CAP propose that Sub-Regulation 14(5) reads: The digital register referred to in sub-regulation (3) above, must be kept for a period of three (3) years.

4. GENERAL COMMENTS

CAP propose that the Authority look into the two areas that affect the South African economy, namely the high crime levels and the high unemployment rate.

4.1 HIGH CRIME LEVELS

As mentioned South Africa is marred by high levels of crime, specifically Hijackings. Sub-Regulation 10(f) states that "safe transportation with telematics systems such as vehicle tracking" must be included in the security plan. CAP support the provision to install vehicle tracking; however, it would be prudent for Conveyors to hire Security Personnel to accompany those who transmit Mail.

MyBroadband points out that Courier Guy CEO, Craig Pitchers has indicated that "rising security costs to protect delivery people and vehicles from the syndicates were killing margins". The Authority has prescribed the need for conveyancers to establish and maintain a disaster management plan and business continuity plan to ensure the safety of mail delivery by minimising any interruptions.

It is through planning at a company level, that couriers can apply cost-benefit analysis to determine the costs and benefits of training and employing security personnel thus ensuring the safe delivery of Mail. It has been shown above that the Mail Conveyance industry is making a good contribution to the economy but equally so, the hijackings add costs to the delivery of Mail.

In addition to couriers establishing disaster management, CAP proposes that at the Sector level, the Authority collaborates with government entities to strengthen the security in the Sector. The Authority may conduct Surveys to determine the level of crime in the sector and submit the Statistics to the law enforcement authorities.

4.2 HIGH UNEMPLOYMENT RATE

South African unemployment rate is very high as portrayed by Figure 1. The latest Official Unemployment Rate ranges from 32.6 percent (Quarter Apr-Jun 2023) to 33.5 percent (Quarter Apr-Jun 2024) whereas the Expanded Unemployment Rate is higher and ranges from 42.1 percent (Quarter Apr-Jun 2023) to 42.6 percent (Quarter Apr-Jun 2024).

FIGURE 1: QUARTERLY UNEMPLOYMENT RATE (%)

| QUARTER | OFFICIAL UNEMPLOYMENT RATE | EXPANDED UNEMPLOYMENT RATE |
|-----------------------|-----------------------------------|-----------------------------------|
| APR – JUN 2023 | 32.6% | 42.1% |
| JAN – MAR 2024 | 32.9% | 41.9% |
| APR – JUN 2024 | 33.5% | 42.6% |

Source of Data: STATISTICS SA, QUARTER 2:2024

As mentioned above, the hiring of illegal foreigners by the Conveyance of Mail Sector is one of the factors that negatively impact the Employment Rate in South Africa.

CAP suggest that it is important that the Authority conduct Market Risk Analysis through Surveys to check the extent that the Sector employs illegal foreigners. As suggested above, government entities mustn't work in silos. It would be efficient for the Authority to work closely with the Department of Employment and Labour and the Department of Home Affairs to resolve the issue.

5. RECOMMENDATIONS

CAP support the assertion made by the Authority that it is necessary to repeal the Conveyance of Mail, 2009. CAP recommend the repeal of the Regulations to address the following issues which are important in protecting the South African economy and consumers:

1. Technology – Technological advancement has made it convenient for consumers to receive Mail without going through the traditional value chain. It is therefore vital to include the definition of Mail alongside the definition of Conveyance of Mail in the Draft Regulations.
2. High Crime Level in South Africa – the issue involves theft and hijacking. CAP propose that the Authority work closely with the Law Enforcement Agencies as Disaster Management and Business Continuity Plan at a Company level cannot be adequate to address the issue that affects the Country. Cooperation among Regulators in different Sectors, government departments and Law Enforcement Agencies is vital.
3. High Unemployment Rate – it has already been demonstrated above that there is an abnormally high level of unemployment rate. Issues such as the hiring of illegal foreigners have negatively affected the employment of South Africans. The Department of Employment and Home Affairs, the Department of Labour and the Law Enforcement have already started to target the Hospitality Industry, specifically Restaurants to clamp down on illegal restaurant employment.
4. SAPO is on the verge of collapse and it is not clear how long the entity will keep on delivering courier and other services. It will therefore be prudent for the

Authority to work closely with the Department of Communications and Digital Technologies in fulfilling the intention to review the exclusivity of SAPO in terms of Section 16(8) of the PSA, as published in Government Gazette No. 50077, Volume 704 dated 5 February 2024 to avert the collapse of postal services.