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**SAPO Joint Business
Rescue Practitioners**

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To: The Independent Communications Authority of South Africa

Attention: Chairperson: Conveyance of Mail Council Committee

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SA POST OFFICE COMMENTS ON THE 2024 DRAFT REGULATIONS ON THE CONVEYANCE OF MAIL

Background

The Independent Communications Authority of South Africa (ICASA) has published Notice 2764 of 2024 regarding the Draft Regulations on the Conveyance of Mail (Draft Regulations). This action is in accordance with section 61(d) of the Postal Services Act 124 of 1998 (Postal Services Act), which should be read in conjunction with section 4(3)(j) of the Independent Communications Authority of South Africa Act 13 of 2000 (ICASA Act). As the regulatory body for the postal services sector, ICASA is mandated to oversee both reserved and unreserved postal services. According to Section 8(1)(a)(d) of the Postal Services Act, ICASA is empowered to establish regulations pertaining to the conveyance of postal items, as well as to outline the general authorities and responsibilities of conveyers, and to address legal possession or ownership issues related to postal articles in the context of violations of the Act, including mail fraud and theft, along with associated matters.

Since the publication of the previous Regulations in 2009, the postal services sector has undergone significant changes, including a decline in letter mail volumes over the past decade. Concurrently, there has been an increase in parcel delivery services due to the rise of e-commerce, which has subsequently raised data protection concerns amid growing cybersecurity threats.

Purpose of the submission

ICASA has extended an invitation to stakeholders to submit written comments on the Draft Regulations. Below, we present the submission from the South African Post Office (SA Post Office)

SA Post Office suggested amendments and comments

The inputs below are only limited to instances wherein the SA Post Office considered proposed amendments to the draft regulations. Proposed regulation that SA Post Office does not object to are not included in the below table. Proposed amendments have been underlined for ease of reference.

Clause /Regulation/ Description	SA Post Office proposed Amendments	Rationale or Comment
DEFINITIONS		
<p>“Conveyor” means a person or licensee whose business is to carry, transfer or deliver mail from a sender to an addressee or displayed address</p>	<p>“Conveyor” means a person or licensee <u>or a sub-contractor of a licensee</u> whose business is to carry, transfer or deliver mail from a sender to an addressee or displayed address</p>	<p>The proposed change allows for subcontracting to a service provider who may not be a “licensee” in the transference or delivery of mail thus allowing for utilisation of a non-licensed postal contractor</p>
<p>“Damage” means a physical impairment resulting in the loss of value, usefulness or the normal function of something which occurred at the point of acceptance of mail by the conveyor and before delivery to the addressee or displayed address;</p>	<p>“Damage” means a physical impairment resulting in the loss of value, usefulness or the normal function of something which occurred <u>after</u> the point of acceptance of mail by the conveyor and before delivery to the addressee or displayed address <u>or collection by the addressee or authorised recipient of the addressee from a conveyor’s counter or any authorised collection point</u></p>	<p>Conveyor can only accept accountability post acceptance of mail from the sender until delivery or collection by the addressee or a recipient authorised by the addressee.</p>
<p>“Insurance” means a service offered by a conveyor to a sender whereby the sender pays a fee to the conveyor in order for the conveyor to compensate the sender against loss or damage of mail in conveyance;</p>	<p>“Insurance” means a service offered by a conveyor <u>or a contracted Insurer (Risk carrier)</u> to a sender whereby the sender pays a fee to/ <u>through</u> the conveyor in order for the conveyor to compensate the sender against loss or damage of mail in conveyance, <u>subject to the terms and conditions of the Risk Carrier (insurer) from time to time, which will be risk dependent</u></p>	<p>Inclusion of Insurance provider as a possible extension to the provision of the service as well as the consideration of any possible limitations imposed by the Risk Carrier (Insurance) on such cover</p>
4. GENERAL POWERS AND DUTIES OF A CONVEYOR		
<p>(1) A conveyor must establish minimum terms and conditions that include, amongst others, the following:</p> <p>(a) packaging and delivery parameters;</p> <p>(b) sealing and labelling of mail;</p> <p>(c) pricing and payment;</p> <p>(d) delivery times; and</p> <p>(e) establishing and maintaining internal procedures, standards, and policies concerning redress for loss and damage to postal items.</p>	<p>(1) A conveyor must establish minimum terms and conditions that include, amongst others, the following:</p> <p>(a) packaging and delivery parameters;</p> <p>(b) sealing and labelling of mail;</p> <p>(c) pricing and payment;</p> <p>(d) delivery times; and</p> <p>(e) establishing and maintaining internal procedures, standards, and policies concerning redress for loss and damage to postal items</p> <p>(f) <u>minimum obligations i.r.o information that the sender</u></p>	<p>Addition of regulation 4(1)(f) to oblige the sender to provide accurate contact details to facilitate for the enforcement of Regulation 4(5)</p>

Clause /Regulation/ Description	SA Post Office proposed Amendments	Rationale or Comment
	<u>should provide to the conveyor, that includes correct forwarding address, contact details of sender and recipient for ease of contact should the need arise</u>	
(2) A conveyor must publish the terms and conditions in accordance with sub-regulation 4(1) above on its point of contact for sales platforms	(2) A conveyor must publish the terms and conditions in accordance with sub-regulation 4(1) above, on its point of contact for sales platforms <u>or any other acceptable and accessible medium at the point of acceptance of mail</u>	Provision for use of other reasonable mediums for publication e.g. posters etc. so that it does not only limit to a point of sale printable or digital copy that may not always be feasible
5) A conveyor must notify the sender within a reasonable period of its inability to deliver the mail on time.	5) A conveyor must notify the sender <u>where accurate contact details are provided in line with Regulation 4(1)(f)</u> within a reasonable period of its inability to deliver the mail on time.	Conveyor can only fulfill this requirement provided it has been provided with the senders correct contact details
5. LEGAL POSSESSION AND OWNERSHIP OF MAIL		
(3) Mail shall be deemed to be delivered when it is handed over by a conveyor to the addressee or displayed address or picked up by the addressee from a conveyor's counter or any authorised collection point	(3) Mail shall be deemed to be delivered when it is handed over by a conveyor to the addressee or <u>authorised recipient of the addressee</u> or displayed address or picked up by the addressee or <u>authorised recipient of the addressee</u> from a conveyor's counter or any authorised collection point	Recognition and acceptance of a recipient that is authorised by the addressee to accept delivery on behalf of the addressee.
6. LIABILITY		
(1) A conveyor is liable for damage and loss of mail from the point of receipt of the mail until the delivery of the mail is completed	(1) A conveyor is liable for damage and loss of mail from the point of <u>acceptance of the mail until the delivery to the addressee or authorised recipient of the addressee or displayed address or picked up by the addressee from a conveyor's counter or any authorised collection point.</u> <u>Subject to 6(2)(a) to (f)</u>	Conveyor can only accept liability post acceptance of mail from the sender and until the addressee or a recipient authorised by the addressee takes delivery.
(2) A conveyor is excluded from liability in instances where: (a) the sender does not declare the contents of the mail. (b) the sender refuses the contents of the mail to be examined without opening.	No changes proposed. Refer to regulation 3 below for relevance	See below point for relevance

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(c) mail handed over by the sender to the conveyer has defects or the risk of defect is inherent in the nature of mail. (d) mail is opened, inspected, and/or confiscated by a competent authority. (e) mail is lost or damaged due to force majeure. (f) mail is lost or damaged due to no fault of the conveyer.		
(3) A conveyer may not reject and/or refuse to pay an insurance claim on the grounds listed in sub-regulation (2).	(3) A conveyer may not reject and/or refuse to pay an insurance claim <u>if the terms and conditions in sub-regulation (2)(a) to (f) are complied with.</u>	Proposed revision of wording on Regulation. Original wording contradicts Regulation 2 (a) to (f)
7. COMPENSATION		
(1) Subject to regulation 6(2) above a conveyer must pay compensation for loss and/or damage to mail.	(1) Subject to regulation 6(2) above a conveyer <u>must compensate for loss and/or damage to mail in line with Insurance terms and conditions where customer opted to take insurance</u>	Mandatory compensation negates the need for goods in transit insurance as Customers would opt out of taking out insurance if conveyer would be mandated to compensate for loss or damage. Compensation should then be through insurance
(2) Amount payable for compensation for loss and/or damage to mail shall be equal to the replacement value declared by the customer at the point of handing mail over to the conveyer.	(2) Amount payable for compensation for loss and/or damage to mail shall be equal to the <u>value determined in line with the terms and conditions of the Insurer from time to time (which will be risk dependent) declared to the customer at the point of handing mail over to the conveyer and acceptance of insurance</u>	Compensation cannot be limitless and must be subject to terms provided the customer opted to take out insurance
(3) A conveyer must develop a compensation policy expressing the terms and conditions which cover loss and/or damage to uninsured mail.	(3) A conveyer must develop a compensation policy expressing the terms and conditions <u>which addresses the handling of losses and/or damage to insured and uninsured mail.</u>	This addresses the risk exposure identified from regulation 7(1) above.
(4) The terms and conditions of the compensation policy must include, but are not limited to, the following: (a) The nature and extent of the compensation to be paid for loss or damaged mail.	No changes proposed. Refer to propose amendment to regulation 8(2) for relevance The terms and conditions of the compensation policy must include, but are not limited to, the following:	Clarifications of rights and obligations and conditions to be met for a claim to be considered. Referencing to the obligation of the conveyer to offer insurance to the sender.


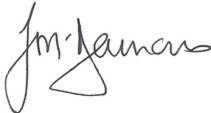
Clause /Regulation/ Description	SA Post Office proposed Amendments	Rationale or Comment
(b) The process that the sender must follow to lodge a compensation claim. (c) The required documents for a claim process. (d) The timeframe within which the sender can lodge a claim and the conveyor to complete the claim process.	(a) <u>The rights and obligations of the sender</u> (b) <u>Conditions to be met to lodge a claim</u> (c) The nature and extent of the compensation to be paid for loss or damaged mail. (d) The process that the sender must follow to lodge a compensation claim. (e) The required documents for a claim process. (f) The timeframe within which the sender can lodge a claim and the conveyor to complete the claim process	
(5) A conveyor must resolve a claim submitted within a period of thirty (30) days from the day a claim is lodged	(5) A conveyor must resolve a claim submitted within a period of <u>sixty (60) days</u> from the day a claim is lodged	Extended the resolution period to allow for complex claims
(6) A conveyor must publish a compensation policy in accordance with sub-regulation 7(3)	(6) A conveyor must publish a compensation policy in accordance with sub-regulation 7(3) as amended above	To ensure that compensation policy will reference the insurance policy and limit payment of compensation for uninsured items
8. INSURANCE		
(1) A conveyor must offer the sender the option to insure mail commensurate to the value of the mail in conveyance	(1) A conveyor must offer the sender the option to insure mail to the value as <u>determined in line with the terms and conditions of the Risk carrier (Insurer) from time to time (which will be risk dependent) declared to the customer at the point of handing mail over to the conveyor and acceptance of insurance as per Section 6(2)</u>	Consideration of any possible limitations imposed by the Risk Carrier on the applicable Insurance cover. The insurance cover cannot be limitless particularly given that GIT insurance relies on customer declarations that are not validated at point of acceptance
(2) A conveyor must provide a sender with a process for claims of loss and/or damaged insured mail.	(2) A conveyor must provide a sender with a process for claims of loss and/or damaged insured mail as per Regulation 7(4)	Referencing compensation to insurance
9. REBATE FOR DELAY OF DELIVERY OF EXPRESS MAIL		
(2) A conveyor must develop a rebate policy expressing the terms and conditions for the rebate.	No changes proposed. Refer to regulation 9(4) below for relevance	See below point for relevance
(4) A conveyor must publish the rebate policy on its point of contact for sales platforms	(4) A conveyor must publish the rebate policy on its point of contact / on its point of contact for sales platforms <u>or any other acceptable and accessible</u>	Provision for other reasonable mediums for publication e.g. posters etc. so that it does not limit to a point of sale printable or digital copy that may not be always be feasible

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	<u>medium at the point of acceptance of mail</u>	
14. DANGEROUS GOODS		
(2) Dangerous goods must not be delivered by mail.	(2) Dangerous goods <u>as described in Section 14(1) Schedule A must not be accepted.</u>	Specifying goods that must not be accepted as a point of emphasis in the first instance as this will likely attract fines
15. PROHIBITED GOODS		
(2) A conveyor must keep a digital register of all prohibited goods identified during mail processing and how they were handled	(2) <u>Prohibited goods as described in Section 15(1) Schedule B must not be accepted. In the event that prohibited goods are identified during mail processing,</u> a conveyor must keep a digital register of all prohibited goods identified and how they were handled	Adding a point of emphasis of not accepting prohibited goods in the first instance as this will likely attract fines but if discovered then we follow the regulation as proposed

Conclusion

We trust the suggested amendments meet with your approval and look forward to your response.

Yours faithfully

	Name	Signature	Date
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