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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 4548 **22 March 2024**

FINDINGS ON THE REVIEW OF CONVEYANCE OF MAIL REGULATIONS, 2009.

The Independent Communications Authority of South Africa ("the Authority") gave notice of its intention to conduct an inquiry into the effectiveness of the Conveyance of Mail Regulations, 2009 ("Regulations") in terms of section 4B of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) (The Inquiry), as indicated in a Discussion Document on the Conveyance of Mail (Discussion Document) published in Government Gazette No. 48254 of 17 March 2023.

The Authority has since received responses to the Discussion Document. The Authority hereby publishes the attached notice regarding its findings and the conclusion of the inquiry into the effectiveness of the Regulations.

The Authority has concluded the Inquiry, and it has found that the Regulations are inefficient to address the current mail conveyance challenges for the following reasons:

- 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 necessary information online.

A copy of the Authority's Findings into the effectiveness of the Regulations is available on the Authority's website (www.icasa.org.za) and at the Authority's head office library (Block C, 350 Witch-Hazel Avenue, Eco Point Office Park Eco Park, Centurion) during office hours (Mon-Fri from 09h00 to 16h30).

Yolisa Kedama
Acting Chairperson
Date: 20 **/03/2024**

This gazette is also available free online at **www.gpwonline.co.za**

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FINDINGS ON REVIEW OF THE REGULATIONS ON CONVEYANCE OF MAIL, 2009.

MARCH 2024

1.INTRODUCTION

1.1 On 17 March 2023, the Independent Communications Authority of South Africa ("the Authority") published a notice of its intention to conduct an inquiry on the Review of the Regulations on the Conveyance of Mail, 2009 ("the Regulations") in terms of section 4B of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("the ICASA Act") ("the Inquiry"), as indicated in a Discussion Document on the Conveyance of Mail under of Government Gazette No. 48254 of 17 March 2023 ("Discussion Document")[1].

1.2 The purpose of the Inquiry is to evaluate the effectiveness of the current Regulations in dealing with the evolving consumer needs in changing market environment and then determine whether to amend or replace the Regulations.

1.3 The closing date for written submissions on the Discussion Document was 26 May 2023. The Authority received three (03) submissions from interested parties in response to the Discussion Document. The written submissions were received from the Department of Communications and Digital Technologies ("DCDT"), Tape Aids for the Blinds and Consumer Advisory Panel ("CAP").

1.4 The Authority has since reviewed the submissions and concluded the Inquiry. It is on this premise that the Authority hereby publishes its findings.

1.5 This Findings document sets out a summary of the written submissions by industry stakeholders to the questions posed by the Authority in the Discussion Document, and the Authority's findings in the following manner:

- Postal services and market changes
- Purpose of the Regulations
- Definitions

[1] Discussion Document on the Review of Regulation on Conveyance of Mail. Government Gazette No. 48254 Notice No. 3172, Vol. No. 3172.

- Legal possession and Ownership of mail
- Postal Safety and Security
- Dangerous Goods
- Cybersecurity
- Monitoring and enforcement
- Contraventions and Penalties
- International Benchmark.

2. BACKGROUND

2.1 The main business of traditional postal services is to deliver letters and small packages to businesses and the public. The growth and development of traditional mail business has been impacted by globalisation, market liberalisation, competition, and the advancement of new technologies. Despite the negative impact experienced over the last decade or so, the postal sector has evolved to play its role as an essential component of the global economy.

2.2 The National Integrated ICT Policy White Paper, 2016 ("White Paper") recognizes that postal services continue to be a three-dimensional service, made up of physical, financial, and electronic postal services.[2] The three (3) dimensions in postal services are categorised as the following:

2.2.1 Physical services and related online letter business include basic letter services, basic parcel services, registered letters, and parcels, addressing, retail outlets, collection points.

2.2.2 Digital and e-postal services include e-registered mail, hybrid mail, access to internet and e-mails, e-filing, fax mail, parcel, and related online innovations such as parcel tracking and e-commerce; and

2.2.3 Financial services and associated ICT innovations includes sale cash on delivery, insured letters and parcels, issue, and pay money orders, money

[2]The National Integrated ICT Policy White Paper . Government Gazette No. 40325 of 3 October 2016, Vol No.1212.

transfers, postal orders, registered insured letters.

2.3 Postal Services Act, 1998 (Act No. 124. of 1998) ("PSA") defines postal services as a reserved postal service or an unreserved postal service as contemplated in Schedule 1 and Schedule 2, respectively.

2.4 The Discussion Document took into consideration the regulatory framework for the conveyance of mail as contained in the Regulations of Conveyance of Mail, 2009 and the legislative mandate provided for in section 61(d) of the PSA with respect to the conveyance of mail.

3. POLICY AND LEGISLATIVE FRAMEWORK

The Authority is the Regulator contemplated in terms of section 3 (1A) of the PSA. Further, in terms of section 4 (3)(j) of the ICASA Act, the Authority may make regulations with respect to any matter consistent with the objects of this Act and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority.

3.1. NATIONAL INTEGRATED ICT POLICY WHITE PAPER

3.1.1. Chapter 11 of the White Paper outlines the postal policy for the country. The White Paper embraces digitization and convergence in the postal sector and the opportunities for the development of different types of service operation such as Extra Territorial Offices of Exchange (ETOEs) and others which offers provision of physical mail and other services which may bypass traditional mail conveyance value chain. The White paper intends amongst others to define a new framework for the role of postal sector.

3.2. ICASA ACT NO. 13 OF 2000

3.2.1 The Authority is empowered by section 2 (bA) of the ICASA Act to regulate postal matters, as contemplated in the PSA, in the public interest.

3.2.2 In terms of section 4B of the ICASA Act, the Authority is empowered to conduct an inquiry into any matter regarding:

"(a) the achievement of the objects of the ICASA Act or underlying statutes;

(b) regulations and guidelines made in terms of the ICASA Act and the underlying statutes;

(c) compliance by applicable persons with the ICASA Act and the underlying statutes;

(d) compliance with the terms and conditions of any licence by the holder issued pursuant to the underlying statutes; and

(e) the exercise and performance of the Authority's powers, functions, and duties in terms of this Act or the underlying statutes."

3.2.3 The ICASA Act defines "underlying statutes" as including the Postal Services Act.

3.3 **POSTAL SERVICES ACT, 1998 (ACT NO. 24 OF 1998) ("PSA")**

3.3.1 The definition of postal services as set out in the PSA means "*a reserved postal service or an unreserved postal service as contemplated in Schedule 1 and Schedule 2 respectively".*

3.3.2 The Authority is empowered by section 2 of the PSA, which provides for the regulation and control of postal services in the public interest and for that purpose to:

"*(m) promote the effective maintenance of an efficient system of collecting, sorting, and delivering mail nationwide, in a manner responsive to the needs of all categories of mail users;*

(d) encourage investment and innovation in the postal industry;

(e) promote the development of postal services that are

responsive to the needs of users and consumers;

(j) protect the interests of postal users and consumers;

(p) ensure compliance with international commitments."

3.3.3 Section 61 (d) of the PSA empowers the Authority to make regulations regarding:

"*(d) The conveyance of postal articles, the general powers and duties of the conveyers, legal possession, or ownership of postal articles for purposes of contravention of this Act, mail fraud, theft and matters incidental thereto."*

3.4 INTERNATIONAL AND REGIONAL INSTRUMENTS

3.4.1 The Authority's work in regulation of postal services is also guided by instruments that are developed by the international and regional associations wherein South Africa is a member.

3.4.2 These associations include the Universal Postal Union ("UPU"), Pan African Postal union ("PAPU") and Communications Regulators Association of Southern Africa ("CRASA").

3.4.3 The UPU is a United Nations body that provides general postal policies and model regulations for member countries. The UPU continuously engages and collaborates with international organisations such as the World Customs Organisation ("WCO"), the International Air Transport Association ("IATA") etc. to draw guidelines for security and safety of conveying mail.

3.4.4 The UPU provides general guidelines on issues and encourages countries to apply the guidelines best suited for their environment.

3.4.5 PAPU is a specialized institution of the African Union. Its main objective is to coordinate all activities aimed at developing postal services on the African continent.

3.4.6 CRASA is a consultative body of regulators dealing in the telecommunications, broadcasting, and postal sectors for the Southern African region.

3.4.7 The Discussion Document drew reference from the following guidelines developed by the above-mentioned associations:

3.4.7.1 The UPU Postal security –UPU General Security Measures S58 and S59 documents;[3]

3.4.7.2 IATA–UPU Mail Safety Guidelines: Recommendations to Designated Postal Operators;[4]

3.4.7.3 WCO–UPU Postal Customs Guide, (2018);[5] and

3.4.7.4 CRASA Postal Security & Integrity Guidelines; (2016) for the designated postal operators (DPOs) in SADC.[6]

4 ANALYSIS OF SUBMISSIONS

4.1 POSTAL MARKET CHANGES

4.1.1 **Question 1: Considering the change in the market due to e-commerce, has the conveyance of mail value chain remained the same? Please elaborate.**

4.1.2 Tape Aids submits that the conveyance of mail value chain has fundamentally remained the same in terms of Collection; Processing; Transportation and Delivery. However, e-commerce incorporating online

[3] Retrieved from; https://www.upu.int/en/Postal-Solutions/Programmes-Services/Postal-SupplyChain/Security#postal-security-standards on 18 July2022.

[4] Retrieved from https://www.upu.int/UPU/media/upu/files/postalSolutions/programmesAndServices/postalSupplyChain/Security/Mail%20Safety%20Guidelines/En_cep_c_1_gsp-2_d005b_ad00_an01_p00_r00.pdf on 18 July 2022.

[5] Retrieved from http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/wco-upu-postal-customs-guide on 18 July 2022.

[6] Retrieved from https://www.crasa.org/crasa-publication/cat/35/postal-regulatory-guidelines/ on 15 April 2021.

purchases that may incur at Customs with cross-border trading; the selection of collection and delivery options; mobile apps on waybill logging and payment options during processing with track and tracing functionality during transportation and delivery with mobile phone and GIS mapping has provided an additional bouquet of support services that require licensing and regulating.

4.1.3 DCDT submits that the postal sector value chain has since changed due to technological advancement and the needs of customers. The Postal Sector Market Study conducted by the DCDT in collaboration with ICASA through an external service provider revealed that the value chain may involve as little as moving a parcel straight from the warehouse/shop/seller directly to the address of the person the parcel is delivered to with track and trace number for the mail being delivered or from the shop or seller with no address boxes, no pickup boxes, no sorting centres, or even postal outlets.

4.1.4 The DCDT further supports the drawing of reference from the international bodies and associations' guidelines such as:

a) the UPU Postal security –UPU General Security Measures S58 and S59 documents
b) IATA–UPU Mail Safety Guidelines: Recommendations to Designated Postal Operators;
c) WCO–UPU Postal Customs Guide, (2018) and
d) CRASA Postal Security & Integrity Guidelines; (2016) for the designated postal operators (DPOs) in SADC.

4.1.5 This will ensure that international standards are being followed concerning mail conveyancing in the country and allow for best practices.

4.1.6 CAP is of the view that the postal value chain at the primary activity level has not changed. The support activities can be described as tools

of business transformation, which minimize costs, maximizes customer satisfaction (the manner in which the customer is ordering), the speed/ cycle time, and track and trace. The model of e-commerce has always been there with shops such as Mahommedys and Home Choice, but the difference is that it has now moved to online since the proliferation of e-commerce and the digital explosion during the last decade.

4.1.7 **The Authority's Findings.**

4.1.8 The Authority found that the basic mail conveyance value chain has not changed. There is still mail collection, processing, transportation, and delivery. What has changed is that conveying mail does not have to include all traditional value chain processes from collection to delivery at all times. The advent of e-commerce has ensured that ,mail can move from the dispatch point and be delivered without going via the sorting centre or postal outlets. Technological advancement has also brought additional support services that have brought convenience for customers. There are faster and safer payment options during processing and the ability to track mail from dispatch till delivery.

4.2 PURPOSE OF THE REGULATIONS

4.2.1 **Question 2: Do you think the Regulations fulfil the following purposes as intended?**

4.2.2 **Question 2.1: Regulating Mail Conveyance**

4.2.3 Tape Aids is of the view that the Regulations do not fulfil their purpose as intended. They submit that their members report that, sometimes, audio books mailed to them are delayed by months, sometimes never arriving. Certainly not reaching addressees within the regulated time frame. They also report that contents have also been tampered with and sometimes end up missing.

4.2.4 DCDT agree that the regulations fulfil the purpose of regulating conveyance of mail. However, there is a need for the definition of mail to ensure all aspects are covered in line with the PSA.

4.2.5 CAP submits that the regulations are not fulfilling its objectives as the consumers are unhappy with performance of the post office in ensuring that the mail reaches the intended recipients.

4.2.6 **The Authority's Findings.**

4.2.7 The Authority found that the Regulations do not fulfil their purpose as intended, primarily because the failure of the South African Post Office ("SAPO") to comply with prescribed delivery timeframes and address the loss and tampering of mail items .

4.2.8 In addition, the Authority found that there is a need for the definition of mail to ensure all aspects are covered in line with the PSA.

4.2.9 **Question 2.2. Provisioning for the general powers and duties of conveyors?**

4.2.10 Tape Aids does not agree with the purpose of provisioning general powers and duties of conveyors. It is of the view that uniformity, accountability, and extended use of unreserved postal services needs to be addressed and incorporated. It appears that there is a breakdown of trust in sending mail via the SA Postal Services, therefore there is a greater responsibility on unreserved postal services to support and take on the duties of the country's reserved main postal operator.

4.2.11 DCDT is in between on this matter and is of the view that some mail items are not sent to the outlets as per paragraph 4.3 of the Regulations. This needs to be updated to cater for items that are not sent through outlets. Further, Paragraph 4.7 which stipulates that "ensure that

suspicious mail is detected and disposed of" needs to be updated as a suspicion only cannot lead to disposing of.

4.2.12 CAP disagrees with fulfilment of this purpose and submits that consumers lost confidence in SAPO's ability to deliver within the stipulated quality of service frameworks as set in Regulation and items in good conditions. CAP supports this submission with the research conducted by the ICASA Consumer Compliance Division on SAPO Quality of Service delivery standards which reports SAPO's failure to deliver.

4.2.13 **The Authority's Findings.**

4.2.14 The Authority found that the Regulations do not fulfil their purpose of provisioning for the general powers and duties of conveyors because of trust deficit arising out of SAPO's failure to deliver within the stipulated quality of service frameworks.

4.2.15 **Question 2.3. Regulating possession and ownership of mail?**

4.2.16 Tape Aids is of the view that the Regulations do not fulfil the purpose of regulating possession and ownership of mail. Once a mail item has been 'posted' or 'deposited' into a post-box or collection box (in the case of a courier) or physically collected by a courier, although it is in the possession of the conveyor, it remains owned by the sender until such time as it has been received by the addressee. If it is 'lost' or 'damaged' by the conveyor, restitution is a matter between the sender and conveyor with the liability of possession, resting with the conveyor.

4.2.17 DCDT is of the view that the Regulations do not fulfil the purpose of regulating possession and ownership of mail. DCDT is of the view that this section does not capture well the issues of legal possession and ownership and needs to be updated. Who has legal possession and who owns the items should be well articulated.

4.2.18 As an example, under paragraph 5.1 the following can be the wording to ensure completeness "The conveyer is deemed to legally possess the mail the moment the mail is handed over to the conveyor, or his agent or employee by the sender".

4.2.19 Further, DCDT submits that there must be a section that deals separately with liability. Regulation 5.3 of the Regulations should not be dealt with under legal possession and ownership but separately and should be expanded to cover all aspects.

4.2.20 CAP is of the view that the Regulations do not fulfil the purpose of regulating possession and ownership of mail. Consumers are disadvantaged by a lack of appropriate understanding of the ownership of mail.

4.2.21 CAP further asserted that the regulation does not serve its purpose as it lacks the ability to provide an amicable resolution when it comes to disputes.

4.2.22 Of all the mail conveyance complaints received by ICASA in 2022/23, 12.5% was due to missing parcels.

4.2.23 **The Authority's Findings.**

4.2.24 The Authority found that the Regulations do not fulfil the purpose of regulating possession and ownership of mail because the Regulations do not provide for a clear distinction between the implications of ownership and legal possession of mail, making it difficult to ascertain liability in the instance of lost and/or damaged mail

4.2.25 The Authority also found that the Regulations are vague and lack educational awareness.

4.2.26 **Question 2.4: Eradicating exposure of mail to risk of loss, theft, fraud, damage, delay, or tampering?**

4.2.27 Tape Aids argues that stricter policing, restitution and fining of postal employees may overcome the prevalence of theft and may encourage greater care being taken. Tape Aids further argues that in instances where theft has been reported, little to no action has been done.

4.2.28 DCDT agrees the Regulation fulfils this purpose with no further elaboration.

4.2.29 CAP is of the view that the Regulations lack the ability to eradicate exposure of mail to risk of loss, theft, fraud damage, delay or tampering of mail. This is evident as loss, tampering, and theft is rampant in the mail conveyance industry. Of all the mail conveyance complaints received by ICASA in 2022/23, 30.6% was due to missing, stolen, and damaged parcels.

4.2.30 **The Authority's Findings.**

4.2.31 The Authority found that the Regulations do not fulfil the purpose of eradicating exposure of mail to risk of loss, theft, fraud, damage, delay, or tampering. There is a need to strengthen regulatory measures to prevent and deal with a significant number of losses, theft, fraud, and damages.

4.3 Question 3: Do the Regulations protect the interests of postal consumers?

4.3.1 Tape Aids argues that the Regulations do not protect the interests of postal consumers as it appears that there is no penalty for undelivered or 'lost' goods. Reporting to Consumer Complaints is an arduous and often times unsuccessful process. Further, with SAPO outlet closures, the ratio of staff dealing with customers is not enough to address consumer issues.

4.3.2 DCDT is of the view that to a large extent the Regulations protect the interests of postal consumers but can be improved in line with some of the responses provided.

4.3.3 CAP is of the view that the Regulations do not protect the interest of the postal consumers. CAP highlighted the lack of employee screening at Post Offices for protection of vulnerable customers, pointing to the case of murder of Uyinene Mrwetyana in 2019 and suggests Postal employees must be screened for violent crimes, theft, and other trust issues. SAPO does not notify customers of their items in post office where there is no home delivery. Courier companies equally have arbitrary rules which are not defined in regulations.

4.3.4 CAP further submits the concern on maintenance of physical post office infrastructure.

4.3.5 **The Authority's Findings.**

4.3.6 The Authority found that the Regulations do not protect consumer's interest because of consumer challenges such as, but not limited to, lack of penalties for undelivered or 'lost' goods, lack of protection inside postal outlets and low staff ratios to help consumers. These consumer issues undermine the regulatory procedures to protect consumers.

4.4 DEFINITIONS.

4.4.1 **Question 4: Should the Regulations provide a definition for the following:**

4.4.2 **Definition of Post:**

4.4.3 Tape Aids submits that, with the advent of electronic mail services and social media platforms, 'post' in a written form needs to be clearly defined from a 'mail service'. Also, there is a need to define whether 'post' refers to letters or parcels and the difference when used as a noun or a verb.

4.4.4 DCDT agrees with the inclusion of the definition for "Post" in line with the National Policies and International best practices.

4.4.5 CAP agrees that the regulations should provide definition for "Post".

4.4.6 **The Authority's Findings.**

4.4.7 The Authority found that the Regulations should provide for the definition of "Post" to reflect current postal services operations and limit ambiguities that may arise around the use of the term.

4.4.8 **Question 5: Definition of Mail Conveyance.**

4.4.9 Tape Aids submits that Regulations should provide the definition of mail conveyance because with the advent of e-commerce and online shopping, the 'conveyance' of mailed goods by courier companies or delivery services needs to be defined and regulated. Moreover, cross-border purchases where other Customs agencies intervene in the value chain as well as the potential dangers of transporting hazardous substances.

4.4.10 DCDT agrees with the inclusion of the definition of "Mail Conveyance" and submits that it must be in line with the National Policies and International best practices.

4.4.11 CAP agrees that the Regulations should provide definition for "Mail conveyance".

4.4.12 **The Authority's Findings.**

4.4.13 The Authority found that the Regulations should provide for the definition of "mail conveyance" to reflect current postal services operations and limit ambiguities that may arise around the use of the term.

4.4.14 **Question 6: Do you think the definition of "conveyor" in the Regulations includes all operators involved in the process of mail conveyance?**

4.4.15 Tape Aids submits that the definition of "Conveyor" in the Regulations includes all operators involved in the process of mail conveyance as conveyor is a generic term for the mail service contractor undertaking the collection and delivery of goods to the final destination.

4.4.16 DCDT is of the view that the definition does not include all operators and submits that the definition must also include reserved and unreserved Postal Operators and should refer to the PSA.

4.4.17 CAP agrees that the Regulations include all postal operators involved in the process of mail conveyance.

4.4.18 **The Authority's Findings.**

4.4.19 The Authority has found that the definition of "conveyor" in the Regulations is sufficient and includes all operators involved in the process of mail conveyance.

4.4.20 **Question 7: Do you think there are additional terms that the Authority should define in the Regulations?**

4.4.21 Tape Aids submits that terms for state-controlled mail should be more clearly delineated from privately administered or licensed services and also additional terms to accommodate a potential shared public / private service. The term 'registered' mail by the state operator has tended to become unreliable. Additional terms that make the mail conveyor more accountable and liable should be introduced. As well as compliance with the Consumer Protection Act 68 of 2008 and electronic communications and direct marketing as defined in the POPI Act.

4.4.22 DCDT is of the view that terms such as mail, conveyance, services points, agent, should be defined in the Regulations.

4.4.23 CAP submits that there are no other additional terms to be defined in the Regulations.

4.4.24 **The Authority's Findings.**

4.4.25 The Authority has found that the Regulations should provide for additional terms that are used in mail conveyance operations but are currently not defined.

4.5 LEGAL POSSESSION AND OWNERSHIP OF MAIL.

4.5.1 **Question 8: Do the Regulations clearly indicate the difference between "ownership" and "legal possession"?**

4.5.2 Tape Aids submits that the Regulations do not indicate the difference between "ownership" and "legal possession." The UPU indicates the cycle of ownership may be interrupted if seized in pursuance of the national legislation of the country of origin or destination. Therefore "ownership" is never fully the preserve of the sender or the rightful owner unless "legal possession" is defined, regulated, and accounted for.

4.5.3 DCDT disagrees that the Regulations clarify between ownership and legal possession.

4.5.4 DCDT further submits that the section should be elaborated on as indicated under responses to question 2 above.

4.5.5 CAP indicated that the Regulations do not currently adequately protect the consumer against loss and damage of goods sent via mail as the definition of ownership of mail is not clearly distinguished in the regulations.

4.5.6 **The Authority's Findings.**

4.5.7 The Authority has found that the Regulations do not clearly indicate the difference between ownership and legal possession. The lack of a clear distinction between ownership and legal possession may give rise to uncertainty in relation to liability in the instance of loss and damage of mail.

4.6 POSTAL SAFETY AND SECURITY.

4.6.1 **Question 9: Do you think the Regulations make enough provision for the safety of mail items? Please elaborate under the following safety aspects.**

4.6.2 **Physical Infrastructure**:

4.6.3 Tape Aids submits that:

4.6.3.1 Regulations do not make enough provision for the safety of mail items. The submission highlights best practice from Customs and argues that Customs opens international packages and imposes customs duties.

4.6.3.2 Refund Structure / Return of goods without sufficient liaison with the sender or recipient with goods tending to lay unclaimed for months. Communications and notification channels should be enhanced.

4.6.3.3 The digital identification and sorting systems are outdated at certain centres. Upgrading postcodes from 4 to 6 or 8 digits will provide greater granularity , right up to the delivery point information level (not only the locality level or delivery post office information level).

4.6.3.4 GIS postcodes would add spatial operations to a database along with the capability of associating information with geographical entities that can be visualized on maps or images. This would be ideal for rural and peri-urban township Store-to-Door delivery of goods.

4.6.3.5 Combining a locality-based address with a sufficiently granular postcode results in a kind of synergy because one is more suitable for humans

and the other for storing in a database. Also, a degree of error detection is provided when a delivery-point description is accompanied by a postcode that is sufficiently granular to enable them to be verified against each other. This can justifiably be considered a best practise for postal and delivery services.

4.6.3.6 Closure of post offices and centralizing mail to regional hubs has caused many items to 'go missing' or unclaimed.

4.6.4 DCDT is of the view that regulation 6 of the Regulations does cover safety to physical infrastructure to a large extent. They also submit that the Authority must ensure the Regulations incorporates best practices in line with UPU and other international organisations' standards.

4.6.5 CAP is of the view that the Regulations does not make enough provision for Physical Infrastructure. The regulation for physical infrastructure of mail conveyancers do not currently protect the consumer adequately by the infrastructure not being safe and secure enough to prevent the theft of mail.

4.6.6 CAP adds that the infrastructure seems to be outdated and cannot sort the magnitude of parcels which confronts some of the mail conveyancers, especially the Post Office. Much more investment in physical infrastructure is required. Regulations should also be put in place to improve the safety of mail while being stored at the Post Office as well as access to and from places where post boxes are placed.

4.6.7 **The Authority's Findings.**

4.6.8 The Authority found that the Regulations do not make enough provisions for Physical infrastructure safety. The physical infrastructure of some conveyors, especially the Post Office, is outdated and not safe and secure enough to prevent the theft of mail.

4.6.9 **Personnel Security**:

4.6.10 Tape Aids submits that Instances of PostNet vans being hijacked enroute to major centres has been experienced by Tape Aids. Mail delivery vehicles should have similar security measures as cash-in-transit vehicles.

4.6.11 Post Office employees pilfer from mail items that appear to contain items of value. School textbooks have been found 'dumped' in rivers and rubbish dumps. A strict code of practice by personnel of mail conveyors should be regulated.

4.6.12 DCDT submits that regulation 6 of the Regulations does cover to a large extent the provision for personnel security.

4.6.13 CAP is of the view that the Regulation does not make enough provision for Personnel security. CAP submits that consumers countrywide are particularly concerned about their personal security when visiting the Post Office. Post offices are often targeted by criminals as they are aware that many vulnerable consumers get their monthly social grants from their Post Offices. Very few post offices have adequate security in place to protect consumers as well as employees of the Post Office. The limited requirements for background checks of postal staff should also be improved through regulation. This is of particular importance as many mail conveyance staff now visit their consumers at their homes to deliver their parcels.

4.6.14 **The Authority's Findings.**

4.6.15 The Authority found that the Regulations do not make enough provision for personnel security because of the violent attacks against personnel transporting mail, attacks on post offices, and the general security threats for consumers when visiting post offices.

4.6.16 **Mail Processing Operations:**

4.6.17 Tape Aids argues that private sector or the licensed conveyors industry, currently appears to be self-regulated. The Authority should set minimum benchmarks to aid uniformity of services in this sector to meet consumer expectations. Especially in light of the fact that the private sector appears to be taking over much of the state's post conveyance responsibilities due to the financial indebtedness that SAPO currently finds itself.

4.6.18 DCDT is of the view that clause 6 of the Regulations does cover to a large extent the provision for the safety of mail processing operations.

4.6.19 CAP submits that consumers have very little confidence in the ability of especially the Post Office to process mail accurately and deliver their parcels on time. Members of CAP reported their own personal experiences of lengthy periods of awaiting mail and even non-delivery of mail. This is particularly concerning for mail being sent from abroad, for example Christmas cards sent from abroad have been known to arrive months after being sent.

4.6.20 CAP add that Consumers sending mail from abroad also report that they can track their mail up to port of entry into South Africa, which happens within a few days, but the recipient in South Africa would report even months later that they had still not received their parcel.[7]

4.6.21 **The Authority's Findings.**

4.6.22 The submissions did not answer the question of whether the Regulations make enough provision for the safety of mail items at mail processing centres or substantiate their responses.

4.7 Question 10: Do you think the Regulations take into consideration the UPU's general security measures? If your answer is No, in your view which of the UPU security measures should the Authority consider?

[7] https://mybroadband.co.za/news/business/438658-post-office-parcel-delivery-tested-with-shocking-results.html.

4.7.1 Tape Aids submits that the Regulations do not take into consideration the UPU's general security measures. However, agree that the Regulations currently incorporates UPU PSG(Postal Security Group) priorities for prevention of injuries to people due to the carriage of dangerous goods in the mail and dangerous and prohibited goods, though the list may be enhanced.

4.7.2 The following UPU PSG priorities are not considered in the Regulations:

4.7.2.1 Prevention of loss or theft of mail entrusted to Posts (vehicle hijacking of both reserved and unreserved postal carriers also now needs more attention in South Africa today).

4.7.2.2 Prevention of revenue or asset losses by posts (beside SAPO's obvious revenue losses and management challenges, unplanned incidents like the COVID pandemic shutdown have reduced local cargo / Posts conveyors from approximately 300 to 80 companies. Measures such as mergers and acquisitions of various logistic companies as well as collaboration between State and Private entities need to be considered under the Authorities regulations to retain critical assets and procedures where possible and applicable).

4.7.2.3 Preservation of customer confidence in the Posts (it appears that trusted SA Banks and Retailers have assumed greater responsibilities in collaboration with private Post operators to overcome the breakdown of customer confidence in the State Posts. The Authority needs to determine which rules and regulations are transferrable and or should be 'shared' from / between State to Private Posts).

4.7.3 In addition, Tape Aids argues that, currently, there is little to no policing and consumer complaints and claims take months, often never being addressed nor resolved. Neither does it appear that there are actual enforcement penalties. Especially given the current dysfunctional state of SAPO, many of these historically well provisioned General Security measures may need to be transferred to an independent ombudsman

entity since the Provincial, Regional, District and Local SAPO structures don't appear to have the authority nor oversight roles they previously enjoyed.

4.7.4 DCDT is of the view that, to some extent, the Regulations take into consideration the UPU standards. However, this needs to be realigned as it was done in 2009, which is over a decade ago. The recent UPU security measures should be considered during the revision of the regulations.

4.7.5 CAP is of the view that the Regulations take into consideration UPU standards, but the enforcement of these regulations is not always evident.

4.7.6 **The Authority's Findings.**

4.7.7 The Authority found that the Regulations take into consideration the UPU's general security measures. However, the Regulations do not incorporate recent security measures as they were last published more than a decade ago.

4.7.8 In addition, the Authority also found that there is a lack of monitoring and enforcement of the security measures.

4.8 Question 11: Do you think the safety of mail, either in storage or in transit, is sufficiently addressed by the Regulations?

4.8.1 Tape Aids submits that the safety of mail, either in storage or in transit, is sufficiently addressed by the Regulations. Tape Aids argues that the view that due to the changing operating environment between State and Private Posts providing services; unprecedented crime and corruption as well as uncertainty of unsustainability of infrastructure and job security, the regulations need to accommodate these differing and growing challenges. Furthermore, climate change and extreme weather-related incidents (i.e. flooding) may require additional considerations.

4.8.2 DCDT agrees that to a large extent, the safety of mail, either in storage or in transit, is sufficiently addressed by the Regulations.

4.8.3 CAP agrees that the Regulations do sufficiently address the safety of mail, however these Regulations are not satisfactorily enforced or followed.

4.8.4 **The Authority's Findings.**

4.8.5 The Authority found that the safety of mail, either in storage or in transit, is not sufficiently addressed by the Regulations because the Regulations do not address challenges that include crime, corruption, poor postal infrastructure, job security and climate change.

4.9 Question 12: Do you think insurance should be compulsory for all conveyed items? If yes, who should be responsible for taking out insurance for mail items.

4.9.1 Tape Aids submits that, depending on the value of the items, the consumer should be able to decide if they want the added cost of insuring (not necessarily a compulsory ruling). The chance of an average letter getting lost or damaged is relatively small.

4.9.2 However, documents being insured against loss, damage or rifling should bear no additional cost to the mailer and should be automatically carried by the Mail Conveyor.[8] Coverage should be limited to the actual value of the shipment. However, additional coverage should be available to the consumer and should be able to be purchased via the mail provider.

[8] The current SA Postal ACT does exempt SAPO from liability for the loss of letters and for paying out on parcel mail valued at less than R50. This, is not however, in accordance with international benchmarks where Government or State operators are required to compensate for lost / damaged / stolen mail.

4.9.3 Tape Aid adds that in the case of higher value commercial packages, the seller or sender should take out insurance to ensure that the goods are delivered to the consumer in a pristine condition.

4.9.4 DCDT submits that operators should provide customers with options to take insurance for the conveyed items. The operators should take responsibility for the insurance, and this is to ensure that operators take seriously the safety of customer items.

4.9.5 Furthermore, should the responsibility to take insurance be that of the consumer, the insurance should be very low. This will also compel the operators to ensure the safety of conveyed items and to limit exposure of mail items to risks of loss, theft, fraud, damage, and tampering.

4.9.6 CAP is of the view that insurance should not be enforced as it would add to the costs of mail conveyance, and the Authority would not be able to enforce this provision on mail coming from abroad. Rather, mail conveyers should encourage their consumers to take out insurance on their parcels and content of value. However, it is important to note that the Act exempts the Post Office from liability the loss of letters and current regulation exempts the Post Office from paying out for parcels with a value of less the R50.

4.9.7 **The Authority's Findings.**

4.9.8 The Authority found that insurance should not be compulsory but should be availed to consumers. The terms for liability and compensation for loss should be made clear to the consumer from the onset.

4.10 Question 13: Do you have any further suggestions on remedies that can be put in place to ensure the safe conveyance of mail items?

4.10.1 Tape Aids submits that there is a need to upgrade postcode from 4-digit to 6 or 8 digits and linked to a GIS tracking portal including barcoding items of mail. This way mail can be traced and tracked by either the sender or recipient without incurring additional admin by the mail

conveyor. This track-and-trace function provides an additional level of accountability and would also act as a deterrent to unscrupulous postal employees.

4.10.2 DCDT suggests track and trace system as a remedy that can be put in place to ensure the safe conveyance of mail items.

4.10.3 CAP submits that it would be helpful for the mail conveyor to put in place a transparent tracking system where consumers (both the recipient and the mailer) can track the progress of their parcel. This should also be put in place for mail being sent from abroad so that the recipient and the mailer can track the mail even beyond the port-of-entry into South Africa. Regulations of the Post Code System in South Africa should also urgently be updated to allow for seamless integration into GPS systems and to further integrate everybody living in South Africa with a physical address. This will also facilitate the e-commerce industry and would allow for much faster mail delivery, which will lead to less damage and loss of mail.

4.10.4 **The Authority's Findings.**

4.10.5 The Authority found that track and trace is a remedy that should be put in place to ensure the safe conveyance of mail items. More so when considering that only unreserved postal operators are currently required to have track and trace as a minimum standard, however, this is not a requirement for reserved postal items.

4.11 Question 14: Do you think there should be a rebate payable to the sender where there has been a delay in the delivery of an item/article without a notification for such delay?

4.11.1 Tape Aids does not think there should be a rebate payable to the sender where there has been a delay in the delivery of an item / article without a notification for such delay.

4.11.2 Tape Aids argues that there are many variables at play that may be out of the mail conveyor's control. The administration associated with claiming for 'delayed' mail would impose unnecessary extra costs. However, if the sender has paid a premium price for an 'express' delivery which fails to be delivered in the required time, then there should be a rebate payable to the sender.

4.11.3 DCDT agrees that a rebate must be payable especially if the delays have financial impact on the sender.

4.11.4 CAP submits that there should be a rebate payable to the sender where there has been a delay in the delivery of an item/article without a notification for such delay. However, it should not only be when there was no notification, but also when the conveyor has not complied with the time frames as set out in the Regulations (SLAs). The time frames of mail conveyance as set out in regulations should also be made available to the consumers on the websites and physical offices of mail conveyers.

4.11.5 **The Authority's Findings.**

4.11.6 The Authority found that there should be a rebate payable to the sender where there has been a delay in the delivery of an item / article without a notification of such delay. The rebate should be payable if the sender has paid a premium price for an 'express' delivery which fails to be delivered in the required time. In addition, the rebate should be payable where there has been a delay in the delivery of an item/article without a notification for such delay and when the conveyor has not complied with the time frames as set out in the Regulations.

4.12 PROHIBITED AND DANGEROUS GOODS

4.12.1 **Question 15: Do you think schedule B of the Regulations is relevant and in line with the market changes?**

4.12.2 Tape Aids submits that Schedule B requiring a list of prohibited goods restricted to be conveyed through the mail is relevant, however compliance appears to not be in line with market changes. Additional measures to ensure compliance as well as possible additional items and levels may need to be incorporated.

4.12.3 DCDT did not answer this question.

4.12.4 CAP agrees that Schedule B is in line with market changes.

4.12.5 **The Authority's Findings.**

The Authority found that schedule B of the Regulations is relevant and in line with the market changes. Further findings were not possible due to the lack of reasons made to support some of the submissions received.

4.13 Question 16: Do you think the Authority should continue to prescribe the list of prohibited and dangerous goods or leave it to conveyors?

4.13.1 Tape Aids submits that the Authority should continue prescribing the list. Self-regulation by conveyors may not be equally uniform and non-compliance by one Conveyor may affect another Conveyor who are compliant (for example - transport of harmful goods that could combust under certain conditions affecting other consignments).

4.13.2 DCDT is of the view that the Authority should prescribe list of prohibited and dangerous goods that can be conveyed through the Postal systems and must be in line with National Laws and International Standards, or prescribe how the dangerous goods should be handled with warnings etc.

4.13.3 CAP is of the view that the Authority should continue to prescribe the list of prohibited and dangerous products. The Authority should also

incorporate the list as suggested by IATA. The Authority should also recommend the proper way dangerous items should be secured before being sent by mail.

4.13.4 **The Authority's Findings.**

4.13.5 The Authority has found that the Regulations should continue to prescribe the list of prohibited and dangerous goods. The list should prescribe how the dangerous goods should be secured before conveyance as per IATA's guidelines and be in line with National Laws and International Standards.

4.14 Question 17: Do you think there are any other interventions that should be applied to avert the risk of dangerous goods in the postal systems?

4.14.1 Tape Aids does not think there are any other interventions that should be applied to avert the risk of dangerous goods in the postal systems as the current Regulations are compliant with UPU S58 and S59 requirements.

4.14.2 DCDT submits the use of scanners, and any other technological means will assist in averting the risk of dangerous goods been transmitted through the postal system. The best practice should be investigated on how other operators deals with averting this risk.

4.14.3 CAP submits that there are other interventions that should be applied to avert the risk of dangerous goods in their postal systems. Thus, CAP proposes that mail conveyers should invest in better detection capabilities and the Authority should prescribe what detection capabilities mail conveyers should have as minimum standards.

4.14.4 **The Authority's Findings.**

4.14.5 The Authority found that there is a need for further interventions that should be applied to avert the risk of dangerous goods in the postal systems to improve detection capabilities.

4.15 CYBERSECURITY

4.15.1 **Question 18: What measures should the Authority consider in addressing cybersecurity crimes?**

4.15.2 Tape Aids submits that the Authority should consider incorporating aspect of compliance that may assist, as identified in the Electronic Communications and Transactions Act 25 2002 (ECTA); the National Cybersecurity Policy Framework, 2015 (GG No. 39475) ("NCPF"); the Protection of Personal Information Act, 2013 (Act No.4 of 2013) ("POPIA") and the Cybercrimes Act, 2020 (Act No. 19 of 2020) ("Cybercrimes").

4.15.3 DCDT is of the view that as the Regulations do not make a provision for cybersecurity crimes during mail conveyance, the Authority should prescribe minimum security measures to be undertaken by the mail conveyancers/postal operators in line with international practices. This will require further study to determine the best practice that South Africa can adopt.

4.15.4 CAP argues that as most of the process of mail conveyance is a physical process, the risk of cyber-crime is not elevated except with point-of-sale technology and online e-commerce platforms where private information can be stored. For this reason, minimum cyber security standards should be included in mail conveyance regulations.

4.15.5 **The Authority's Findings.**

4.15.6 The Submissions did not detail specific measures that the Authority should consider in addressing cybersecurity crimes . However, the

Authority found that the Regulations should include minimum cyber security standards and incorporate aspects of compliance from the existing national laws that deal with cybersecurity and the related crimes.

4.15.7 **Question 19: Do you think the Authority should prescribe minimum cyber-security measures in line with the UPU and CRASA guidelines?**

4.15.8 Tape Aids submits that the Authority should prescribe minimum cybersecurity measures in line with the UPU and CRASA to ensure international compliance across-borders. The UPU Policy recommendations for the postal sector cybersecurity framework identified by the Authority should be incorporated (for example):

4.15.8.1 Policy 1 - the adoption of the Domain Name System Security Extension (DNSSEC);

4.15.8.2 Policy 2 – Securing Email and DNS Servers; Transport Layer Security (TLS) Certification and a No redirection Policy to help avoid misuse and hijacking of online information. Also, the protection of Personal Information.

4.15.9 DCDT agrees the Authority should prescribe minimum cyber-security measures in line with the UPU and CRASA guidelines.

4.15.10 CAP agrees the Authority should prescribe minimum cyber-security measures in line with the UPU and CRASA guidelines.

4.15.11 **The Authority's Findings.**

4.15.12 The Authority found that the Regulations should prescribe minimum cyber-security measures in line with the UPU and CRASA guidelines. The guidelines will help protect personal information, avoid misuse and hijacking of online information and ensure compliance across borders.

4.16 MONITORING AND ENFORCEMENT.

4.16.1 **Question 20: Do you think the Authority should make it compulsory for the conveyors to maintain a digitised register?**

4.13.2 Tape Aids submits that the Authority should make it compulsory for the conveyors to maintain a digital register that is stored securely in the CLOUD so that records are not 'lost' and can be integrated into systems if required (all Cyber security protocols observed). Also, information in digital formats can address urgent matters more speedily and help identify unauthorized conveyance of prohibited goods as well as observation of trends.

4.13.3 DCDT agrees that the Authority should make it compulsory for the conveyors to maintain a digitised register. Digital transformation within the sector is critical. This will also assist for ease of access.

4.13.4 CAP agrees that the Authority should make it compulsory for the conveyors to maintain a digitised register.

4.13.5. The Authority's Findings.

4.13.6. The Authority found that the Regulations should make it compulsory for the conveyors to maintain a digitised register. This will help reduce loss of registers. In addition, it will be readily available for the Authority when there's complaints and help identify unauthorized conveyance of prohibited goods as well as observation of trends.

4.13.7. Question 21: Should the Authority review the frequency for the submission of updated security procedures for handling mail?

4.13.8. Tape Aids submits that the Authority should review the frequency for the submission of updated security procedures for handling mail as the variety and proliferation of cybercrime infringements is growing exponentially as new technologies and software are being developed.

4.13.9. DCDT does not agree that the Authority review the frequency for the submission of updated security procedures for handling mail.

4.13.10. CAP agrees with the review of frequency of submission of updated security procedures for handling mail.

4.13.11. **The Authority's Findings.**

4.13.12. The Authority found that the Regulations should review the frequency for the submission of updated security procedures for handling mail to respond to the proliferation of changing criminal activities.

4.13.13. Question 22: Do you think the Authority should extend the requirement for conveyors to publish the information at the outlets to include publishing information on official digital platforms (i.e. website)?

4.13.14. Tape Aids submits that the Authority should extend the requirement for conveyors to publish the information at the outlets to include publishing information on official digital platforms for transparency purposes. Also, conveyors websites should comply with W3C global standards to make content more accessible to persons with disabilities.[9]

4.13.15. DCDT submits that the Authority should extend the requirement for conveyors to publish the information at the outlets to include publishing information on official digital platforms (i.e. website). Digital transformation within the sector is critical. This will also assist for ease of access.

[9] Web Content Accessibility Guidelines (WCAG) 2.2 Draft is scheduled to be finalized in 2023. WCAG 2.1 was published in 5 June 2018. The Guidelines are developed through the W3c process in cooperation with individuals and Organisations around the world, with a goal of providing a single shared standard for web content accessibility that meets the needs of individuals, organisations, and governments internationally. Web "content" generally refers to the information in a web page or web application including: (a) natural information such as text, images, and sounds; (b) code or markup that defines structure and presentation etc.

4.13.16. CAP submits that the Authority should extend the requirement for conveyors to publish the information at the outlets to include publishing information on official digital platforms (i.e. website). Further submits that it is also important that regulations should include requirements for conveyancers to advertise in accessible formats to also include consumers with disabilities.

4.13.17. The Authority's Findings.

4.13.18. The Authority found that the Regulations should extend the requirement for conveyors to publish the information at the outlets to include publishing information on official digital platforms (i.e. website). The published information must be accessible to people with disabilities.

4.13.19. Question 23: Do you think the measures provided in the Regulations, on liability for damage and loss of mail items, are enough to protect the consumer? If the answer is no, what additional measures do you suggest.

4.13.20. Tape Aids submits that measures provided in the Regulations, on liability for damage and loss of mail items, are not enough to protect the consumer. Tape Aids argues that accountability and restitution to consumers reporting damage and loss of mail items is lacking. An independent Ombudsman whose job it is to receive, investigate and resolve complaints of bad or unfair treatment of consumers should be appointed for the industry similar to the Consumer Commission Ombudsman for Retail, Banking Services and Small Business Complaints.

4.13.21. DCDT submits that even though liability is touched on under regulation 5.3 of the Regulations, it is not detailed enough with regard to recourse for consumers and compensation that can be given to consumers. The penalty provided under regulation 9 of the Regulations also does not say who will benefit from the penalty paid

by the operators who contravene the Regulations. A separate section of liability should be created.

4.13.22. CAP submits that measures provided in the Regulations, on liability for damage and loss of mail items, are not enough to protect the consumers. CAP further argues that penalties for non-compliance should be enforced at a harsher level. The Authority should ensure that the protection of mail conveyance consumers receives the same level of protection offered to consumers in the ICT sector.

4.13.20. **The Authority's Findings.**

4.13.21. The Authority found that the measures provided in the Regulations, on liability for damage and loss of mail items, are not enough to protect the consumers because of lack of accountability and restitution to consumers reporting damage and loss of mail items. Furthermore, the Authority found that the additional measures that are needed to protect consumers should provide for liability and the requirement for easily accessible process of reporting and getting restitution for lost and damaged mail items.

4.13.22. **Question 24: Do you think the measures provided in the Regulations, on liability for damage and loss of mail items, are enough to protect the conveyors from false claims? If the answer is no, what additional measures do you suggest the Authority considers.**

4.13.23. Tape Aids submits that the measures provided in the Regulations, on liability for damage and loss of mail items, are enough to protect the conveyors from false claims as conveyors appear to enjoy a climate of over protection for genuine claims, so it is doubtful that consumers would get a false claim past a conveyor.

4.13.24. DCDT submits that the measures provided in the Regulations, on liability for damage and loss of mail items, are not enough to protect the conveyors from false claims as Regulations do not have a section protecting conveyors from false claim and, who will determine that there is false claim and processes thereof. There is a need for benchmark and a section be included dealing with the issues.

4.13.25. CAP submits that consumers who choose to take out insurance should be able to take it out on any mail item or parcel that they sent regardless of its value.

4.13.26. **The Authority's Findings.**

4.13.27. The Authority could not make a finding in this regard. The submissions were based on assumption and argued for further research to be conducted.

4.14. CONTRAVENTIONS AND PENALTIES.

4.14.1. **Question 25: Do you consider the penalties in the Regulations to be effective, if not, is there a need to introduce further penalties?**

4.14.2. Tape Aids is of the view that the fines of R250,000 and R150,000 appear to be excessive and therefore never enforced. A broader scale of penalties with more appropriate fines could be introduced, however, policing of over regulated penalties would be the major hurdle as this oversight is never currently imposed.

4.14.3. DCDT submits other penalties such as suspension of license or registration certificate can be introduced. Especially for recurring infringements. The amounts may also be distinguished in terms of the size of the business to ensure that SMMEs penalties are not at the same level as big multinational companies. The minimum penalty may be kept low for those companies.

4.14.4. CAP submits that penalties are not effective, and they would be effective if they were better enforced. CAP has found that there is a high level of despondency amongst consumers of the Post Office especially, and they do not believe that their complaints lead to an actual improvement in service. The fact that companies can also easily circumvent penalties by appearing to address issues is also problematic. The Authority should allow companies to rectify errors, but if the same errors and difficulties are repeatedly found to occur, then the corresponding penalties should increase.

4.14.5. **The Authority's Findings.**

4.14.6. The Authority found that the penalties in the Regulations are not effective as they are excessive and are never enforced. There is a need to introduce appropriate fine that take the size of the business into consideration. Furthermore, the Authority found that other penalties such as suspension of a license or registration certificate should be considered.

4.15. INTERNATIONAL BENACHMARKING.

4.15.1. **Question 26: Should the Authority adopt Malaysia's definition of "post"?**

4.15.2. Tape Aids submits that the Authority should adopt Malaysia's definition of "post" as the broader aspects of Malaysia's definition, are already occurring in South Africa today where unreserved licensees are providing the traditional 'post' services, previously the preserve of SAPO, due to the closure of many Post Offices. In addition, the adoption of the Malaysian Minister's ability to grant postal service licenses for both universal service and non-universal service providers would be good to introduce and accordingly legislate in South Africa.

4.15.3. DCDT is of the view that the definition provided by Malaysia is broad and covers all the elements related to posting an item. Given that the definition is not provided in the SA Postal Services Act, the definition can be considered and adjusted to the current conditions and developments.

4.15.4. CAP agrees with the adoption of Malaysia definition of post , with some expansion to allow for local conditions.

4.15.5. **The Authority's Findings.**

4.15.6. The Authority has found that it should adopt Malaysia's definition of "post". However, the definition should be in line with Laws of the Republic, be reflective of and adjusted to the current conditions and developments in the conveyance of mail.

4.15.7. **Question 27: Should the Authority adopt Malaysia's definition of "mail conveyance"?**

4.15.8. Tape Aid submits that the Authority may possibly adopt Malaysia's definition of "mail conveyance" since the definition merely means "… the mode used to transmit postal articles". Malaysia is more technologically advanced with developed transportation systems. The Authority would need to consider how local South African conditions could realistically incorporate reliable 'modes of transport' for post.

4.15.9. DCDT submits that the definition provided by Malaysia is limited as it talks only about mode used to deliver mail articles. This can be expanded to include other processes.

4.15.10. CAP submits that the Authority should adopt mail conveyance definition from Malaysia with some expansion to allow for local conditions.

4.15.11. **The Authority's Findings.**

4.15.12. The Authority found that it should adopt Malaysia's definition of "mail conveyance." However, the Authority must consider expanding the term to cater for local conditions.

4.15.13. **Question 28: What other definitions from Malaysia should the Authority consider adopting?**

4.15.14. Tape Aids submits that the Authority should consider adopting these definitions from Malaysia;

(a) "postal network as "the system of organisation and resources in any form or manner used by a licensee in carrying out its operations including the aspects of the system used …"

(b) "transmission of postal article"[10]

4.15.15. DCDT submits that the following terms from Malaysia can be defined in the Regulations: Post, Postal network, postal network facilities. If required, the definition should be aligned to the use of terms for the context and purpose of the Regulations.

4.15.16. CAP is of the view that no other definitions are necessary.

4.15.17. **The Authority's Findings.**

4.15.18. The Authority has found that it should consider adopting the terms Postal Network, Transmission of Postal Articles, Postal Network Facilities and Post for definition in the Regulations. The definition of these terms should be aligned to the context and the purpose of the Regulations.

4.15.19. **Question 29: Should the Authority require conveyors to submit their compensation policies for compensation of loss or damage of postal items?**

[10] Transmission of postal article - means the process whereby a postal article is being posted by the sender to an access point until it is being delivered to the addressee by the licensee or it is returned to the sender or disposed of under the Act by the licensee

4.15.20. Tape Aids submits that the Authority should require conveyors to submit their compensation policies for compensation of loss or damage of postal items in compliance with the Consumer Protection Act. The Authority should regulate to ensure a level of uniformity.

4.15.21. DCDT agrees with the proposal for operators to submit their compensation policies to the Authority, this will assist the authority when dealing with complaints.

4.15.22. CAP agrees with the proposal for operators to submit their compensation policies to the Authority.

4.15.23. **The Authority's Findings.**

4.15.24. The Authority has found that it should require conveyors to submit their compensation policies for compensation of loss or damage of postal items in compliance with the Consumer Protection Act.

4.15.25. **Question 30: Should the Authority require conveyors to keep an updated record of dangerous and prohibited goods found in their postal networks?**

4.15.26. Tape Aids submits that the Authority should require conveyors to keep an updated record of dangerous and prohibited goods found in their postal networks. This should be Recorded and Reported to enhance Annual Statistics and prevent accidents and fraud.

4.15.27. DCDT agrees that the Authority should require conveyors to keep an updated record of dangerous and prohibited goods found in their postal networks, in line with developments and International Benchmark.

4.15.28. CAP agrees that the Authority should require conveyors to keep an updated record of dangerous and prohibited goods found in their postal networks, this is very important so that the Authority can periodically update their list of dangerous and prohibited goods and work out

procedures on how dangerous goods can be processed to be sent out via post.

4.15.29. **The Authority's Findings.**

The Authority has found that it should require conveyors to keep an updated record of dangerous and prohibited goods found in the postal networks. This will help the Authority to periodically update the list of prohibited and dangerous goods and enhance annual statistics while preventing accidents and fraud. In addition, the record keeping requirements must be in line with international best practice.

4.15.30. **Question 31: In addition to the prescript of POPIA, should the Authority require mail conveyors to deal with personal information in a manner similar to Tanzania clause 6(1) of the Electronic and Postal Communications (Consumer Protection) Regulations, 2018?**

4.15.31. Tape Aids submits that the Authority should require mail conveyors to deal with personal information in a manner similar to Tanzania in part as Clause 6 (1) states: "A licensee may collect and maintain information on individual consumers where it is reasonably required for its business purposes." This would be acceptable under the prescripts of the POPI Act where businesses are required to limit their use of personal data, get consent before using it, and let users withdraw their consent later on. However online payments with credit card information should have additional security limitations or the introduction of surrogate identification such as India's tokenisation (introduced in Sept 2022) to prevent sensitive details being at risk and compromised by a cyber-attack. With Tokenisation, card details are replaced with a randomly generated unique token. This allows payments to be made without disclosing customer details. Card data is not saved anywhere except the

card network and consumers can create tokenisation for multiple merchants.

4.15.32. DCDT submits that the POPIA covers all the critical elements and should be sufficient in dealing with personal information.

4.15.33. CAP agrees to adopt Tanzania version when dealing with personal information.

4.15.34. **The Authority's Findings.**

4.15.35. The Authority has found that it should require mail conveyors to deal with personal information in a manner similar to Tanzania clause 6(1) as this would be acceptable under the prescripts of the POPI Act. In the addition, the Authority found that the Regulations should have additional security limitations like the introduction of surrogate identification for online card payments. This should function like India's tokenisation, which prevents card data from being cloned.

4.15.36. **Question 32: Should the Authority outline items that should be included in the risk assessment register as the USPS Guide to Mail Centre Security?**

4.15.37. Tape Aids submits that Authority should outline items that should be included in the risk assessment register in a manner similar to the USPS Guide to Mail Centre Security to restore trust and credibility in South African postal services. The United States Postal Inspection Service Guide provides a useful overview that covers key risk assessment areas. It is also a Federal law enforcement agency established to protect the Postal Service, secure the mail system, and ensure public trust in the mail.

4.15.38. DCDT agrees that the Authority should outline a minimum list of items that should be included in the risk assessment register.

4.15.39. CAP agree with the notion that the Authority should outline in the risk assessment register.

4.15.40. **The Authority's Findings.**

4.15.41. The Authority has found that the Regulations should outline items that should be included in the risk assessment register as the USPS Guide to Mail Centre Security to restore trust and credibility in the South African postal services.

4.15.42. **Question 33: Should the Authority require conveyors to give consumer notices explaining how personal data will be used?**

4.15.43. Tape Aids submits that the Authority should require conveyors to give consumer notices explaining how personal data will be used.

4.15.44. DCDT agrees that the Authority require conveyors to give consumer notices explaining how personal data will be used, in line with (Protection of Personal Information Act (POPIA).

4.15.45. CAP agrees that conveyors must give customer notices explaining how personal data will be used, these notices should also be displayed in accessible formats and data subjects should be required to op-in in any data-sharing schemes. The mail conveyancers should also be compelled to disclose to consumers if any data breach took place and what specific data was compromised.

4.15.46. **The Authority's Findings**

4.15.47. The Authority has found that the Regulations should require conveyors to give consumer notices explaining how personal data will be used. The requirement will align with POPIA obligation that people should be given such notices, and to advise on what will happen to personal data after the delivery.

4.15.48. **Question 34: In addition to publishing the list, should the Authority require conveyors to raise awareness on dangerous and prohibited goods?**

4.15.49. Tape Aids submits that the Authority should require conveyors to raise awareness on dangerous and prohibited goods in the same way that consumers only know dangerous substances on everyday household goods due to the requirement to identify on product labelling. So too should Dangerous and Prohibited goods and labels identifying their contents.

4.15.50. DCDT agrees that the Authority should require conveyors to raise awareness on dangerous and prohibited goods. This will ensure that consumers are aware of the items not to post using the postal services systems.

4.15.51. CAP agrees that the Authority should require conveyors to raise awareness on dangerous and prohibited goods. This should be displayed on their digital platforms as well as in their front offices. Mail conveyers should also ensure that this information is also available in accessible formats to include persons with disabilities.

4.15.52. **The Authority's Findings.**

4.15.53. The Authority has found that the Regulations must require conveyors to raise awareness on dangerous and prohibited goods by displaying notices in the front offices and on digital platforms. The information should be accessible to persons with disabilities. In addition, the Authority has found that dangerous goods must have labels identifying them.

5. CONCLUSION

5.1 The Authority would like to thank all stakeholders who made submissions in this inquiry. Written submissions reflected a high-level knowledge and contributed to a better understanding of the postal services sector and mail conveyance operations.

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