

POSITION PAPER

On

The Indian Post Office (Amendment) Bill

This paper has been prepared by the Express Industry Council of India (EICI) in response to a move by the Department of Posts to amend the Indian Post Office Act 1898 (The Act) through passing The Indian Post Office (Amendment) Bill (The Bill) there by : Expanding its monopoly provisions;

Regulating courier and Express operators and double-taxing Courier and Express operators to fund the Universal Service Obligation (USO) of the Department of Posts(DOP)

EXECUTIVE SUMMARY

- * The Courier and Express industries are significant contributors to India in terms of enabling domestic and international trade and commerce and in contributing to India's economy through job creation and revenues to the exchequer. India's economic development requires competitive communications and logistics providers
- * Courier and Express companies do not compete with the DoP for letters; this proposal would eliminate an important sector upon which India's businesses rely.
- * The EICI supports modernizing the Act, but the real opportunity is in maintaining a competitive express sector while increasing the efficiency of the Department of Posts.
- * The DoP's USO should be funded through a monopoly on letter delivery; the Department of Posts does not require both a monopoly and a Universal Service fund..
- * India should establish a monopoly at the weight and price which will allow the Department of Post to meet its universal service obligation without restricting businesses opportunities to express services. This should be done according to international practices which establish a price multiple based on the cost of a first-class stamp. India should not roll back foreign investment in this vital industry, both to ensure express services are provided at their optimal level and that it does not send the wrong signal that foreign investment in India is not safe.

EICI' s position is that this draft should be withdrawn. A formal process should be implemented whereby the Indian business community can participate in the formulation of the needed amendments to the 1898 Postal Act .EICI and its members welcome the modernization of the Indian postal system, but it must be done so that a level playing field exists between DoP and the private sector so that Indian businesses have access to the express services needed to compete in today' s global economy .

MAY 2007

SERIOUS CONSEQUENCES

The EICI believes that, if enacted, the provisions of The Bill would drive the Indian economy backwards and effectively wipe out the Express and Courier Industries.

The EICI welcomes the opportunity to modernise The Act, but it believes that it should be done on the basis of:

- qualitative improvements to India's postal services;
- recognition of modern communication and shipment needs and practices and
- a competitive market operating on a level playing field.

INDUSTRIES REPRESENTED BY THE EICI

The Courier Industry. Couriers mostly offer point-to-point document deliveries across metropolitan areas using manual administration and operational systems. Some offer small parcel deliveries and some offer regional and even national services. They are all 'low cost operators' with limited infrastructure and they exist in both organized and unorganized segments of the economy.

The Express Industry. Express businesses offer document, small package and general distribution services throughout the country and overseas, on a time-definite basis. They have significant investments in brand, technology, infrastructure, people and regulatory development. They offer wider, value-adding, services than couriers including border management (Octroi, Customs, Security), track and trace, trade facilitation, warehousing and distribution and performance accountability.

Neither sub-group operates in competition with the DoP's protected Letter business.

SCOPE OF THE COURIER AND EXPRESS INDUSTRIES IN INDIA

2,500* operators *

Rs 7,100 crores in revenues from servicing distribution needs in India *

Rs 3,600 crores in revenues from servicing import / export needs *

Rs1030* crores in taxes paid

Over 120 crores shipments moved

Over 9.5 lakhs people employed *

50,000 tonnes of export air cargo

35,000 tonnes of import air cargo

Rs 3200 crores investment in brands and infrastructure.

(* CARE Report on Express Service Industry in India

Major investments flows are expected in the Courier and Express industries, both in the domestic and international segments. The Express industry in India is evolving into a complete supply chain solution provider from carrying documents to small parcels to providing large scale logistics support to Indian industry.

BROAD USER BASE

Anyone engaged in the modern Indian economy is a potential customer of a Courier or Express company.

Banks rely on fast, time-certain, reliable, delivery of negotiable instruments and documents to expedite domestic and international trade.

Business enterprises and lawyers need time certainty in the execution of contracts and urgent delivery of all manner of urgently required documents and materials. Time is money.

Companies need time certainty in the movement of payroll data, customer presentations, tenders, shipping documentation, invoices, order forms etc.

Government departments use Courier and Express services in order to improve efficiency and provide good service. Many Ministerial departments, government organisations and quasi-government bodies are on Courier and Express companies' customer lists.

THE BILL

The government proposes to amend the Act entitled "The Indian Post Office (Amendment) Bill" (The Bill).

The Bill centres on letters weighing less than 150 grams. It then describes "letter" in great detail, more or less covering all printed communication. Vesting the government with the exclusive right to carry all documents is anathema to competition and free trade. In today's world the consumer should be left with the choice to determine the best system to use. Electronic document movement options (fax, email, Internet) exist free of regulation, why shouldn't physical document movement options be available on the same basis? The proposed definition of the word "letter" is:

"any written communication, or communication produced by mechanical, electronic or other means and sent, to and from any person to any specified address and includes letter-card, postcard, and open or closed envelope, documents or any return or answers to such documents, sent conveyed or delivered by post but does not include news papers or parcels";

Additionally the Bill grants an exclusive privilege to the DoP to

"convey letters up to 150 grams by post from one place to another and all the incidental services of receiving, collecting, sending, dispatching and delivering all such letters";

Letters have been further defined as unregistered mail and urgent or express mail. Urgent or express mail means postal articles of urgent or express nature for which documentation at booking; transmission and delivery point is maintained

convey letters up to 150 grams by post from one place to another and all the incidental services of receiving, collecting, sending, dispatching and delivering all such letters"; The Central Government will allow conveying of express postal articles subject to registered service providers not charging after all discounts less than 2.5 times of Speed Post or EMS tariff as applicable to relevant weight and distance category as notified by DOP

Courier and Express operators do not carry letters. They are not in competition with DoP for this business but do compete, head-on, for value added services provided by Speed

Post and Express Post.

The Department of Post attempts to widen the definition of a "postal article".

"The expression postal article includes letter, letter-card, post-card, newspaper, book, packet, parcel and every article or thing transmissible by post or by any person authorized to carry such articles under the Act".

A very important consideration in today's competitive environment is speed. In a scenario where the government will have the exclusive privilege to carry "every article or thing transmissible by Post" up to 150 grams, and will allow couriers to convey these articles only if they charge more than 2.5 times the rates of Speed Post, private and business consumers will be adversely affected if their shipments have to be delivered by a monopoly Government operator. Courier and Express companies have, over the years, specialised in delivering to destinations within times ranging from hours across town to "next day business day" between main centres. In fact, unless DoP modernises and becomes more competitive with private sector operators it is easy to foresee a situation where consumers will slowly refrain from using the government mechanism and use instead other means of communication and carriage. This would defeat the very purpose of Bringing this amendment

However globally the price multiple is a multiple on the lowest weight slab of the letter rate and not EMS (Speed Post). EMS services world over are equivalent to services provided by express operators. In effect if this proposal is accepted it would mean creating monopoly situation for Speed Post. The most effective way of improving quality and service is through competition. Speed Post is a special service offering from Indian Post and was created in 1986 with the specific purpose of operating in a new segment. In fact it used to advertise stating "Government's Own Courier". To ask private operators to charge 2.5 times Speed Post Tariff to say the least is totally anti consumer and a move to institute a Government monopoly in the express segment.

While it is important to protect the government's role in providing letter services to all Indian residents, since it has invested in men, money and resources, there is a need for a via media, which would provide competition-at-par for the private players also. In fact the ideal solution would be to create an environment where there is healthy competition and ultimately the consumer is benefited.

The Bill seeks to register parties who wish to convey "postal articles".

"The Central Government may, grant registration on such terms and conditions, as it thinks fit, to any person or body of persons or company for carriage and delivery of postal articles in consideration of such fee as is set forth in the Second Schedule";

Registration is unnecessary. Couriers and Express operators are effectively self-regulated through a fiercely competitive marketplace driven by sophisticated customers with very specific needs.

EXPRESS INDUSTRY EVOLUTION AND DoP's REACTION

It is difficult to say when the first courier operated, but the need for specialist, customised, rapid delivery services outside the mass letter delivery service offered by the DoP has been with us since the invention of physical communications and the opening up of markets. There is a significant need for rapid, certain delivery of documents, packages and goods throughout India and the world. Couriers and Express operators are the enablers of local, regional and world trade; they are a growing and essential part of the global industrial and commercial landscape.

Although courier services have existed in India for centuries in the form of messenger services where documents or packages were hand-carried across the country and have generally been referred to as Angadia services, the organised Courier industry came into existence in 1977 for the first time, with companies in Mumbai establishing domestic and international operations. The new service offered by them aimed at giving consumers a door-to-door service on a time-definite basis, with a signed proof of delivery being made available to the sender.

As quality of services kept improving, many express companies began to offer "Money-back Guarantees", as the users of such services were invariably paying more than the normal postal rates in order to avail of the higher value service offered by express companies.

In 1978, the first companies processed approvals with the Reserve Bank of India enabling them to establish connections with international counterparts. At the same time, they entered into discussions with the Indian Income Tax Department, with a view to settling the basis on which foreign counterparts would be liable for tax, if any. By 1980, the same Courier companies had entered into agreements with Indian Customs with regard to customs clearance procedures in respect of shipments that were entering or leaving the country.

The service was so well received that, by the early 1980's, almost all Nationalised Banks were using express services. The first Department of the Government of India to use such services was the International Division of the Reserve Bank of India.

Thereafter, a number of Cargo agencies in the country began to offer door-to-door services for shipments of low-weight / low-value as an additional value-added service to their normal airport-to-airport cargo offering, as a means of competing with courier/express services.

By late 1980s, Vayudoot, the Government of India's third-level airline operation, also decided to offer domestic Courier and Express services, initially in partnership with Skypak, a private company and thereafter, on its own, with a view to offering an even faster overnight service by air across India to users of courier express services.

By 1990, DoP, realising that Courier and Express services were quite distinct from the normal letter post, commenced offering an express, value-added, service under the name "Speed Post". DoP recognized that users were prepared to pay a premium over postal rates for value-addition in services, mostly relating to speed of delivery and receipt acknowledgement by the recipient. This was a clear effort by the DoP to compete with private Courier and Express companies by offering the same value-addition and at rates, which were again a multiple of the normal postal rates.

In the DoP's own promotional material **Speed Post** is differentiated from "Postal Services" and offers a range of value additions, including tracking and customs clearance, for items weighing up to 35kg to anywhere inland or internationally. Further information is available in Attachment 1 or at <http://www.indiapost.gov.in/SpeedPost.html>. Interestingly, Speed Post's punch line in its advertising is that it is the "Government's Own Courier"

Express Parcel is also differentiated from "Postal Services", and offers nationwide surface transport for parcels weighing up to 35kg. The service is offered on a contractual basis with value-additions such as guaranteed service, deferred payment and optional insurance. Further information is available in Attachment 2 or at <http://www.indiapost.gov.in/ExpressParcel.html>

Through this evolution of Courier and Express services, starting in 1978 and continued through the two decades of the 1980s and the 1990s, at no time did the private Courier and Express companies raise any attempts with the Government for protection. Indeed, they welcomed competition, competition from DoP and also competition from international express companies, such as DHL, FedEx, UPS and TNT, who were all operational in India by the early 1990s.

In 1994 DoP framed some amendments to The Act, whereby it was sought to curtail the operations of Courier and Express companies and to reassert a monopoly not only over the letter post, but also over the services that were being offered by Courier and Express companies in India. Representations were made by many organisations, particularly the Indian Banks Association and the Federation of Indian Exporters Organisations. Government took cognizance of these and decided to drop the amendments.

More recently, the Government of India has accorded further recognition to Indian courier/express companies by bringing them within the ambit of the Service Tax, for which a special category of Courier and Express companies was created. Also, in the late 1990s, private Courier and Express services were brought, by legal enactment, within the purview of the Consumer Protection Act, whereby users of these services could file proceedings against Couriers and Express companies for alleged "deficiency in services".

It is therefore apparent that by now the Indian private Courier and Express companies had been accorded recognition by all Departments of Government at the central and state levels, Indeed, government and public sector companies and banks have always been and continue to be significant users of private Courier and Express services.

If Indian exporters are denied access to Courier and Express services, which include the movement of documents within India if they originate at inland points in the country, they would be put at a grave disadvantage compared with their competitors abroad and this would seriously and adversely damage India's competitive position in its efforts to improve its share in global international trade.

THE BILL IS A RETROGRADE STEP

As an editorial in Economic Times (Kill Bill) dated 18 April, 2007 puts it besides being anti consumer, its not clear how the government plans to monitor hundreds of thousands of individual transactions between couriers and their customers. The correct policy response, given the size of the private courier industry and the consumer interest, would be to liberalise.

Ever since India embarked on the path of liberalisation, the move has been towards decentralisation and de-control. The proposed amendment is against the spirit of economic reforms and vests the Central Government with overriding powers to make rules and regulations.

Courier and Express operators can be regulated by the existing provisions of national competition policy. There is no need for a separate regulator for this sector. There is a need for a regulator only when there is a threat of monopoly, which in turn affects consumer interest. **In this sector there has been intense competition from the very beginning, which has in turn led to better services and more choices for the consumer.**

Moreover, over the years the sector has been fairly regulated by various Acts and Laws in the country. This sector is already governed by extant Regulations and Acts relating to Civil Aviation, Bureau of Civil Aviation Security, Central Board of Excise and Customs, Department of Transportation, Narcotics, Labour, Shops and Establishments and other Laws on carriage of seditious materials, pornography etc. Express Services are also covered under the Consumer Protection Act, unlike the DoP.

There are already various options available to people whom wish to communicate - letter, document, telephone, sms, fax and email.

If a regulator is unavoidable (and we argue that no such body need exist) there is a need for independence, along the lines of the Telecom Regulatory Authority or the Insurance Regulatory Authority.

WORLD TRADE

India became a World Trade Organisation (WTO) member on January 1st 1995. It is now obliged to ensure that domestic laws are in conformity with the provisions of the WTO Agreement and its Annexure and is subject to the terms, conditions and limitations in its schedule of specific commitment (Article XVI) India, as a member country, is obliged to observe:

- the extension of 'Most Favored Nation' principle and national treatment, subject to exemptions;
- transparency of regulations;
- mutual recognition of qualification of service providers;
- rules governing monopolies and business practices restraining competition and
- liberalisation commitments.

The EICI believes that the proposed Bill risks putting DoP in breach of India's required WTO commitment to:

- transparency of regulations;
- mutual recognition of qualification of service providers and
- liberalisation commitments.

UNIVERSAL SERVICE OBLIGATION

The DoP is charged with providing postal services to every citizen in India. The cost of providing this service is unknown. In fact, there is very little financial and performance information available about the various activities of DoP.

DoP claims, through the proposed revenue levy on Courier and Express operators, that by implication it is at a cost disadvantage and that Courier and Express operators must somehow fund this.

Globally Governments, in order to fulfill their USO administer price multiples by allowing express operators to charge a reasonable price multiple over the basic letter rate at the lowest weight category. A basic universal service should ensure that consumers including those in remote areas have a reliable basic postal service. In order to ensure Post is protected in the basic letter segment, a reasonable price multiple over the basic letter tariff at the lowest weight category could be administered.

The EICI has three responses to this completely unjustifiable proposal:

- * **We make the point again that Courier and Express operators do not compete with DoP's letter business.** No fee should be levied but if it were there is the very real risk of many Courier and Express companies failing because they simply do not have the margins to afford such a tax. The real issue is the cost-effectiveness of the DoP.
- * Courier and Express operators also provide delivery and pickup services to remote areas. Some operators choose to pass any extra costs involved on to their customers by way of specific access fees, others choose to cross-subsidise through universal pricing. Whatever the model, remote area servicing costs are met on a "user pays" basis.
- * There are commercial models that can resolve the DoP's cost problem, if one exists.

INDIA'S FUTURE

The government has a vision for India's share of world trade reaching 1% by the year 2007. China's share in the same year is likely to be 10%. Modern economies rely on open markets, reductions in trade barriers, an efficient regulatory framework and a trade-enabling government. China has chosen to allow open competition between Couriers, Express operators and it's Postal service.

The Indian government is currently courting expanded FDI initiatives. Foreign investors will not be attracted to an India that promotes protectionism and restricts competition. The ability to access fast and reliable systems for the movement of documents, parcels, packages and goods is essential to attracting investment in all segments of the economy.

India is now manufacturing for domestic consumption. Infrastructure is improving and will improve further. Domestic distribution capabilities must match development demands. Manufacturing for export is the next big step in India's economic success story. Unlike software exporters, who can use electronic means for movement of their products, manufacturing exporters must be able to expedite trade documentation, component sourcing and product delivery to effectively compete with locally-based manufacturers overseas, or China-based manufacturers.

India needs an open, competitive Courier and Express structure to help it achieve its objectives. It also needs a modern, efficient, competitive postal service. Each can survive very well in the de-regulated environment that the government is developing overall.

ATTACHMENT 1

Speed Post (copied from <http://www.indiapost.gov.in/SpeedPost.html>)

Wide Scope

We provide both, documents as well as merchandise service. Money transfer is also available through Speed Post in India.

Special Incentive for Bulk Customers

Book now pay later scheme. Free pickup facility.

Computerized extension counters at the premises of the customers. Tailor - made solutions on contractual basis of dispatch and tariff.

Special custom clearance for export goods not covered by various Export incentive schemes viz. Drawback, DEEC, etc

Latest Features

We accept Gold coins, Gold ornaments, bullion, precious, stones or jewellery provided the value of such insurance does not exceed one lakh rupees.

(Earlier, the Limit was Rs. 10,000)

The maximum weight limit increased to 35 Kg from 20 Kg.) Insurance facility as a value-added service for corporate customers under inland Speed Post as well as International Speed Post

Domestic Tariff

Weight	Local	Upto 200 Kms	201 to 1000 Kms	1001 to 2000 Kms	Above2000 Kms
Upto 200 Gms	Rs. 20	Rs. 25	Rs. 30	Rs. 50	Rs. 50
201 to 500 Gms	Rs. 20	Rs. 40	Rs, 45	Rs. 60	Rs. 60
Additional 500 Gms or Part	Rs. 5	Rs.7.5	Rs. 10	Rs. 20	Rs. 25

ATTACHMENT 2

Express Parcel (copied from <http://www.indiapost.gov.in/ExpressParcel.html>)

Express Parcel

We offer you one more convenient solution to your delivery needs. A contractual service that assures express and guaranteed deliveries of your parcels up to 35 kgs, through Surface Transport.

Special Deals for Regulars

Special value added services for our regular corporate customers who deal in large volumes.

Credit facilities. Volume based discounts.
VPP service on payment of VPP charges.
Insurance facilities on payment of interest charges.

Sizable Limit

Though the maximum weight limit is 35 kgs, we can provide a higher limit in special circumstances.

Satisfaction Guaranteed

If the delivery norms are not met, charges will be refunded. In case of loss or damage, the compensation is limited to Rs.500 or actual value of Parcel Post / damaged, whichever is less. If it is insured only the insured amount is payable.

Value for Money

Based on the distance and weight of the parcel, the rate structure is as follows:

Table

Weight	Local	Up to 200 Kms	201 to 1000 Kms	1001 to 2000 Kms	Above2000 Kms
Up to 200 Gms	Rs. 20	Rs. 25	Rs. 30	Rs. 50	Rs. 50
201 to 500 Gms	Rs. 20	Rs. 40	Rs, 45	Rs. 60	Rs. 60
Additional 500 Gms or Part	Rs. 5	Rs.7.5	Rs. 10	Rs. 20	Rs. 25