



REPUBLIC OF SINGAPORE

INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

SINGAPORE POST LIMITED'S REFERENCE ACCESS OFFER (RAO)

ISSUED ON 25 SEPTEMBER 2008

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REFERENCE ACCESS OFFER

This Explanatory Memorandum explains the Direction, dated 25 September 2008, issued by the Info-communications Development Authority of Singapore (“**IDA**”) to Singapore Post Limited (“**SingPost**”), directing SingPost to incorporate modifications to its Reference Access Offer (“**RAO**”).

1. INTRODUCTION

- 1.1 IDA issued the Postal Competition Code 2008 (the “**Code**”) on 2 May 2008. Under Section 5.1 of the Code, IDA could designate a Licensee, who controls facilities that are required by other Licensees as an input for the provision of a Basic Letter Service and/or Direct Mail Service, to be a Mandated Licensee and to provide access to such inputs as a Mandated Service to other Licensees.
- 1.2 On 2 May 2008, IDA designated SingPost a Mandated Licensee, and pursuant to Section 5.6.1 of the Code, IDA directed SingPost to develop a RAO to provide downstream delivery services, as a Mandated Service, to all Requesting Licensees. On 2 June 2008, SingPost submitted its proposed RAO (the “**Proposed RAO**”) for IDA’s approval.
- 1.3 In accordance with the review framework specified under Section 5.6.6 of the Code, on 4 June 2008, IDA conducted a public consultation (“**Consultation**”) on the Proposed RAO, which closed on 25 June 2008.
- 1.4 IDA then conducted an extensive review, during which IDA gave careful consideration to the views and proposals put forward by the respondents. On 25 July 2008, IDA issued a notification to SingPost (the “**Notification**”), setting out IDA’s comments on SingPost’s Proposed RAO and requiring SingPost to either modify certain sections of the Proposed RAO, or provide justifications on why those proposed terms were necessary.
- 1.5 SingPost submitted a revised version of the RAO on 25 August 2008 (the “**Revised RAO**”), which IDA has since reviewed. In accordance with Section 5.6.6(b) of the Code, IDA has amended the Revised RAO, and has issued a Direction to SingPost requiring it to adopt this amended and finalised version of the RAO.
- 1.6 This document sets out the following:
 - (a) A summary of the comments received on SingPost’s Proposed RAO;
 - (b) The key issues raised by IDA in our Notification, as well as SingPost’s response and amendments, contained in the Revised RAO;
 - (c) IDA’s decision with regards to SingPost’s response and amendments in the Revised RAO; and
 - (d) IDA’s response to the issues raised during the Consultation.

- 1.7 Unless otherwise defined in this document, capitalised terms used in this document have the same meaning as in the Code.

2. OVERVIEW OF COMMENTS RECEIVED ON SINGPOST'S PROPOSED RAO

- 2.1 At the close of the Consultation, IDA had received comments from two respondents (henceforth referred to as the "**Respondents**"):
(a) A J Couriers Pte Ltd
(b) Swiss Post International Singapore Pte Ltd
- 2.2 IDA would like to thank the Respondents for their comments. IDA notes that, in general, the Respondents were primarily concerned with the proposed access prices in the Proposed RAO and had no comments on the other aspects of the Proposed RAO, such as the terms and conditions. The Respondents observed that the access prices were identical to SingPost's domestic bulk mail rates. One Respondent contended that this was anti-competitive because the prices were not just and reasonably priced and would not allow postal licensees to profitably resell the Mandated Services to potential clients in the market.
- 2.3 IDA has given careful and extensive consideration to the views expressed by the Respondents. The sections below explain IDA's decision on the RAO and the basis on which it has required SingPost to adopt this amended and finalised version of the RAO.

3. SCOPE OF RAO REVIEW

- 3.1 In reviewing SingPost's RAO and the comments received from Respondents, IDA adopted the following approach and principles:
- (a) The primary objective of the review was to ensure that SingPost's RAO complied with the requirements specified in Sections 5.6.2 through 5.6.5 of the Code and the Appendix to the Code. The review should not re-open discussions on the substance or basis of the Code requirements, given that IDA has already consulted on the Code and explained the basis of its decisions regarding the Code prior to its coming into effect on 2 May 2008.
 - (b) Where Respondents submitted comments on the specific prices, terms and conditions of the Proposed RAO, IDA carefully considered whether these comments were reasonable, consistent with the requirements set out in the Code regarding the RAO, and congruous with the overall policy objective of the RAO. Where IDA determined the comments met these requirements, IDA then reviewed the corresponding access prices, terms and conditions to determine if any modifications were required.
 - (c) On areas where the Code did not explicitly prescribe a specific methodology or standard, IDA considered whether the Proposed and Revised RAOs were consistent with the overall policy objective of the RAO, which was to facilitate reasonable access by competing licensees to the Mandated Services offered by SingPost.

4. IDA'S KEY COMMENTS ON THE RAO

Proposed RAO

- 4.1 After the close of the public consultation of the Proposed RAO on 25 June 2008, IDA had reviewed SingPost's Proposed RAO and the comments received from the Respondents.

Access Prices

- 4.2 IDA reviewed the access prices in the Proposed RAO primarily to ascertain if they complied with the pricing methodology prescribed in the Appendix of the Code, as follows:

- (a) *for delivering homogeneous and/or pre-sorted domestic mail, the access prices for new entrants shall be no less favourable than the discounted charges offered by the Mandated Licensee to existing bulk mailers;*
- (b) *for delivering other unsorted and heterogeneous domestic mail, the access prices will be determined using the standard of retail price for delivery of such mail minus avoidable costs, taking into account the extra handling costs for heterogeneous mail; and*
- (c) *for delivering incoming international mail to recipients in Singapore, the access prices will be determined using the Universal Postal Union Terminal Dues System as reference points.*

- 4.3 IDA notes that the Respondents were generally critical of the proposed access prices. In particular, they were critical of the access price for homogeneous and/or pre-sorted mail. One Respondent suggested that these prices were *"not just and not reasonably priced"*, were anti-competitive and amounted to a price squeeze as they did not allow for a licensee to profitably sell the services to potential clients in the market¹. Another Respondent questioned if the prices would help to promote competition. As a way forward, one Respondent recommended that the prices should be *"equal to the existing postage rate less the dominant licensee's per unit incremental cost of all non-delivery functions"*.

- 4.4 In its assessment, IDA found the access prices of the Proposed RAO for homogeneous and/or pre-sorted mail and incoming international mail to be compliant with the pricing methodology prescribed by the Code. For example, the Code requires SingPost to ensure that its access prices for delivering homogeneous and/or pre-sorted domestic mail in the RAO are *"no less favourable than the discounted charges offered to bulk mailers"*. SingPost has proposed to charge the same access prices on the basis that the cost of

¹ The Respondent had also claimed that SingPost had acted anti-competitively by failing to seek IDA's approval before modifying its bulk mail scheme. On this point, IDA has clarified to the Respondent that SingPost had submitted its proposed revisions to the bulk mail scheme to IDA for approval in March 2008, and IDA had granted its approval on 23 April 2008. The revised tariffs are published on SingPost's website, as required by the Code.

providing this service to bulk mailers and to other Requesting Licensees are the same. IDA notes that the Respondents did not disagree that SingPost's RAO prices were compliant with the Code requirements.

- 4.5 IDA would like to remind the industry that IDA had previously consulted the industry on the pricing methodology for the RAO prices during IDA's public consultation on the "Further Liberalisation of the Postal Services Sector in Singapore", in August 2006. No party raised any concerns with the pricing methodology, which were then subsequently adopted in the Code. The Respondents did not put forward strong reasons why Requesting Licensees should be given more preferential access prices than other bulk mailers, apart from saying that the proposed prices do not help them to profitably sell their services. Neither did the Respondents submit any compelling data to support their contention that the access prices amounted to a prices squeeze and would not allow Requesting Licensee to profitably sell their services to potential clients in the market. The Respondents were arguing that the prices should be lower for Requesting Licensees as the cost base for SingPost was lower than theirs.
- 4.6 IDA's pricing methodology in the Code is based on the premise that Requesting Licensees are similarly-situated as other bulk mailers, hence the Code requirement was to ensure that SingPost does not offer Requesting Licensees prices, terms and conditions that are worse than those offered to bulk mailers. We also note that one Respondent acknowledged that there were already several printers that could provide "*one stop solutions for data printing and mail processing*" in accordance with the mail specifications of SingPost. Requesting Licensees, therefore, do not have any advantages over such bulk mailers in terms of knowledge or ability for mail preparation/processing. Accordingly, as the information on hand continues to suggest that bulk mailers are similarly-situated as Requesting Licensees, IDA will not require SingPost to give Requesting Licensees more preferential rates than bulk mailers. Requesting Licensees are always free to further negotiate with SingPost for better rates, if they could offer more efficiency gains and cost savings through mail sorting or higher mail volume.
- 4.7 Since SingPost's proposed rates for homogeneous and/or pre-sorted mail and incoming international mail were compliant with the requirements in the Code, and in the absence of any data to support the Respondent's contention of anti-competitive pricing on the part of SingPost, IDA will therefore approve the access prices proposed by SingPost.
- 4.8 IDA was, however, unable to determine if the access prices for non-homogenous mail in Scheduled 6C was fully compliant with the Code's pricing methodology. This is because there was not enough information to ascertain if SingPost's proposed discount of 1% off the standard retail rates for non-homogeneous mail adequately represented SingPost's avoided costs. Accordingly, in the Notification to SingPost, IDA asked SingPost to confirm that the rates in Schedule 6C were determined using the appropriate pricing methodology as prescribed by the Code.

Other Sections of the Proposed RAO

- 4.9 IDA notes that the Respondents did not comment on the other sections of the Proposed RAO. Nonetheless, IDA had proceeded to assess the Proposed RAO based on the approach and principles set out in Section 3.1 of this Explanatory Memorandum. IDA determined that certain sections of the Proposed RAO:
- (a) afforded SingPost too much discretion to unilaterally terminate or amend the terms and conditions of the RAO without seeking IDA's prior approval;
 - (b) contained terms which are not commercially reasonable or which impose a disproportionate share of risk on Requesting Licensees, such as excessive liability clauses; onerous information provision clauses; and excessive insurance requirements; and
 - (c) stipulated service level standards and terms for the Mandated Services under the RAO which appeared to be worse than what SingPost offers to its own end users.
- 4.10 Accordingly, in our Notification to SingPost on 25 July 2008, IDA had required SingPost to either modify the above terms in the RAO accordingly or else provide justifications on why such terms were necessary.

Revised RAO

- 4.11 IDA notes that SingPost has accepted the majority of comments made by IDA in the Notification, and has modified various sections of the Revised RAO accordingly. However, in certain areas, SingPost has argued against the comments raised by IDA, and either provided different amendments from what IDA had required or justifications on why SingPost should be allowed to retain its original drafting of the Proposed RAO. IDA will address the key issues raised below.

Security Deposit

- 4.12 In the Notification, IDA had required SingPost to explain why it was necessary to have a security deposit of \$1,500 for the purposes of securing a credit facility, when SingPost already required Requesting Licensees to provide a banker's deposit of \$20,000 in order to apply for the RAO in the first place.
- 4.13 In the Revised RAO, SingPost agreed to ask only for a single security deposit to cover both the application for the RAO and a credit facility. However, the amendments made by SingPost to clause 1.3(d) of Part 1 (RAO Acceptance Procedures) of the Revised RAO replaced the \$20,000 stipulated banker's deposit with a term, "*Security Deposit*"², the definition of which does not

² In the Revised RAO, SingPost has defined Security Deposit as: "One Thousand Five Hundred (S\$1,500) or the average month's posting whichever is greater, or such other amount as may be reasonably specified by SingPost from time to time (where applicable)"

prescribe any limit to the amount that SingPost can require from Requesting Licensees.

- 4.14 IDA remains concerned that SingPost's definition of the term "*Security Deposit*" is too wide, and allows SingPost too much discretion in setting the quantum. This could be potentially discriminatory as the effect of the amendment to clause 1.3(d) essentially means that SingPost could require Requesting Licensees to pay any amount it deemed "*reasonable*" as a condition for accepting a Requesting Licensee's "Notification of Acceptance of RAO". Therefore, to ensure that Requesting PSOs are not overly burdened by an excessive security deposit as a condition for accepting the RAO, IDA has amended the RAO to remove the discretion for SingPost to prescribe any amount for the security deposit. The security deposit shall then only be based on the average monthly value (based on the last six months) of the Requesting Licensee's postings with SingPost, or \$1,500, whichever is higher.

Information Required by SingPost to Assess a Requesting Licensee's Credit-Worthiness

- 4.15 In Section 8.6 of the Proposed RAO, SingPost had drafted provisions specifying that, in order to evaluate the creditworthiness of Requesting Licensees seeking credit facilities, SingPost required the Requesting Licensees to provide SingPost with their audited financial statements, as well as any "*other information SingPost may require*".
- 4.16 In reviewing the Proposed RAO, IDA had been concerned over the wide-ranging discretion, afforded to SingPost by these provisions, in obtaining information that could potentially be commercially sensitive in nature. Accordingly, IDA instructed SingPost to amend these provisions, or to provide justification on why this wide-ranging discretion was necessary.
- 4.17 In its Revised RAO, SingPost acknowledged IDA's concerns but had explained that it was only prudent of SingPost to conduct a thorough evaluation of the financial well-being of any Requesting Licensees seeking credit facilities. SingPost also highlighted that the audited financial statements of Requesting Licensees were publicly available and were therefore not commercially sensitive. Nevertheless, to address the confidentiality concerns mentioned above, SingPost had amended Section 8.6 of the Revised RAO to clarify that any such requests to Requesting Licensee for information shall be related only to SingPost's evaluation of a Requesting Licensees' credit worthiness. SingPost also clarified in clause 8.6 (iii) that any financial statements it required from Requesting Licensees would be limited to those filed with the Accounting and Corporate Regulatory Authority of Singapore ("**ACRA**").
- 4.18 IDA does not agree with SingPost's explanation. IDA is still concerned with the broad discretion SingPost has asked for to obtain any other information it deems necessary from Requesting Licensees so long as the information will only be used for the purposes of credit worthiness evaluation. Given the possible commercial sensitivity of such information, such a broad discretion is likely to be viewed as unreasonable. Moreover, IDA notes that the Requesting

Licensee would have already provided SingPost with a security deposit. Accordingly, IDA has amended the RAO to remove these clauses.

Interest Quantum on Disputed Amounts

- 4.19 In the Notification, IDA had instructed SingPost to review the 12% interest quantum on disputed amounts in Section 8.15 of the Proposed RAO, or to submit compelling reasons to IDA to explain why this was a reasonable amount. In IDA's view, levying a 12% interest on amounts that were reasonably disputed with the Requesting Licensee, having provided SingPost with reasonable documentation to support and substantiate their disputes, could be construed as punitive and, therefore, unreasonable. Requesting Licensees who have legitimate concerns and who desire in good faith to dispute an invoice, should be allowed to do so without having to worry about punitive interest rates being levied on disputed amounts.
- 4.20 In the Revised RAO, SingPost asked IDA to reconsider its Notification. SingPost explained that 12% was a reasonable quantum which was benchmarked to the market and has been the rate that SingPost has been applying to its customers. To substantiate its claims that 12% was not unreasonable and was "widely applied by many commercial organisations in Singapore", SingPost provided an illustrative list of the interest levied by other organisations on disputed amounts.
- 4.21 While IDA notes SingPost's explanation, IDA is concerned that the interest rate quantum of 12% proposed by SingPost is excessively punitive. Therefore IDA is not prepared to allow SingPost to retain the 12% quantum in the RAO. To ensure that the interest rate specified in the RAO is objective, IDA believes that it should be pegged to a transparent benchmark rate. Accordingly, IDA directs SingPost to amend the applicable interest rate quantum for disputed amounts, and for outstanding amounts, to that of the sum of four percent (4%) plus the average of the prevailing Prime Lending Rates of the Reference Banks.

Quality of Service ("QoS") Issues

- 4.22 In its review of the Proposed RAO, IDA had noted that some of the standards specified in Schedule 5 (SingPost's Service Level) appeared to be less favourable than the QoS standards currently imposed on SingPost by IDA. The Code prohibits SingPost from discriminating between its own mail and those received from Requesting Licensees in the provision of Basic Letter Services in Singapore. Accordingly, in the Notification, IDA had required SingPost to modify the QoS standards in its Proposed RAO, to ensure that they are no different from IDA's existing QoS standards³ imposed on SingPost for its provision of Basic Letter services. In particular, IDA instructed SingPost to modify the QoS standards in the Proposed RAO for:

³ IDA's QoS standards framework for Basic Letter Services can be found on the following website: <http://www.ida.gov.sg/Policies%20and%20Regulation/20060424141236.aspx>

- (a) Singapore-Origin Postage Paid Impression (“**PPI**”) Homogeneous/Non-Homogeneous Mail service – to ensure that it was consistent with the QoS for delivery of local Letters; and
- (b) Incoming International Mail service – to ensure that it was consistent with the QoS for delivery of international incoming Letters received before 8pm at the airport.

Revised Standards for Singapore-Origin Homogeneous/Non-Homogeneous Mail

- 4.23 To comply with IDA’s Notification, SingPost modified the QoS standards in the Revised RAO for its Singapore-Origin Non-Homogeneous Mail service to be compliant with the QoS framework.
- 4.24 For the Singapore-Origin Homogeneous Mail service, SingPost explained that, given the large volumes of homogeneous mail posted by end users under its bulk mail scheme, SingPost is unable to apply the same QoS standard for non-homogeneous mail to its bulk mail scheme. SingPost further highlighted that this QoS standard is consistent with that provided to its existing bulk mailer customers.
- 4.25 Since the proposed QoS standard in the Revised RAO for Singapore-Origin Homogeneous Mail is no different from the QoS standard offered by SingPost to its existing bulk mail customers, IDA is agreeable to SingPost’s proposal in the Revised RAO.

Incoming International Mail

- 4.26 In the Revised RAO, SingPost noted that the Code requires SingPost to ensure that the access prices under the RAO for incoming International Mail are based on the Universal Postal Union Terminal Dues (“**TD**”) System, and are therefore no-worse off than the rates SingPost offers to its existing incoming international mail customers. However, SingPost explained that its proposed access prices are generally lower than the TD rates, and accordingly, it was reasonable to stipulate a lower QoS standard under the RAO. SingPost further highlighted that it would be difficult to apply the QoS framework applicable to incoming international Letters received at the airport, for the incoming international mail service provided under the RAO. This was because incoming international mail sent by Requesting Licensees to SingPost’s Bulk Mail Centre (“**BMC**”) could potentially consist of a mix of both Letters and Direct Mail, and it would be unreasonable to expect Requesting Licensees to segregate the two.
- 4.27 IDA notes SingPost’s explanation and understands that SingPost may require more time to sort incoming international mail from Requesting Licensees. Nonetheless, IDA believes that Requesting Licensees who are prepared to segregate the mails or to pay the higher TD rates should have the option of requesting for the same QoS applied to SingPost’s incoming international mail.

- 4.28 Accordingly, IDA has directed SingPost to offer Requesting Licensees the option, under the RAO, of a QoS standard similar to IDA's existing QoS standard for incoming international mail. This will give Requesting Licensees the options of either a QoS that is no worse-off than that SingPost offers to its existing international incoming mail customers, at TD rates, or a lower QoS but at a lower access price.

Charges for Singapore-Origin Non-Homogeneous Mail

- 4.29 In the Notification, IDA had sought SingPost's clarification on how the proposed rate for non-homogeneous mail service complied with the pricing methodology set out in sub-section 2.1.2(b) of the Appendix to the Code; which required SingPost to set its RAO rates for unsorted and heterogeneous mail by using the standard retail price and subtracting avoidable costs.
- 4.30 In the Revised RAO, SingPost explained that there were, in fact, no avoided costs in having Requesting Licensees deliver Non-Homogeneous Mail to its BMC as:
- (a) The lodgement of non-homogeneous mail for Requested Licensees was via franked mail service and there was no cost differential for accepting such mail over the BMC counters or over the retail counters at the post offices. SingPost further highlighted that, having Requesting Licensees deposit non-homogeneous mail at the BMC instead of the post offices would not significantly reduce its costs as the number of trips that SingPost would make to transport mail from its post offices to its BMC remained unchanged.
 - (b) There is no avoided cost as the collection process remained unchanged to meet the QoS delivery standards for all other franked mail lodged at the post offices; and
 - (c) SingPost would actually incur higher per unit costs in having to sort such mail from the rest of the Requesting Licensee's mail at the BMC, as additional staff would have to be hired at the BMC to handle and ensure the quality of any non-Homogeneous mail deposited at the BMC.
- 4.31 Given SingPost's explanation that no cost is avoided, the 1% discount is to encourage Requesting Licensees to post mail via SingPost, and the fact that no other Licensees have raised concerns with this issue, IDA will accept SingPost's proposal as it is. However, IDA may subsequently revisit this issue if new information arises that suggests a review is warranted.

Handling Fee for Mail with Less than 300 Pieces PPI per Lodgement

- 4.32 In the Notification, IDA had instructed SingPost to revise the proposed \$5.35 handling fee, and the \$0.03 per piece handling fee for Mail lodgements of less than 300 pieces to ensure that they are in line with what SingPost had stipulated in its standard PPI scheme (which specified a handling fee of only \$0.01, with no minimum charge).

- 4.33 In the Revised RAO, however, instead of modifying the handling fee, SingPost explained that it would modify its existing PPI scheme to match the terms that it had proposed in the RAO.
- 4.34 IDA does not accept this explanation. While SingPost is free to propose modifications to its PPI scheme, this is irrelevant for the purposes of IDA's review of the RAO. The Code requirements on access pricing are explicit and they require SingPost to ensure that for delivery of homogeneous and/or pre-sorted domestic mail, the access prices for new entrants shall be no less favourable than the discounted charges offered by SingPost to existing bulk mailers. Accordingly, it is incumbent upon SingPost to ensure that the terms under the RAO are no worse off than those offered to its existing bulk mail customers. As such, IDA has directed modifications to the RAO, to ensure that the handling fee is in line with SingPost's existing PPI scheme.

5. CONCLUSION

- 5.1 IDA believes that the issuance of the RAO is an important step in the liberalisation of the Postal Services sector, and will help to facilitate entry by competing Postal Services Operators into the Singapore Basic Letter Services market. Competing Postal Services Operators who desire access to SingPost's downstream delivery service can choose to adopt the RAO, without having to engage in commercial negotiations with SingPost.
- 5.2 Postal licensees who feel that the RAO does not suit their needs are free to negotiate a customised access agreement (known as an Individualised Access Agreement or "IAA") with SingPost on mutually agreeable prices, terms and conditions. Under the Code, SingPost is obligated to seek IDA's approval for the IAA, publish the IAA and to offer the same IAA to any other similar-situated Licensee.