

Indian Post Office (Amendment) Bill 2006:
Comments by CUTS International

Introduction

1. The Government of India (GOI) has drafted an amendment to the more than a century old Indian Post Office Act (1898). From the outset, a wide range of experts would agree on the necessity of introducing changes to this anachronistic bill. However, at this point the conformity ends and disputes begin.

2. Surprisingly (or not), the debate in the last month or so has been focused primarily on: whether the Department of Post (DoP) should have the monopoly to carry all letters weighing less than 300 grams; and who ought to bear the burden of financing the Universal Service Obligation (USO).

3. The GOI is committed, due to its membership to the Universal Postal Union, to provide mail facilities at affordable prices to the whole of the country, including far-flung rural areas that are commercially not viable. The government is using attainment of this objective as the main plank to argue for monopoly to DoP in under 300 grams segment and setting up of a USO fund. This strategy has been devised to make good the losses DoP is currently making for providing services in rural and remote areas. This is not the right strategy. We need to think out of the box.

4. Interestingly, the GOI has channeled the debate to two points, and left aside another issue i.e. do courier companies and the DoP compete for the same segment of the market? And if the answer is NO, then why will the courier companies with an annual revenue of Rs 25 lakhs or more be liable to pay 10% tax towards the USO fund, (i.e. small and medium companies will be exempted) as is proposed by the GOI. The amendment bill in its current form might provide a blanket for the DoP's deficit, but is this the right way? And from the Indian public's point of view, will the new Act demonstrate shortsightedness of legislators? These questions require further details.

5. The DoP argues on its website that “[c]ompetition has to be allowed where needed and possible”; however the GOI, oddly enough, will exclude the couriers companies from competing with the DoP on carrying letters less than 300 grams, indeed a new definition for the word ‘competition’. Moreover, the legislator defines the word ‘letter’ so broadly that any form of written communication could be regarded as such. The reasoning for granting such a vast monopoly, which otherwise goes against the current policy of opening up public services elsewhere, lies in the strategy of courier companies: cherry-picking ‘creamy areas’ and leaving uneconomical remote villages for the DoP. Thus, DoP makes losses and the monopoly proposed based on weight criterion seeks to provide it with a secured source of revenue to make good its losses. But is this segmentation desirable under the existing market reality?

Industry body's views

6. In this context, the industry body: Express Industry Council of India (EICI) highlights rightly that, “[c]ourier and express operators do not carry ordinary mails. 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”. Common sense suggests: customers who desire express service pay a significantly higher rate than they would do in the DoP. Alternatively, a citizen who is not in a rush to deliver his parcel or who cannot afford the express charges would in any way send it via ordinary mail through the DoP.

7. This stand is not held only by the EICI (who some people may claim has obvious vested interests) but the High Court in various states have upheld it. This view was already challenged by the Post Masters-General in various states throughout the 1980s and 1990s without success. Thus, in the current scenario when there is already segmentation of market for postal services: ordinary mail vs express, government should seek to preserve this rather than create further segmentation of the market. The proposed monopoly would leave no choice for consumers, who would then be forced to approach postal department to carry their mails weighing less than 300 grams. This is certainly a retrograde measure.

8. From the investors’ perspective this amendment creates another hurdle (among other numerous red-tape procedures) for their businesses across India. These potential repercussions can severely hit India’s competition-led growth plans.

USO Fund

9. Unfortunately, these realities are not the only ones the legislature can overlook. The proposed amendments provide for the setting up of a USO fund to meet the losses suffered in providing services in financially non-viable areas. Firstly, we do not believe that an USO Fund is required in the postal sector in view of the clear segmentation of the market. Here it will be relevant and useful to take the example from the telecom sector. One reason is because both public and private suppliers do not enjoy any segmented exclusivity but have to offer all services at competitive prices.

10. There is already an USO fund established in telecom sector to meet similar objective, but with not much success. There are doubts about government’s ability to utilise these funds properly. Out of Rs 10,753 crore collected by the GOI since 2002-03, almost two-thirds of it (Rs 7189 crore) is still waiting to be used (the forecast for 2010 is Rs 25000 crore)! Thus, any layman should ponder: what is the government doing with all this money unspent, while so many rural areas are still without any telecom infrastructure at all? And in the light of this revelation, perhaps the GOI should set up an independent committee to examine the failure of spending (wisely) the USO fund in the telecom sector before it heads into another fiasco.

Exploring alternate ways

11. Leaving aside government’s ability to utilise USO funds, there is unfortunately, not much discussion to explore other avenues that DoP can use to raise revenues. The postal network is spread across the nook and corner of the country. With the kind of reach that DoP has, discussions should instead be focused on how can the DoP leverage its nationwide network to provide non-mail services, especially in rural areas and raise additional revenues in the process. Besides, service provision, the Postal Deptt can also

follow the example of Railways to exploit its huge and prime real estate to generate revenue on a continuing basis.

12. One has already seen this happening in the form of new, non-mail services offered by the Post Office, such as insurance bill payment, and savings schemes. These non-mail services have been flourishing elsewhere and India must pick up on this trend. For example, the Deutsche Post concludes that the US post delivers more than twice the average mail volume in Europe due to the bill payments method that is commonly conducted through mailing cheques. Currently, only governmental companies like BSNL allows the customer such an option. If the DoP is allowed to charge a small commission from private companies to permit citizens to pay their bill at the local post office, this can turn out to be a win-win situation for all parties.

13. In this context, it was recently reported that private cellular operators have struck a deal with DoP to promote mobile services, especially in rural areas. For the cash-strapped DoP this will bring additional revenues. DoP is also tying up with financial service providers to sell their products through post offices. The DoP is also looking at the retail space to make use of its presence across the country. These are only some beginnings and similar opportunities can be explored and exploited which would provide enough revenues to the DoP to wipe off its deficit and turn it into a surplus-generating organisation. Various state governments have adopted e-governance in a big way to provide government services to the general public. The DoP can tie up with relevant government agencies and use its network to provide these services.

14. Other similar avenues can be identified. However, this would not happen in a scenario where DoP gets a secured revenue through its monopoly over letters weighing under 300 grams and its deficit being met through the USO fund. Incentives to innovate and improving efficiency comes only when there is pressure to perform. The proposed amendments would dampen any such incentives.

Against the current trend

15. Interestingly, this goes against the current trend where healthy competition from the private sector has made the DoP more efficient and innovative. The birth of speed post is one such example. Several other initiatives have been covered in preceding paragraphs. Competition can really do wonders and will increase efficiency in the DoP without rolling over extra costs to the courier operators (which would just pass it onto consumers). In other words, DoP already has well networked facilities across the country; therefore, if the DoP will reinvent itself and develop new niches similar to the ones proposed above, then the idea to set up a USO fund appears to be an obsolete one.

16. The Indian market, geographically and financially, is quite vast and we should envisage the possibility of multiple suppliers of service. Further, when there are goals, other than efficiency, such as access to postal services in rural and remote areas, regulation is inevitable to ensure transparent and predictable rules and their proper enforcement, without compromising on efficiency gains.

Independent regulator

17. The GOI is planning to set up a Mail Regulatory and Development Authority (MRDA) for postal and courier services. MRDA will ensure that all private courier service companies and mail services of the DoP comply with the terms and conditions of the registration. It will promote competition and efficiency in the operation of mail services, and seek to achieve the universal access to service goal. It will also lay down quality of services standards for the mail services providers.

18. In this context, it is important that the proposed MRDA is independent of the government. If it is under the DoP, then it cannot be an independent authority. This poses a serious scrutiny since the amendment bill in clause 6B says, “A chairperson, to be appointed by the Central Government ...”; similar clauses were written for the rest of MRDA’s members. Undoubtedly, there is a serious issue of how independent this authority will be if it is appointed by the GOI. Instead, the GOI should adhere to its word and nominate a committee that comprises of professionals who will be able to appoint the members for the MRDA without the government’s veto at its discretion. Secondly, the age limit for the regulator should not exceed 60 years (the bill suggest 65 years), otherwise it will become another roosting place for a retired/retiring bureaucrat or a judge.

By way of conclusion

19. Finally, and most importantly, according to the EICI there are approximately 2500 operators, which are already regulated by the market forces, i.e. fierce competition from their rivals, and consumers have a plethora of choices to find the best operator based on price and quality of service. Thus, the inevitable question is: why does the GOI seek to set-up a regulatory agency? The official answer is that the regulatory agency would make the mail sector more accountable, transparent and provide better services to customers and higher wages to employees. It cannot be ignored that for this service the GOI would charge a registration fee of Rs. 10 lakhs and renewal fee of Rs. 5 lakhs for big companies whilst small and medium companies’ fees are Rs. 25,000 and Rs. 10,000 respectively. In the light of this evidence, there should be a more comprehensive discussion before the GOI embraces this act; after all, the famous economist Adam Smith wrote more than two centuries ago about the ‘invisible hand’: in a healthy economy market forces are the best regulator.

20. There are other issues that the GOI should note before it approves the bill. The DoP justifies its suggested monopoly by pointing out to examples like the European Union (EU) member states. However, the DoP forgets to mention that by 2009 all 25 members of the EU must open their postal delivery to competition; in fact, many members have already ‘opened’ their mail delivery service (prime examples are the UK, Finland Sweden and the Netherlands). Further, by 2008 the Deutsche Post monopoly on letters will be phased out completely (at the moment the monopoly covers only letters weighing less than 50 grams). In Japan, the Prime Minister, Mr. Koizumi, called for an early election when the parliament rejected his idea to privatise the gigantic post office (if one still wonders about the Japanese postal services’ status, Mr. Koizumi achieved a landslide

win that provided him a mandate to carry out his plan). Hence, (a) why does the GOI justify its decision for granting monopoly on letters to the DoP by mentioning about countries that went through or are undergoing a reform process; (b) and why is the GOI going against the world trend? The Indian public deserves a more comprehensive answer to these issues.

21. To sum up, while the government's objective to serve rural and remote areas is benign, the strategy articulated to attain this objective via the proposed amendments is truly a retrograde measure. There is need to think out of the box and create incentives to nurture such thinking.