



Zambia

Issue and background

Express delivery companies are facing serious challenges to their operations in Zambia.

1. New postal law

In 2009 the Zambian government adopted the Postal and Courier Services Act. The Act gives the Zambia Information and Communications Technology Authority (ZICTA) the mandate to regulate the postal and courier services¹. In 2010 ZICTA issued a draft Postal and Courier Services Regulation.

2. Draft Postal and Courier Service Regulations, 2010

The draft, if adopted, will significantly impair the ability of express delivery companies to operate in the Zambian market.

The main concerns of the EEA include:

General

- There is a clear dependency between ZICTA and ZamPost which presents anti-competitive behaviour as far as regulation of postal services is concerned.

Service standards

- The imposition of service standards and requirements for customer complaints by ZICTA for courier (which include express delivery services). The service requirements for services that fall outside the universal postal service should be dictated by the market rather than being legislated by a regulator.

Quality requirements

- The Authority appears to have the right to set service levels, also for courier services. Quality of service should not be determined by the Authority, other than for the designated universal postal service provider. As far as transit times are concerned, there should be no standards at all, unless only applicable to the designated universal service provider. For all services other than the universal postal service, the market should decide the level of service through free competition.

Approval of tariffs

- The law requires approval of company rates - this should be left to markets to determine. Only universal postal services provided by the designated operator should be made subject to this obligation. The regulation of tariffs does not only include public tariffs but also approval of discounted negotiated tariffs.

¹ ZICTA was created in 2009 pursuant to the ICT Act.

- It needs to be clarified that the draft Regulation does not require express companies to disclose internal agreements between companies of the same group.

Liability

- Liability should be as per the operators' terms and conditions and the relevant international conventions – not set by the Authority.

Opening of shipments

- Express operators must maintain the right to open all courier items for the security and safety of our air network and for customs' compliance purposes. At least it needs to be clarified that express companies are effectively allowed to open shipments if this is stipulated in their terms and conditions.

Universal postal service

- It appears that the Authority could require universal services from courier operators, for example courier service PUD must be available in all parts of Zambia. Universal service obligations should only apply to the designated universal service provider appointed, i.e. Zampost.
- As the law requires interconnection, it remains unclear whether this applies to courier operators. Any interconnection obligations should be limited to the designated universal service provider.
- There is a wide definition of "postal article" which includes courier service operations.

License conditions and fees

- There is a requirement that express operators apply for license renewal 12 months ahead of the license expiry – this time period is too long and risks missing this deadline. It should be acceptable to apply for renewal within 90 days after expiry of the old license, rather than 12 months ahead of it.
- The different license types are unclear.
- There should only be a fixed license fee and not a fee based on the percentage of turnover.

Reserved area

- The reserved area is not clearly identified and the reference in Schedule 1 (license for the universal postal service provider) to "courier services under the reserved area" (Article 12) seems to imply that certain courier services are reserved.

3. Latest developments

- ZICTA has hosted its first Stakeholder consultative workshop for the Postal and Courier Services Regulatory framework on 8 December 2010. Service providers collectively requested more time to consult internally and to present written submissions to the Authority after such consultations.
- DHL International (Zambia) Limited has on 9 January 2011 submitted its set of comments on the proposed Draft Postal and Courier Service Regulations to ZICTA.
- Dialogue with ZICTA is ongoing and essentially express delivery operators call on the Zambian authorities to revise and amend the rules in order to grant better legal market conditions to express and courier providers. The outcome of the dialogue is not certain as of yet.

4. Next steps:

The EEA calls on all parties concerned to monitor the developments regarding the Postal and Courier Services Regulation closely. It also calls on parties to assess options and strategies for pushing back the most damaging aspects of the Regulation if local consultation process does not lead to the required outcome. This could for example include options to address the issue through bilateral trade negotiations or in multilateral fora.

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