

19 November 2019

The Independent Communications Authority of South Africa
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Attention: **Esther Gopane**

Dear Esther

Draft Regulations : Unreserved Postal Services Regulations, 2019.

Thank you for the opportunity to make representations on the Draft Unreserved Postal Services Regulations, 2019.

Fastway Couriers operates an unreserved postal service business within a franchise model. We are the largest courier franchise group in South Africa having over 290 courier franchisees of whom, 82% are black and 29% female. We are passionate about our empowerment credentials and wish to ensure that the governing regulations are workable in the context of our franchisees being independent businesses and that they are not unnecessarily to the detriment to the industry.

A. SUBMISSION OF A BUSINESS PROFILE – REGISTRATION AND RENEWAL

See clauses 4 (3) (b) and 7 (4) (b).

There is a requirement for the submission of a Business Profile for registration as a registered operator of an Unreserved Postal Service as well as the renewal of that registration. There is no definition of what is a business profile and there concept is therefore, vague. It leaves it open for applicants to submit their own interpretation of what is a business profile.

Our Submission: We submit that it would be in everyone's interest for there to be a clear outline in the new Regulations of ICASA's requirements of the content of a 'Business Profile'. This will provide certainty to Applicants as well as to the staff inside ICASA who are tasked with monitoring compliance with the application requirements.

B. CUSTOMER COMPLAINTS PROCEDURES

See clause 6.

Applicants are required to provide a single point of entry for all customer complaints.

We respectfully believe that this is not an optimal structure for the resolution of complaints. There are some important practical aspects surrounding complaint resolution that should be



taken into account when deciding on a complaint resolution process. We have found that a customer's complaint or enquiry is best addressed by the regional depot with whom they do business. The depot knows the customer, is familiar with the customer's requirements, has knowledge of any specific requirements of the customer and has access to the customer's paperwork and data. Most important is that the depot is also able to engage directly with the drivers to gather the necessary information and resolve the issue.

Our Submission: We submit that a more efficient complaints process would be as follows:

- 1) The complaint is to be submitted and resolved at the regional depot level;
- 2) If the outcome is not to the customer's satisfaction the customer may escalate the complaint to the National Head Office;
- 3) If that is not to the customer's satisfaction the customer may escalate the complaint to ICASA.

Naturally, the customer has the right to refer a complaint directly to ICASA at any time.

We believe that following our suggested process complaints will be resolved efficiently and the number of complaints referred to ICASA will be kept to a minimum.

(*Note: this is the process the Fastway Group follows currently. In the last 23 months we have performed over 14m freight movements and had only 1 complaint referred to ICASA. We believe our suggested complaints resolution process will work well).

C. COMPLAINTS RECORD KEEPING MECHANISM

See clause 6 (1) (e).

There is a requirement for complaints record keeping for five (5) years.

If a customer wished to bring a civil claim against an operator, the prescription period is three years. A five-year period is unnecessarily long and places a burden on operators to keep physical records longer than necessary.

Our Submission: This should be three (3) years. A three-year period is more practical and is in line with the period within which a customer is able to bring a civil action.

D. THIRD PARTY CONTRACTING

See clauses 12 (2) and (3)

The notification of the business details of a franchisee is acceptable and workable. However, we question the necessity of notifying the details to ICASA. For what purpose? In terms of the Franchising Regulations to the Consumer Protection Act, franchisees are required to have a written franchise agreement in which all information is present. What does notifying ICASA add?

Courier companies use temporary contractors for various reasons e.g:

- to increase delivery capacity during peak times;
- to assist when drivers are absent from work;
- when vehicles are in for repair.

These are often individuals - 'one-man shows'. They often do not provide regular or even extensive courier services – they might deliver or collect only one parcel; work for a morning; a couple of days, or longer. The current wording of the regulations includes such temporary contractors and places an unnecessary administrative burden on the operator to submit

information. It will also result in ICASA being inundated with a stream of information that seems to have no real value.

Our Submissions:

- 1) The details of individuals providing services to registered operators on an adhoc basis should be exempted from this reporting. Alternatively, we submit it would be more efficient to require operators to provide business details to ICASA of its third parties only if they are providing services to the operator on a regular basis. e.g for more than 5 (five) business days in any calendar month.
- 2) The details of third- party contractors that are already registered with ICASA should be exempted from this reporting. It is unnecessary.
- 3) We suggest that it would be more efficient to require registered operators to have a record-keeping mechanism for the safe-keeping of the details of all third parties to be retained for a period of a year. Such information should include (as a minimum): contact details; copy of ID; proof of insurance; copy of driving licence; proof of residential address. This information should be available for inspection by ICASA if so required.
- 4) ICASA should establish a direct line of communication (preferably email) to operators can submit this information as well as the format of the information required.

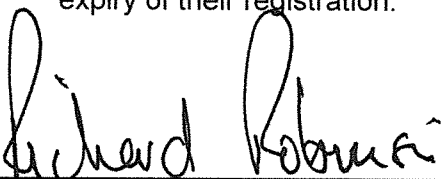
E. CONTRAVENTIONS AND PENALTIES

See clause 14 (1) - Any registered operator that contravenes regulations 7, 12 (2) and 13 (1) of these Regulations is subject to a penalty not exceeding R 250 000.00.

These penalties are draconian and not congruent with the harm caused. To levy a penalty of R250,000 because of a late renewal is unreasonable and will cause more harm to operators (and the industry) than is fair or necessary. Operators who are fined will no doubt, seek legal recourse, which is to no-one's benefit. Smaller operators will not be able to afford the fine and this raises the possibility of selective fining.

Operators that have registered with ICASA have shown that they want to do the right thing and are willing to comply. We submit that achieving compliance should be the objective and a key aspect to achieve that is to make operators aware of the renewal.

Our Submission: As a minimum, ICASA must improve its communication lines with its operators. It has all the necessary contact information during the application and renewal process and should establish a renewal notification system to alert operators to the pending expiry of their registration.



Richard Robinson
Chief Executive