

SADC Postal Market Definition and Licensing Guidelines

i. Preface

The licensing process is generally one of the most important regulatory processes undertaken in the course of reforming the postal sector. Licensing is integrally linked to the structure of the postal market, the number and types of operators, the degree of competition between them, the revenues earned by governments in opening such markets and ultimately, the efficiency of the supply of postal and courier services to the public. [McCarthy Tretault – 2000].

In light of the importance of licensing within the context of postal sector reform in the Southern African Development Community (SADC), these Guidelines have been developed to provide a reference to National Regulatory Authorities (NRAs), in several aspects of the licensing process including the definition of postal and courier service markets, the categorisation of market-players, the types of licences that may be administered in an appropriate licensing framework, along with principles that may underpin the establishment of appropriate licensing fee-structure and associated charges.

ii. Acronyms and Abbreviations

B2B – Business to Business

B2C – Business to Consumer

C2C – Consumer to Consumer

CRASA – Communications Regulators' Association of Southern Africa

DO – Designated Operator

DPO – Designated Postal Operator (variation of DO)

IPP – Integrated Product Plan

NRA – National Regulatory Authority

SADC – Southern African Development Community

UPU – Universal Postal Union

USO – Universal Service Obligation

Contents

i. Preface 2
ii. Acronyms and Abbreviations 2
1. Introduction 4
1.1 Background 4
1.2 Objectives of the Guidelines 4
1.3 Applicability 4
2. Context 5
2.1 Theoretical Context 5
2.1 SADC Protocol 5
3. Defining Postal Markets 6
4. Theoretical Basis of Licensing 8
4.1 General Principles and their application to the Postal Sector 8
5. Recommended Approaches to Licensing 9
5.1 Definition of a Licence 9
5.2 Types of Licences 9
5.3 Linking Licensing to the Market Assessment 10
5.4 The Licensing Framework 10
5.4.1 Determination of Licence Categories 10
5.4.2 Determination of Licence Fee Structures 13
6. References 15
7. Appendix 1.0 Postal Market Dynamics and Key Trends 16

1. Introduction

1.1 Background

Both the SADC Postal Strategy 2017-2020 and the CRASA Strategic Plan 2018-2023 outline the importance of creating and maintaining an enabling Policy and Regulatory Environment for the Postal Sector to contribute effectively to socio-economic development and Regional Integration in the Southern African Development Community (SADC). Such an environment must for instance provide sufficient clarity and a harmonised regional approach to Defining the Postal Market, Determining the relevant players therein and Licensing them to operate.

These Guidelines have therefore been developed in order to equip CRASA Members with the necessary guidance and best practice for the effective management of this regulatory issue.

1.2 Objectives of the Guidelines

The Guidelines are offered as a reference source to guide Member States in the process of defining, organising and managing their respective postal markets in a harmonised manner that creates regulatory certainty, consistency and predictability for service providers and other market players.

In so doing the specific objectives of the Guidelines include:

a) To promote a common Regional understanding of what constitutes the Postal Market,
b) To identify the relevant postal market players, their respective characteristics and associated classifications,
c) To recommend specific licence categories for postal markets with similar characteristics within the SADC Region together with recommendations regarding the determination of appropriate licence fee structures,
d) To provide guidance to Member States regarding the determination and application of appropriate and proportionate licencing frameworks that are not only in harmony with the regional approach but also relevant to the domestic market conditions,
e) To provide further guidance to Member States on the regulatory implications and possible interventions for managing emerging postal business models and services including Ecommerce service providers.
f) To provide guidance on how to cultivate and manage competition in the Postal Market.

1.3 Applicability

These Guidelines are intended to apply primarily to the following identified stakeholders:

- Policy-makers
- Postal Regulators
- Postal and Courier Service Providers
- Wider Postal Sector Stakeholders
- Consumers

2. Context

2.1 Theoretical Context

Licensing is one of the primary Regulatory tools for any Regulated industry. Licensing does not only create a formal, binding relationship between the Regulated Entity and the Regulator, but it allows the Regulator to impose obligations on the licensee that are necessary for managing their interaction with the Market and achieving all the required Regulatory outcomes such as Consumer Protection, Quality of Service and Universal Access. Licensing does however need to be informed by an intimate knowledge of the Market and the players therein, in order to ensure that appropriate licences are issued to the relevant service providers without unduly burdening their operations.

While the Postal Sector has historically followed a predictable pattern of recognising and licensing a Designated Postal Operator who has specified universal Service Obligations and an associated quasi-monopoly to partially fund these obligations on the one hand, and a liberalised segment of the market in which commercial courier operators are at liberty to compete on the other hand, the changing Postal business environment and evolution of business models have necessitated a re-evaluation of the Sector's Market Definition and Licensing Frameworks not only in SADC but across the World.

2.1 SADC Protocol

From the perspective of the SADC Protocol on Transport Communications and Meteorology, the provision of an environment which is supportive of intra-regional e-commerce and trade can be seen in several articles including the following:

Article 11.2 – Postal Sector Policy

Calls upon Member States to:

- establish equitable frameworks to accommodate the provision of non-reserved services by private sector service providers.

Article 11.4 – Institutional Framework

Calls upon Member States to:

- clearly distinguishes between service areas reserved for the universal service provider and other private service providers;
- ensure fair competition in the sector.

3. Defining Postal Markets

In defining the Postal Market in SADC, the primary consideration shall be the actual mailable items whose collection, sorting, conveyance and delivery are the purpose for which the relevant service providers are in operation.

The characteristics of the said items and those of the service providers who are partially or fully involved in the processes mentioned above shall provide additional parameters for the said market definition as follows:

Mailable items:

A. Mailable items shall be categorised as either **Documents** or **Goods** in line with the Integrated Product Definition of the Universal Postal Union,
B. While the overwhelming majority of countries define the Postal Market to include mailable items that do not exceed the maximum weight threshold of 30kgs, individual jurisdictions are at liberty to define country-specific thresholds that are suit their respective market conditions. Due consideration should, however, be given to ensuring cross-border interoperability which is the basis for having an internationally accepted threshold particularly within the Universal Postal Union.

Service providers:

As indicated above, the characteristics of the service providers and their operations shall provide additional parameters for defining the Postal Market as follows;

A. All entities involved in the collection, sorting, conveyance and/or delivery of mailable items as described above;
B. Entities performing the functions in (A.) occasionally and not as a **sustained scheduled service** shall be excluded from the scope of regulation;

C. Conversely, all entities offering a sustained, scheduled service to the public involving the collection, sorting, conveyance and/or delivery of mailable items shall be considered to be part of the Postal Market and subject to applicable regulation;

D. Entities falling within the scope of the postal market must be proven to accept, convey and deliver mailable items from individual or corporate customers either as single items or in bulk (in which case the combined weight of the items will not be restricted to the 30kg threshold);

   a. This implies that entities who do not accept single-piece or bulk mailable items from individual or corporate customers but consolidate and transport (from point to-point) multiple shipments on behalf of other entities offering such services shall be considered to be outside the scope of Postal Regulation and deemed to be providing a logistics service;

E. The entities referred to in B. and C. above shall therefore include without limitation:

   a. National or Designated Public Postal Operators;
   b. Courier Service Providers;
   c. Messenger Service providers;
   d. Express Companies;
   e. <u>If they meet the criteria set out above and offer, as part of their business a service involving accepting, sorting, conveying and/or delivering single-piece or bulk mailable items from individual or corporate customers</u>, the following entities may also be subject to Postal Regulation under specific circumstances:
      i. Integrators;
      ii. Freight forwarders;
      iii. E-merchants and/or E-commerce providers who establish their own delivery channels for fulfilment of e-commerce purchases;
      iv. Public passenger bus companies (provided they also provide parcel delivery services meeting the conditions specified above); and
      v. Other transport systems (e.g. Uber and shuttle services provided they also provide parcel delivery services meeting the conditions specified above).

4. Theoretical Basis of Licensing

4.1 General Principles and their application to the Postal Sector

Licensing is one of the core elements of any communications market's regulatory framework and is integrally tied to the structure of such a market. Licensing also determines the degree of competition between operators, revenues earned by governments from fees, and the conditions under which market participants can operate and supply services in the market.

An effective, forward-looking licensing framework is essential for the successful deployment of value-maximising technologies, the promotion of effective competition between operators, and for the facilitation of investment in the communications sector. It also defines what is regulated, who is regulated, and how they are regulated. This is the theoretical basis and overarching purpose of licensing.

In light of the above, the general principles of licensing in the postal sector may be summarised as below:

a) **Simplicity:** In order to ensure that the growth of the sector is not delimited, the licencing regime must ensure that the process of obtaining the prescribed licence is not complex and does not require for the operator to acquire multiple licences for the provision of services in different market segments,

   Example: *An operator wishing to operate in the International Market segment need not acquire three separate licences as; domestic licence, international licence and local licence. Instead, the operator can acquire one International licence which will allow for the provision of services in the domestic and local sectors of the market.*

b) **Flexibility:** The licensing framework must allow operators to be responsive to possible changes that may arise in a dynamic postal sector. NRAs shall also ensure that consumers are made aware of potential limitations that may be associated with innovative services in the sector.

   Example: *The licensing regime should be flexible enough to cater for an operator that wishes to deliver their parcels through modern means of transportation such as drones or unmanned lockers.*

c) **Certainty:** When a licence is issued to the Operator, the Regulator is required to issue conditions which should be precise and dependable.

The conditions are guiding documents for operators. NRAs shall further ensure that the licensing regime does not disadvantage the players in the sector.

***Example**: The issuance period of the licence must be known by the applicant. Some countries have included the issuance period in their laws ranging from 30 to 60 days.*

d) **Non- discriminating:** The Regulator and/or the Ministry responsible for the sector are required to create a level playing field and ensure that all operators are treated equally, fairly and transparently. NRAs shall also ensure that the existing regulatory framework does not cripple the postal operators but instead creates a level playing field and fosters competition amongst the players.

5. Recommended Approaches to Licensing

5.1 Definition of a Licence

A licence is an official authorisation to provide services or operate networks. It defines the terms and conditions under which the licensee may operate. Licenses frequently describe the rights and obligations of the provider.

In this regard, Licences shall:

a) Regulate the provision of an essential public service through some controls to support the public interest (e.g. safety).
b) Assist in expanding network coverage and other universal service objectives. Represent a key element in shaping market structure (e.g. number of players). Establish a competition framework through fair trading conditions.
c) Generate fees as part of revenue raising for Governments and regulators.
d) Support consumer protection efforts through mandated license conditions.
e) Define rights and obligations, thereby underpinning regulatory certainty.

5.2 Types of Licences

As is common practice in the regulation of communications and other network industries, the two broad types of licences that may apply to the postal sector are as follows:

Type of Licence	**Key Features/Characteristics**
Individual Licence	• Issued to a single, named service provider, • Usually a customised authorisation document,

	• Often contains detailed conditions.
General/Class Licence	• Useful where individual licences are not justified, • Useful where regulatory objectives can be achieved through general/standard conditions, • Normally sets out basic right and obligations and regulatory provisions of general application to the class of services being authorised, • Normally granted without a competitive process.

5.3 Linking Licensing to the Market Assessment

The determination of an appropriate licensing framework requires a comprehensive market assessment to be carried out by the NRA. Such an assessment shall typically include a sound competition analysis and should also take into account the increasingly complex market structures that are now evident in the postal industry.

These market structure may, for instance include the need for co-operation between players to ensure end-to-end inter-operability and service delivery, the role of innovation and the presence of critical facilities such as sorting centres and offices of exchange.

5.4 The Licensing Framework

5.4.1 Determination of Licence Categories

While the two broad licence types discussed in section 5.2 above are recommended, NRAs may apply the following additional criteria in the determination of appropriate licence categories in SADC:

A. Geographic Coverage

For obvious reasons, geographic coverage is the most commonly applied licensing criteria in the postal environment. Service providers may, in this regard be classified according to geographic boundaries as follows:

i. **Intra-City** – where service coverage is limited within the same town/city. This is appropriate for promoting entry of small market players with limited capital investment who may elect to offer a niche messenger-type service within their immediate locality,

ii. **Inter-City** – where service coverage is limited to specific city-to-city links within the domestic market. Such authorisations may be appropriate for service providers with established service routes.

iii. **Domestic** – where service coverage is only restricted by national boundaries.
This is appropriate for service providers with the required national reach and capability but without the necessary international infrastructure to offer a sustainable cross-border service,

iv. **International** – Where service coverage is unlimited beyond national boundaries.

v. **Regional** – SADC Member States may individually, or collaboratively issue a Regional Licence which allows service provision within the SADC Region while reducing or eliminating the need for such licensees to be licensed in all the affected jurisdictions.

B. Scope of Services offered

Licences may also be categorised by the scope of permissible services as follows, within the broad categories already established above as follows:

a. Individual Licence (National Postal Operator)

In the context of postal sector licensing, Reservation must be understood first and foremost, to be one of several funding mechanisms for the Universal Service Obligation (USO). In this regard therefore, Reservation is not strictly speaking, a licence category, even though it may typically be referred to as such.

It is therefore recommended that instead of a "reserved services" licence, preference should be given to the issuance of an **Individual Licence** to a Designated (assigned with the specific mandate of meeting the countries obligations to the Universal Postal Union (UPU) in terms of the USO and other treaty obligations) National Postal Operator. Furthermore, it is in spelling out the rights and obligations associated with such a licence that the following conditions shall be defined:

A. The designation as the National Postal Operator and its domestic and international obligations
B. The specific products and services to be offered in compliance with the UPU Convention:
    a. The handling, conveyance and deliver of letter-post items which are:
        i. priority items and non-priority items, up to 2 kilogrammes,
        ii. priority and non-priority small packets, up to 2 kilogrammes,
        iii. items for the blind, up to 7 kilogrammes; and

iv. special bags containing newspapers, periodicals, books and similar printed documentation for the same addressee at the same address called “M bags”, up to 30 kilogrammes.

b. The acceptance, handling, conveyance and delivery of parcel-post items up to 20 kilogrammes,

c. Any future variations of these products and services in line with the Integrated Product Plan (IPP).

C. Any special rights that may be associated with the designation such as the reserved area, universal service funding, exclusivity/monopoly over specific products, infrastructure and/or terminology,

D. Obligations regarding accountability and reporting of the USO,

E. The scope of permissible products and services including those in the competitive, unreserved area of the market.

b. Class Licence (Commercial Courier and Value-added services)

Following the same rationale outlined above, a licence for unreserved services may not be appropriate as a future-oriented authorisation for the evolving postal market. What is encouraged in its place is a **Class Licence** which may encompass the above-listed geographic criteria along with product/service restrictions specifically designed to allow of differentiation from the reserved services. Such product restrictions may for include:

- Mandatory features for items within the weight-threshold of the reserved services such as track and trace, proof of delivery (designed to distinguish from the ordinary letter).

The Class licence issued in this context should also not be prescriptive in terms of the variations of product offerings and technology deployed to ensure room for innovation and competition.

The application of the two broad licence principles is evident in the tabulation below:

Country	Licence Categories	Individual	Class
Zambia	Public Postal Operator (Reserved for the designated postal operator)	√	
	International and domestic courier licence		√
	Domestic courier licence		√
	Local courier		√
Malawi	International (PPO) Commercial Courier License	√	

	International Commercial Courier Services License Category A		√
	International Commercial Courier Services License Category B		√
	Domestic Commercial Courier Service License		√
	Domestic (Inter-City) Commercial Courier License		√
Tanzania	Public Postal Operator	√	
	International courier service		√
	Regional courier operator		√
	Domestic courier		√
	Intercity Courier		√
	Intracity Courier		√

5.4.2 Determination of Licence Fee Structures

As is the case in the wider communications regulatory landscape, the term "Licence Fee" may have multiple uses as follows:

A. It could be a fee paid as a premium or "rent" to a government of regulatory/licensing authority for the right to operate a network or provide a service;
B. It could also mean an administrative charge to compensate an NRA for the cost of monitoring and managing the operations of regulated entities; including costs incurred for performing typical regulatory functions such as licensing itself, ensuring compliance, resolving interconnection disputes, and other regulatory work.

5.4.2.1 Guiding Principles:

A. NRAs in SADC, as a matter of good regulatory practice, differentiate the above-listed types of fees in order to improve transparency and make it easier to determine that administrative charges related to cost-recovery and actually cost-based;
B. Furthermore, NRAs shall to the furthest extent possible, ensure that administrative fees do not impose unnecessary costs on the postal and courier services sector;
C. One possible method of achieving this is to base the licence fees on the projected or actual costs of the NRA. Such costs can then be allocated among the licensees and/or other market participants;

D. Such allocations can then be based on specific factors such as the revenues of the operators in question, the geographic coverage or simply the licence types as outlined under 5.4;
E. Ultimately, the underlying principle for the application of administrative charges is that these should not act as a barrier to market entry; and
F. Such charges should be distributed in proportion to the Turnover on the relevant (licensed) services of the licensee calculated over the accounting year preceding the administrative charge.

End//……

6. References

- ICT Regulatory Took Kit https://www.itu.int/dms_pub/itu-d/opb/pref/D-PREF-TRH.1-2011-PDF-E.pdf
- IBA Statement of General Principles for the Establishment & Regulation of Foreign Lawyers
- Research on Postal Markets: Trends and Drivers for International Letter Mail, Parcels, and Express Mail Services – Universal Postal Union 2016
- What, who and how to regulate? Best practice licensing frameworks in Asia and globally - Scott W Minehane 24 March 2015

7. Appendix 1.0 Postal Market Dynamics and Key Trends

Broad Market Outlook

A. By 2020, some 940 million online shoppers are expected to spend almost $1 trillion on cross-border e-commerce transactions (McKinsey in "Digital Globalization: The New Era of Global Flows", March 2016). Today, some 12% of all international trade in goods is already related to international e commerce purchases.
B. Postal services around the world are considering potential future product and service enhancements to supplement or replace declining letter-post volumes. Some postal operators are finding that existing infrastructure, customer relationships, and supply chain expertise can be optimized, for example, in offering products/ services/solutions related to letter post or parcel post, while others are contemplating areas that would be unrelated to the core business, but that might complement or increase their offerings.
C. According to the Universal Postal Union (UPU), while the number of letter post items has declined, the average weight has increased mainly due to the rapid growth of packets and the decline in correspondence and transactions. This is evidenced in part by the size of the parcel market which is unambiguously increasing with the share of the cross-border lighter-weight component currently standing at about 12%, and that of the international heavier-weight component also at about 12%.
D. The parcel market has also shown growth across product categories (expedited, priority, standard, deferred). The providers that currently participate in the parcel market include:
E. National Designated Postal Operators (Dos/DPOs). The DOs have experienced growth in the packets, parcel and express segments of the market, but for the most part, their revenue growth has not been commensurate with the revenue growth of the market. The opportunities for Posts are substantial and growing rapidly in both the heavier segment of letter mail and all segments of the parcel and express markets.
F. The DOs' delivery and transportation partners;
G. Larger integrators, such as UPS-TNT and FedEx, other foreign postal operators such as DPWN-DHL, TNT, La Poste Geopost-DPD, and smaller logistics and express companies (e.g. SF-Express, YTO-Express);
H. New entrants, which are simultaneously often among DOs' largest customers. Non-traditional competitors, such as retailers and e-tailers (e.g. Wal-Mart, Tesco, Amazon) are beginning to offer drop-ship, and logistics services and to deliver products to their stores and to end-customers;
I. New delivery methods such as UBER Rush, Drones, unmanned parcel delivery lockers and delivery via 3D Printing.

Key Market Trends

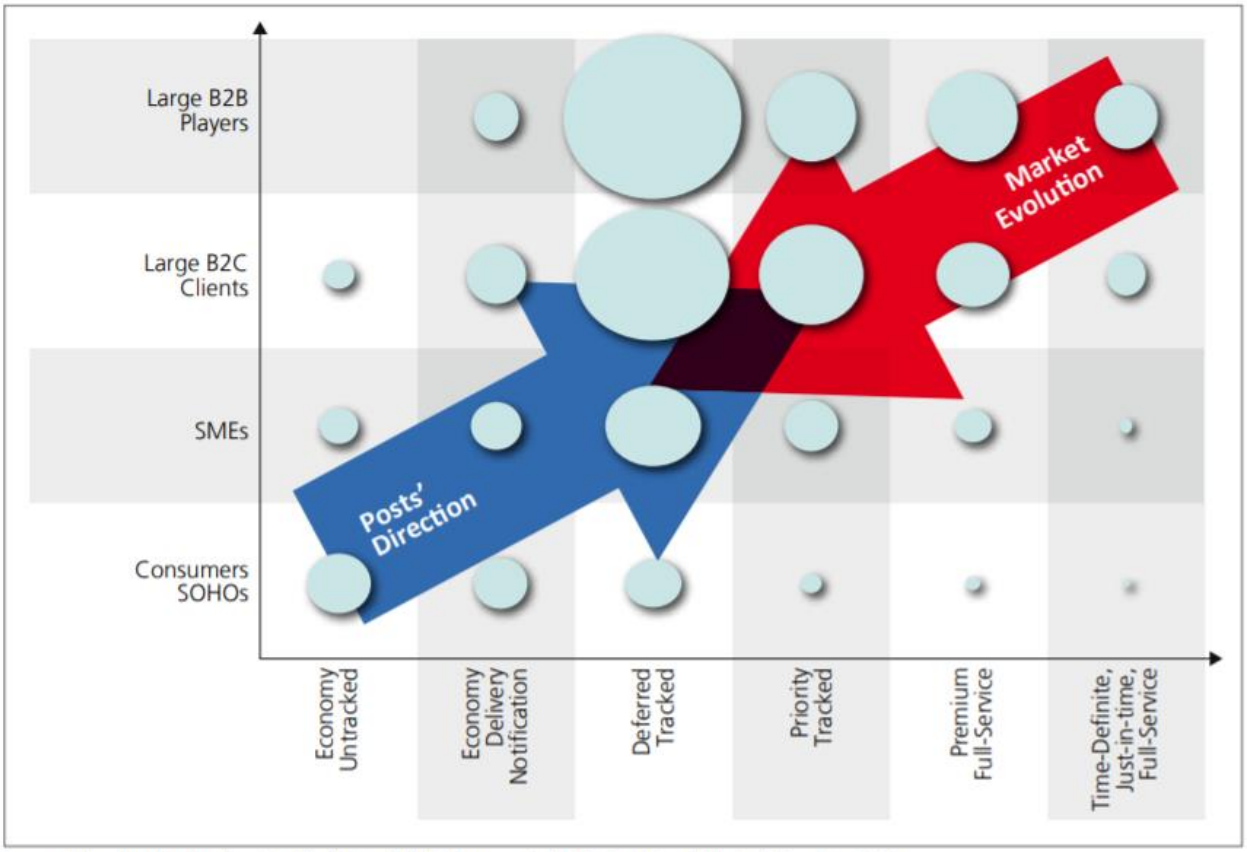
A. The definition of a postal intermediary or service provider is becoming blurred as each firm participating in the industry expands its range of services up and down the postal value chain, and offers solution bundles including creative, list management, data processing, printing, customer care, pre-sorting and letter-shopping, fulfilment, consolidation, distribution and delivery services. Competition is intensifying on all fronts including the consumer-to-consumer space, which used to be the exclusive domain of Posts;

B. As economic conditions improve after the last economic recession, consumers' demand for instant gratification and for shipping that meets better and better standards has never been higher;
C. The third and more transformative trend is attributable to the phenomenal growth of e-commerce and online merchandising. This growth is, in turn, being driven by the near-exponential growth in Internet access and mobile, web-enabled devices, as well as the "gold rush" of device and app developers, entrepreneurs and merchants seeking to capitalise on the avalanche of new opportunities;
D. Competition in the e-commerce delivery market is fierce and rapidly evolving, driving Posts to continuously innovate and develop new offerings;
E. Large international e-tailers are investing in their own delivery models, such as pick-up points and lockers, as well as warehouses established in destination regions, which might in the future reduce the need for cross-border delivery, although this is not what is currently observed;
F. Freight-forwarders and consolidators partner with large retailers to offer international shipping by consolidating domestic deliveries. They offer fulfilment, shipping, duties and customs clearance. They act as an intermediary between the e-tailer and the delivery provider and transform the delivery into a commodity while putting pressure on prices;
G. With the evolution of the market, consumers are increasingly looking for convenience, predictability and/or speed according to their consumption circumstances. In this context, an expansion of delivery options is observed with the development of alternatives to home delivery such as collection points, networks or parcel lockers or customized delivery locations.

Consumer-driven Market Dynamics

The forces creating changes and increasing the overall size and segmentation of demand in the Postal market are influencing changes in the competitive landscape. Many competitors are adapting their networks, once geared primarily to serving the needs of business-to-business (B2B) customers, for B2C business, and more recently consumer-to-consumer (C2C) flows (e.g. eBay patrons selling on-line). Figure 1 shows a high-level segmentation of customers and products. As more customer segments request additional information about their shipments and demand lower prices, service providers are constantly improving their service offerings to enhance their brand and market position.

FIGURE 1 – Product options in high-level market segmentation



Source: Adrenale estimation based on "Achieving High Performance in the Post and Parcel Industry" Accenture 2015

Evolution of Postal Products and Services

In the cross-border arena, the current postal product definition is somewhat murky. For example, merchandize under 2 kg can be sent as standard or express parcels, or as small packets in the letter stream. However, when speed and service are as important as price, both Posts and commercial competitors continue to focus their efforts on responding to customer demands for a faster, more reliable, and better-tracked service. The DOs' generally lower shipping rates have not deterred competitors from providing more efficient and better integrated shipping options than the somewhat fragmented post-to-post channel.

These players successfully compete on a variety of factors like delivery time, value-added services, reliability, bulk air transport, or global brand to provide a total value proposition rather than one based solely or principally on lower shipping prices.