

Strengthen Postal Service Supervision and Create a Sound Development Environment

Da Wa

**Director General, Department of Industrial Administration,
the State Post Bureau of China**

Currently different sectors and industries are discussing the question of how to govern various works with the scientific concept of development. To create a sound internal and external environment for the development of postal service is the task of the governing body of postal industry. In an environment of market economy, to strengthen and improve the supervision of postal service in an all-round way is the actual need of the development of postal service, and is also an indispensable part of the effort to honestly implement the scientific concept of development.

PROPERLY SUPERVISING POSTAL SERVICE IS AN IMPORTANT STATE MISSION

Article Two of *The Postal Law* stipulates: “The postal service governing body of the State Council administrates the national postal service.” *The Detailed Rules on the Implementation of the Postal Law* stipulates: “The Ministry of Posts and Telecommunications of the People’s Republic of China is the governing body of postal service under the State Council, governing the national postal service.” In 1998 when the postal service was split with the telecommunications, the State Council clearly

stipulated in its reply to the so-called “Three-Definition Proposal” submitted by the State Post Bureau that, “the State Post Bureau is the administrative body governing national postal service and managing nationwide postal enterprises,” and at the same time “the role of governing national postal service and managing nationwide postal enterprises of the former Ministry of Posts and Telecommunications is transferred to the State Post Bureau, for it to administrate postal service market and philately market according to the law and implement supervision and examination.”

The above-mentioned laws and regulations stipulate that the State Post Bureau is a government authority or administratively governing body on behalf of the State Council to govern postal service, and, its provincial bureaus and branches included, is a working body with the administrative power. The administration of the postal industry refers to the supervision and management of the government on the market behaviors of postal service providers and philately players of the whole society. The duties of the postal service regulator have been clearly defined in the “Three-Definition Proposal”, which include legal construction, and the supervision of the postal service market and philately market, as well as the supervision of the manufacturing of postal service products and tools and the

supervision of the quality of postal service. The supervision and management of postal service is widely implicated and is of great importance, and the workload is much heavier than was previously thought of. The functional scope of provincial and local regulators is exactly the same as that of the state postal service regulator, and the only difference is that their workload is heavier, and their task is bigger and more specific.

In the new situation, we need to further clarify the objectives and guiding principles of postal service supervision, which are to regulate the postal service market according to the law and promote the healthy, orderly and fast development of the postal service and communications industry. Promoting development is the starting point of postal service supervision, and is also the final goal of the effort. At the same time, we also need to further clarify the scope and legal responsibility of postal service supervision in accordance with related international and domestic laws and regulations with regard to the ambiguous views of one kind or another currently perceived. Only this way, can we be reassured to do administration legally, to strictly enforce the law, to maintain market order, to ensure fair competition, and to safeguard state interests, users rights and business's legal interests.

INTERNATIONAL STIPULATIONS OF SUPERVISION OVER POSTS

In the General Agreement on Trade in Services (GATS), the World Trade organization (WTO) divides services (products) into 12 categories according to the CPC system of the United Nations. "Communications Service" is one of the 12 categories, and is listed as "CPC 75 Post and Telecommunications Service", which is further divided into CPC 751 for "Post" and CPC 752 for "Telecommunications". CPC 751 is again further divided into CPC 7511 for "Postal Service" and CPC 7512 for "Courier Service".

The contents of the CPC 7511 Postal Service are clearly defined in the service classification table:

1. The letters-related postal services in CPC 75111 refer to the services provided by the national postal service administrations including the pick-up, transport, and delivery of domestic and international letters, as well as newspapers, journals, periodicals, brochures, leaflets, and similar printed materials.

2. The parcel related services in CPC 75112 refer to the services provided by the national postal service administrations including the pick-up, transport and delivery of parcels and packages, whether for domestic or foreign destinations.

3. Services rendered at post office counters in CPC 75113 refer to the services provided at the postal office counters (outlets), such as the sales of postage stamps, handling of certified or registered letters and packets, and other post office counter services.

4. The other postal services in CPC 75119 refer to mailbox rental services, the "Poste Restante" services, and public postal services not elsewhere classified. (Services related to postal giro and postal savings accounts are classified in class 8111.)

China promised to open its courier service sector when joining the WTO, but declared at the same time: "Services currently provided by China's postal sector according to the law are not included."

The General Agreement on Trade in Services (GATS) has clearly defined the legal range of postal services, and this is also the scope of the supervision and administration work of postal service governing bodies of different countries.

The internationally recognized postal service is the material communications service different from freight transportation. The letters, printed materials and parcels posted all belong to the postal service, whether they are private or public, fast or slow. In terms of the links of the whole process, the collection, the processing (sorting), the transport, and the delivery of letters, printed materials and parcels are all inseparable links and indispensable parts of the postal service process. The whole process from the collection of mails to their delivery is postal service, and the collection, processing, transport, delivery and the counter services as well as mailbox rental services

are all specific postal services.

When applying for the membership of WTO, China was involved in the negotiations based on the classification system of the General Agreement on Trade in Services (GATS) and signed the agreement too. According to the WTO agreement, each member country has the responsibility to ensure that the WTO agreement is implemented in the country in a unified fashion. In September 2001, the General Office of the CPC Central Committee and the General Office of the State Council issued their No.22 paper for the year 2001, which was also based on the classification system of GATS. The paper required that different regions and different departments must “ensure that China’s related laws, regulations and other policy measures are in line with the WTO agreement.”

The Universal Postal Convention is the international convention cosigned by members of the United Nations. Articles 10, 17 and 61 of the Universal Postal Convention have not only defined the range of postal services, but also defined the range of basic postal services and value-added postal services. The Universal Postal Convention has also specified the weights and sizes of mails in detail to facilitate the distinction between mails and freight. At the same time, the Universal Postal Convention specifically stipulates: “The postal service governing body of any country can allow the transportation sector to implement the provisions of the convention if it does not provide parcel services. But the postal service governing body still has the responsibility for the implementation of the convention.” The legal definitions of postal services in the Universal Postal Convention are fully in line with the related definitions of the WTO, but are more specific.

Article 42 of China’s *Postal Law* stipulates: “If there are differences between an international convention of which the People’s Republic of China is a founding member or a signing member, on international postal issues, and this law, the provisions of the international convention apply. But, provisions that the People’s Republic of China has declared to reserve are not included.” The provision of the *Postal Law* has further confirmed the legal power

of the related WTO regulations and the Universal Postal Convention on the definition of postal services and the scope of postal service supervision. This is sufficient to show that postal service supervision not only has the laws to base on, but also is the legal duty that must be performed by the State Post Bureau as well as the post bureaus in different provinces, autonomous regions and municipalities.

STRENGTHENING AND IMPROVING POSTAL SERVICE SUPERVISION IS THE ACTUAL NEED OF THE DEVELOPMENT OF POSTAL SERVICE

It’s not hard to understand the important position and important role of postal service supervision from its nature, tasks, objectives and objects. What needs to be emphasized is that the responsibilities such as “to administrate the postal service market and the philately market according to the law and implement supervision and examination, maintain postal service order, safeguard the security of postal service networks and postal service facilities, safeguard state interests and users interests” clearly defined in the “Three-Definition Proposal” are the legal responsibilities of both the State Post Bureau and provincial postal service bureaus. These responsibilities are absolutely not something we can do without. It is our understanding that different governing bodies should honor their responsibilities, carefully put into place their system of responsibilities, and further strengthen and improve postal service supervision, in view of whether the successful experiences of different countries or the actual situation of China’s postal service market; whether the current needs or the future prospects of postal service development.

1. Implementing effective supervision to the postal service market is the successful experience of the postal service sector in different countries

No matter in developing countries or in developed countries, there is no exception that the governments are enforcing powerful supervision and management

to postal service, which is of vital importance to the national economy and people's life, in accordance with the special features of the industry: labor intensive, material transferring, non-natural monopoly, and manpower-dominated supervision etc. Take the United States for example. The postal service regulator of the United States, POSTCOM, belongs to the congress. It has a 1900 strong postal service supervision force in addition to an 1100 strong postal service police force. As in the United States, the British postal service regulator is also called POSTCOM, which has a 50 people standing body as well as local supervising bodies in Scotland, England and Wales. The Japanese postal service supervising body is under the Ministry of Public Management, Home Affairs, Posts and Telecommunications, practicing vertical management, with 10 supervising bureaus at the local level, 47 regional supervising offices and more than 1650 supervisors, of which 660 have the authority of legal police to certain extent.

Everyone knows that the above-mentioned three countries are the most developed market economies in the world at present, and are also the highly developed countries in terms of modern postal service (material communications). Especially the United States, which accounts for about 40% of the business volume of letters posted in the whole world, with 700-800 letters posted per person per annum. The fact that the postal service in the United States is so developed is closely related to the fact that it has a powerful supervising system and an orderly market environment.

With the globalization of the world economy, the situation that developing countries monopolizes their own postal services has long been changed, and a big part of their markets has been taken by the express mail service businesses from developed countries. China's situation is basically the same as other developing countries.

2. The diversification of postal service market players is already an unavoidable fact

In 1986 when the current *Postal Law* was issued, there was only one player engaged in providing

postal service, the communications industry using materials as the media, in China, and that player was China Post. But with the reform and opening up of China, especially the construction of the socialist market economy system, the situation has taken a tremendous change. In the last 20 years, according to incomplete statistics, there has emerged nearly 10 thousand express mail service businesses nationwide, including more than 160 international express mail services providers led by UPS, Fedex, DHL, and TNT, as well as many private express mail service providers. These companies are all providing letter and parcel services, *i.e.*, postal services, in addition to providing goods transportation services (logistics) and freight agency services. As related leaders from the State Council have pointed out: "Quite a few domestic and international express mail service companies are providing postal services, and if not controlled, the postal service market must be in chaos, endangering the state and people's interests." Therefore, we must pay adequate attention to the new situation of the diversification of postal service market players currently under way. We need to have an overall and correct understanding of the situation, enhance our consciousness of emergency and sense of responsibility, and improve our awareness of strengthening postal service supervision.

Governing the country with law was put forward at the 15th Congress of CPC. This concept involves many aspects. But the major part of it is to enforce administrative power according to the law. In the past, as the law was not complete, some administrative bodies handled some issues which should not have been handled by them or could not have been handled by them. On the contrary, postal service governing bodies could not have been able to pay adequate attention to things which should have been taken care of by them for a long time due to reasons of one kind or another. In 1992, the 14th Congress of CPC established the guiding status of Deng Xiaoping's theory on the construction of socialism with Chinese characteristics in the whole Party, put forward that the objective of China's economic system reform was to build a socialist market economy,

and emphasized that we must seize the opportunities and speed up China's social and economic development. After the 14th Congress of CPC, China's reform and opening up as well as the modernization drive entered a new stage, and many sectors were able to attach great importance to the market supervision of their respective sectors in accordance with the objective needs of a market economy, and had enhanced their effort in legal construction, organizational structure, working mechanism, leaders arrangement and other aspects.

However, in the almost 10 years period from 1992 to 1999, postal service supervision fell behind other sectors. Due to ambiguous understandings, postal service supervision had long been in a state of no laws being observed or being effectively enforced and even legal duties being abandoned at will sometimes. The root cause of the current chaotic situation of the postal service market and the philately market is the ineffective enforcement of the law and the lagged behind of legal work, although there are multiple reasons. The legal work on postal service in some areas has long been in an unsound situation, in which no one is responsible, no organizations are in place, and no working conditions are available. The three-tier administration and supervision system at national, provincial and prefecture/city levels were gradually formed only after the State Post Bureau was established. A law enforcement force was not created until 2001 by the efforts of many different parties, and this was very hard-to-get and worthy of being treasured in the history of China's postal service. Practice shows that it's totally unimaginable for a postal service industry, which features material transferring, is labor intensive,

has a low entry barrier, has no physical technology to monopoly, and mainly relies on manpower to supervise, to operate without a healthy law enforcement force. The postal service market calls for law enforcement, and the development of postal service needs law enforcement.

In a socialist market economy, the role of the government is mainly to adjust the economy, to supervise the market, to administrate the society and to provide public services. Postal service supervision is the legal responsibility belonging to the market supervision realm. Currently, it is necessary to re-discover the importance of postal service supervision from the level of carefully carrying out the Party's strategy of governing the country with law, especially from the level of enhancing the effort to build up the Party's ruling ability put forward at the fourth plenary session of the 16th Congress of CPC. In view that the workload is heavy at the provincial and prefecture/city levels, it is more necessary to set up functional organizations and equip necessary forces, so as to recover market order according to the law and safeguard the development of postal service.

Strengthening and improving postal service supervision in an all-round way is the actual need of postal service development, and the historical mission given to us by the Party and the country. Strengthening postal service supervision is the successful experience of developed countries with a mature market economy and is also fully in line with the actual situation of China. Strengthening postal service supervision according to the law is the need of building and consummating a socialist market economy, and is also the actual example of guiding activities with the scientific view of development.