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中国欧盟商会

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中国欧盟商会对《快递条例（征求意见稿）》的意见反馈

**European Chamber Comments on <Rules for Express Delivery (Draft for Comments)>**

国务院法制办公室：

Legislative Affairs Office of the State Council (the Office):

首先非常感谢法制办公开向社会征求对于《快递条例》(征求意见稿)的修改意见。这充分表明了法制办严格遵循中央关于依法治国的精神和态度，体现了法制办对行业意见的重视和尊重。这必将有利于条例的进一步完善，使条例成为指导行业发展的重要法规。

First of all, thank you very much for your seeking for revision comments from the public on Regulations on Express Delivery (Draft for Comments) ("the Regulations"). This has fully manifested your strict adherence to the spirit and attitude of the Central Government concerning running state affairs according to law, and reflected your attention to and respect for the opinions from the industry. It will definitely help perfect the Regulations and make them important in guiding the industry development.

**I. General Comments 总体意见：**

1. 这一稿相比之前一稿，进一步采纳了很多企业的合理意见和建议，特别是在行政许可、行业监管、促进发展等方面进一步制定了许多有效措施，充分体现了法制办严格遵循国务院减政放权、减化行政审批流程、为企业减负、加强事中事后监管的精神，企业对此表示衷心感谢。我们十分期待在国务



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院法制办的领导下，立法机构、监管部门、行业各方本着科学性、合理性、合法性的原则对条例进行进一步深入探讨和完善，既保证监管部门实现事中事后有效监管，又真正为企业实现减负、促进公平合理竞争，使条例成为维护市场秩序、推动行业健康发展的重要法规和指导文件。

Compared with the previous draft, this draft has further adopted the reasonable opinions and suggestions of many enterprises, and in particular, formulated many effective measures in terms of administrative licensing, industry supervision, and development promotion, etc., which fully reflects the Office's strict adherence to the spirit of the State Council in streamlining administration and delegating power to the lower levels, simplifying the procedure of administrative approval, alleviating burdens on enterprises, and strengthening in-process and post-event supervision, and to which the enterprises express their sincere thanks. We are looking forward to the result where the legislative bodies, regulators and various parties of the industry can, under the leadership of the Office, further discuss the Regulations by following the principle of being scientific, reasonable and legitimate, ensure effective in-process and post-event supervision by the regulators, alleviate burdens on enterprises in its true sense, promote fair and reasonable competition, and make the Regulations the important regulations and policy paper that maintain the market order and promote the healthy development of the industry.

2. 由于新一稿条例在许多方面采纳了一系列改革措施，过去的行业相关法规规章相对目前行业发展形势已经落后，与作为上位法的现有条例也不相适应，我们期待在条例正式颁布后，相关部门应该严格遵循条例的精神和要求，对过去的法规规章等进行梳理，并对与条例不相适应的条款进行及时修订。

As this new draft adopts a series of reform measures in many ways, relevant old laws, regulations and rules in this industry have become outdated in the current industry development, and do not match the existing regulations of higher levels. We hope that after the Regulations are officially promulgated, the departments concerned should strictly adhere to the spirit and requirements of the Regulations, streamline the past laws and regulations, and revise those clauses that fail to comply with the Regulations in a timely manner.



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3. 关于快递许可的相关条款，征求意见稿第十条中规定：“企业设立分支机构的，应在设立之日起 20 日内向邮政管理部门备案”。这实质上是通过采取事后备案的做法替代了之前需要事先向邮政管理部门申请添加名录后才能申请工商执照，极大简化了许可流程，减轻企业负担，是非常大的改革步伐。但是此稿第九条又规定：“邮政管理部门根据企业实际服务能力核定经营许可的业务范围和地域范围，具体办法由国务院邮政管理部门规定”。如果按照第 10 条规定在企业新设立分支机构时取消了邮政管理部门之前前置许可的做法，又如何还要按照第 9 条规定要求邮政管理部门事先核定所谓业务范围和地域范围？这会造成两条款之间的矛盾，而且实质上会给相关部门留下了设立前置许可的潜在权限。

Concerning relevant clauses about the express delivery permit, Article 10 of the Draft for Comments stipulates that "Where an express delivery enterprise establishes branches, it shall go through filing procedures with the postal administrative authorities within 20 days from the date of establishment of such branches". Actually, the practice of post-event filing has replaced the practice where the application for addition to the list should be filed to the postal administrative authority first before the application for the business license can be filed, which greatly simplifies the permit process, relieves burden on enterprises, and is a big reform step. However, Article 9 of this draft also stipulates that "The postal administrative authority shall verify the business scope and geographic scope based on the actual capacity of the express delivery enterprise. The specific methods shall be formulated by the postal administrative authorities under the State Council". If the practice of pre-licensing by the postal administrative authority is cancelled for new branches established by enterprises according to Article 10, why is it necessary to require the postal administrative authority to first verify the so-called business scope and geographic scope according to Article 9? This will result in contradictions between the two clauses, and actually give the potential right to the departments concerned to set pre-licensing.

根据《邮政法》第五十三条规定，申请国际业务和跨省业务的，向国家邮政局申请；申请省内业务的，向省级邮政局申请；并未要求向地市级邮政局申请。但实践中，国内快递业务的经营地域是核定到地市一级的，将一个市场通过行政手段人为地分割成 350 多个经营区域，即企业如果要建立覆盖



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全国的运营网络，就需要经过 350 多次审批。这不仅与《邮政法》的立法精神不符，严重限制了业务开展和商品流通，给企业带来巨大的负担，也造成对行政资源的巨大浪费。

Article 53 of the Law of Post stipulates that the application for international services and trans-provincial services shall be filed to the State Post Bureau; the application for intra-provincial services shall be filed to the provincial postal administration; the application to the municipal postal administration is not required. In practice, however, the geographic scope for domestic express services is verified at the level of a prefecture-level city, and a market is artificially divided into more than 350 operation areas by administrative means, namely, an enterprise needs to pass more than 350 approvals if it wants to establish a nationwide operation network. This not only fails to comply with the legislative spirit of the Law of Post, seriously restricts operational development and commodity circulation, poses a huge burden on enterprises, but also results in a huge waste of administrative resources.

**建议：**取消条款中关于业务范围和地域范围的阐述，严格遵循《邮政法》53 条中关于快递许可的表述。

**Suggestion:** Cancel the description about the business scope and geographic scope in the clause, and strictly follow the statement of Article 53 of the Law of Post about the express delivery permit.

4. 关于第 23 条开箱验视的问题，行业也十分关注。逐票开箱验视，大多针对现金自然人客户，主要是建立在 B2C 和 C2C 基础上的；但快递企业还有相当大一部分客户是 B2B 的合约客户（国际快递企业这类客户的比例则会更大），这类企业客户与现金自然人客户相比，在开封验视方面，应该区别对待。理由是：



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The industry also pays close attention to the unpacking inspection issue in Article 23. The unpacking inspection for each delivery mostly targets the cash natural-person clients, and is mainly based on B2C and C2C; However, quite a big proportion of clients of express enterprises are B2B contract clients (for international express enterprises, the proportion of such clients will be bigger). Compared with cash natural-person clients, such corporate clients should be treated differently in terms of unpacking inspection, because:

(1) 现金自然人客户，流动性比较强，身份不好验证，出了问题，不易追责，有必要进行逐票开封验视；但是合约客户通过登记注册，比较稳定，也有固定的经营场所，这些客户和快递企业有合同，建立的是长期合作，出了问题，是可以找到企业进行追责的。

(1) Cash and natural-person clients are featured by active flowability, their identity is not easy to verify, and it will not be easy to investigate the responsibility if any problems occur. It is necessary to conduct unpacking inspection for each delivery; However, contract clients are registered clients who are relatively stable and have fixed business places. These clients sign contracts and establish long-term cooperation relations with express enterprises, and it is possible to investigate the responsibility once any problems occur.

(2) 这些企业客户提供运输的是其产品，提供运输时大多都已经包装好了，包括包装好可以销售的手机、电子产品、药品等，想要开封验视，无疑要破坏包装，影响企业客户的销售经营，这是合约客户、终端客户都不能接受的。

(2) These corporate clients have their products delivered, and most of such products, including packed sellable mobile phones, electronic products, and drugs, have been packed at the time of transportation. To unpack them for inspection means to destroy the package and affect the sales and operations of corporate clients, which is unacceptable for contract clients and end clients.

**建议：**为避免实际操作中各监管部门对于此条的不同解读，建议能进一步明确修改为“对于长期、批量提供快递服务的签约客户，在签订安全协议后，可采取抽检方式验视快件的内件”。



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**Suggestion:** To avoid different interpretations of this article by each regulatory department in the actual operation, it is suggested that it be further revised to read "For contract clients to whom express services are offered in bulk on a long-term basis, random inspection may be conducted to inspect the contents of the express items after both sides signed the safety guarantee agreement ".

5. 关于第 25 条配备安全设备问题，在一些监管部门相关检查中要求企业在所有站点都要配置 x 光机，否则将面临处罚。一些地方监管部门不做风险分析、不管企业货量大小，一律要求在每个站点都配置 x 光机。我们认为这样的规定不合理，极可能给予监管部门过度的自由裁量权，过度增加企业负担。

Concerning deployment of safety equipment as defined in Article 25, some regulatory departments require enterprises to deploy X-ray machines at all sites in relevant inspections, otherwise they will be faced with punishment. Some local regulatory departments require deployment of X-ray machines at each site without making the risk analysis and regardless of the cargo quantity of an enterprise. We believe that such provisions are unreasonable, which is very likely to give excessive discretionary power to regulatory departments, and pose excessive burdens on enterprises.

- (1) 我们理解配备安全检查设备的目的是确保快件的安全合规，而并不在于配备安检设备本身，因此只要确保快件通过符合标准的安检设备的安全检查就是满足监管需要。在这种情况下，不一定要企业自己配置安检设备及相关技术人员，也不一定强制要求企业在每一个站点、每一个营业场所、每一个处理中心都有此等配置，允许企业根据自身的情况和实际制定自己的安检设备配置计划，这样即能满足监管要求，又不给企业增加更多的负担。

We understand that the purpose of deploying security inspection equipment is to ensure safety and compliance of express items instead of deploy the security inspection equipment itself. Therefore, an express item is deemed to meet the supervision needs as long as it is ensured



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that it has passed the check of the standard security inspection equipment. In this case, it is not a must for enterprises to deploy security inspection equipment and relevant technicians, or to deploy such equipment or personnel at each site, each business place and each processing center. Allowing enterprises to make their own equipment deployment plans based on their own actual situations not only meets the supervision requirements, but also increases no burdens on enterprises.

- (2) 在实际操作中，从事航空快递的业务尤其是从事国际快递业务，已经有民航安全明确规定，货物在上飞机前都会接受机场安检，而且安检设备和专业的安检人员都是由机场或海关指定的机构来提供并完成检查，是否有必要在每个处理中心甚至每个营业场所都还要求配备安检设备？比如企业在杭州、昆山、南京等地货物都将通过公路运输方式集中到上海，从上海浦东机场经安检没有问题才能上飞机出境，如果在杭州、昆山、南京分公司也分别配备安检设备及技术人员，势必会造成资源的浪费，给企业增加难以承受的负担，而且机场的安检并不认可企业自己的安检结果，因此没必要多地多环节进行重复安检。

In practices, there have been clear aviation security provisions for air express services, especially international express services that goods must pass the security inspection at the airport before boarding the plane, and that the security inspection equipment and professional security inspection personnel are provided by and such inspection is finished by the airport or institution specified by the customs. Is it still necessary to deploy security inspection equipment at each processing center or even each business place? For example, if enterprises' goods in Hangzhou, Kunshan and Nanjing, etc. will be sent to Shanghai by means of road transportation, and must undergo security inspection at Shanghai Pudong International Airport before they can go on board and leave China. If security inspection equipment and technicians are also respectively deployed at the branches in Hangzhou, Kunshan and Nanjing, it will definitely result in a waste of resources and increase unbearable burdens on enterprises. In addition, the airport's security inspection does not recognize the results of enterprises' own security inspection. Therefore, repetitive security inspection at a number of locations is not necessary.



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- (3) 此外，除了航空运输，快递的运输环节还可能是公路运输等其他方式，从本质上讲这都与普通的物流运输方式没有区别，如果同样一件包裹走快递渠道就要安检，走普通物流渠道或者普遍服务的普通包裹服务则不需要安检，显然是不合理的。

In addition, in addition to air transportation, express items may also be transported by road and other means, which, by nature, is not different from the ordinary logistics transportation means. If a parcel must pass security inspection if it is sent as an express item, and does not need to pass security inspection if it is sent as an ordinary parcel by ordinary logistics means or general services, it is apparently unreasonable.

- (4) 从可行性角度讲，一些大的企业每天的快件量动辄几百万甚至千万，尤其是赶上双 11 等旺季快件量会更为惊人，不可能有时间和人力对所有快件进行安检。而且配备满足标准的设备采购、相关人员培训等投入巨大，如果要求所有站点全部配备，将极大增加企业运营成本。在目前全行业面临巨大成本压力的情况下，对企业将是雪上加霜，企业不得不将这样的成本转嫁给客户，造成全行业成本上涨，严重阻碍商品流通，最终推动全行业成本的上升。

From the perspective of feasibility, the number of express items of some large enterprises everyday is often several millions or even ten million, and in peak seasons such as on November 11, in particular, the quantity of express items will be huger, and it is impossible to arrange enough time and manpower to conduct security inspection on all express items. In addition, deploying satisfactory equipment and giving personnel training requires huge investment. If all sites are required to deploy such equipment and personnel, enterprises' operation costs will be greatly increased. In the current situation where the entire industry is faced with the huge cost pressure, this is like rubbing salt into one's wounds, and enterprises will have to transfer such cost to clients, which will result in cost increase in the whole industry, seriously hinder commodity circulation, and ultimately push up the cost of the entire industry.



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综上所述，我们建议经营快递业务的企业应当根据自身的业务模式和业务情况自行或者通过第三方配置符合国家标准的安检设备及专业技术人员，只要确保所有快件通过安全检查，特别是航空快件只要满足在机场经过安检即可，没有必要在一般站点强制要求配置 X 光机。

In conclusion, we suggest that express delivery enterprises shall, based on their own service modes and operation situations, and at their sole discretion or through a third party, deploy security inspection equipment and professionals that meet national standards, that they shall only be required to ensure that all express items have passed security inspection, and that air express items, in particular, are only required to pass security inspection at the airport, and that deployment of X-ray machines at ordinary sites is not a must.

综上所述，**建议此条可修改为**：“经营快递业务的企业应当根据自身的业务模式和业务情况自行或者通过第三方配置符合国家标准的安检设备及专业技术人员，确保快件通过安全检查。”

In conclusion, **this article may be revised to read**: "Express delivery enterprises shall, at their sole discretion or through a third party, deploy security inspection equipment and professionals that meet national standards and ensure express items pass security inspection."

6. 在目前涉及快递安全、服务质量等问题出现时，由于没有较为明确的对于发件人、快递企业之间法律责任的界定和区分，很容易造成监管部门让快递企业在一些时候承担一些本不应该由企业承担的责任或施加处罚，而本应承担相应责任的发件人却没有受到应有的处理。我们期待在条例中能增加关于发件人、承运人、收件人三方各自应该承担的相关法律责任的条款，明确各自的义务和责任，这也必将有利于整个行业的健康良性发展。

At present, if any problems involving express security or service quality occur, it is likely that the regulatory departments make express enterprises shoulder some responsibilities that should not be shouldered by enterprises or impose punishment on enterprises, while those senders that should shoulder responsibilities are not dealt with accordingly, because legal responsibilities are not clearly defined and differentiated for senders



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and express enterprises. We hope that the Regulations can add clauses concerning relevant legal responsibilities that the sender, carrier and recipient should shoulder respectively, define their respective obligations and responsibilities, which will definitely be helpful for the healthy and benign development of the entire industry.



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**II. Detailed Comments 具体意见:**

	<p>《快递条例》（征求意见稿）法制办稿</p> <p><b>SCLAO's draft of Regulations on Express Delivery</b></p> <p><b>(Draft for Comments)</b></p>	<p>建议</p> <p><b>Suggestions</b></p>
<p>第九 条  Article 9</p>	<p><b>第九条【快递许可】</b> 经营快递业务，应当依照《中华人民共和国邮政法》第五十二条、五十三条的规定取得快递业务经营许可。未经许可，任何单位个人不得经营快递业务。邮政管理部门应当将取得快递业务经营许可的企业名单向社会公布，并及时更新。</p> <p>邮政管理部门根据企业实际服务能力核定经营许可的业务范围和地域范围，具体办法由国务院邮政管理部门规定。</p> <p><b>Article 9 Express Delivery Permit</b></p> <p>Whoever wants to provide express delivery services shall obtain the express delivery permit in accordance with Article 52 and Article 53 of the <i>Postal Law of the People's Republic of China</i>. No entity or individual may be engaged in express delivery without</p>	<p>见总体意见第 3 点</p> <p>See Point 3 of Overall Comments</p>



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	<p>permit. Postal administrative authority shall publicize the list of enterprises that have obtained the express delivery permit, and timely update the list.</p> <p>Postal administrative authority shall verify the business scope and territory based on the actual capacity of the express delivery enterprise. The specific methods shall be formulated by the postal administrative authorities under the State Council.</p>	
<p>第十 条  Article 10</p>	<p><b>第十条【分支机构设立】</b> 邮政企业以外的经营快递业务的企业设立分支机构的,应当自设立之日起 20 日内向所在地邮政管理机构备案。</p> <p>经营快递业务的企业及其分支机构设立的快递末端网点,自设立之日起 20 日内向所在地邮政管理机构备案,可不办理营业执照。具体办法由国务院邮政管理部门会同国务院工商行政管理部门制定。</p> <p><b>Article 10 Establishment of Branches</b></p> <p>Where an express delivery enterprise other than postal business</p>	<p>(1) 根据《邮政法》及本草案的文义,除邮政企业以外经营快递业务的企业设立分支机构的应进行备案而非审批,即应为“事后备案”而非前置审批。但在实际操作层面,企业设立分支机构往往需要经过一个事前的审批程序。“应当自设立之日起”表述不太明确,建议明确为“工商登记取得营业执照后”,避免各个部门不同的解读。</p> <p>According to the meaning of the Law of Post and this draft, an express delivery enterprise other than postal enterprises shall undergo the filing procedures instead of approval procedures if it wants to establish branches, namely "post-event filing" instead of "pre-approval". In actual operations, however, an enterprise often</p>



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enterprises establishes branches, it shall go through filing procedures with the postal administrative authorities in the jurisdiction within 20 days from the date of establishment of such branches.

For the express delivery outlets established by express delivery enterprises and their branches, filing procedures shall be gone through in the postal administrative authorities in their jurisdiction within 20 days from the date of establishment of such outlets, and no business permit is required. Specific measures will be formulated jointly by the postal administrative authorities and industrial and commercial administrative authorities under the State Council.

needs to undergo a pre-approval procedure if it wants to establish branches. The statement of "...from the date of establishment of such branches" is not very clear. It is suggested that it be revised to read "after the business license is obtained in the business registration process" so as to avoid different interpretations by different departments.

**建议：**在此明确修改为“除邮政企业以外经营快递业务的企业设立分支机构，需进行工商登记的应在领取分支机构营业执照后的 20 日内向主管的邮政管理部门备案”。

**Suggestion:** It should be clearly revised to read "Where an express delivery enterprise other than postal business enterprises establishes branches, it shall go through filing procedures with the postal administrative authorities in the jurisdiction within **20 days after getting the business licenses for such branches if business registration is required**".

(2) 建议将新设分支机构的备案统一交由企业的主管邮政管理部门受理（根据服务的范围：从事国际业务、跨省业务的快递企业国家邮政局为主管机关；从事省内业务的，省级邮政局为主管机关），以减少



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		<p>企业向不同分支机构所在地的邮政管理部门分别备案的负担。目前网络技术比较发达，相信邮政管理部分可以通过内部网络达到对企业信息的共享并实现对企业的就地管理。</p> <p>(2) It is suggested that the filing procedures for new branches be gone through at the postal administrative authority governing the enterprise (depending on the scope of service: for express enterprises engaged in international and trans-provincial services, the competent authority is State Post Bureau; for express enterprises engaged in intra-provincial services, the competent authority is the provincial post bureau), so as to reduce enterprises' trouble of going through filing procedures with different local postal administrative authorities for different branches. As the network technology is well developed currently, we believe that sharing of enterprise information through in-house network and local management over enterprises may be achieved in terms of postal administration.</p> <p>(3)企业欢迎末端网点只备案、可不办营业执照的规定。快递业务具有网络化经营的特点，企业除末端网点之外还需要非经营性的、单纯从事内部操作的中转站点，建议顺应行业发展特点和趋势，对中转站点</p>
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		<p>也采取只备案、可不办营业执照的规定，将第二款第一句修改为：“经营快递业务的企业及其分支机构设立的快递末端网点和内部操作站点，自设立之日起 20 日内向所在地邮政管理机构备案，可不办理营业执照。”</p> <p>(3) Enterprises welcome the provisions that provide that terminal outlets only need to go through the filing procedures, and need not apply for the business license. Express services are featured by network-based operations. Enterprises need terminal outlets, as well as non-operational transfer points that are purely engaged in internal operations. It is suggested that the provisions providing that transfer points also only need to go through the filing procedures and need not apply for the business license be apply in order to comply with the features and trend of the industry development, and the first sentence of Paragraph 2 be revised to read: “Express delivery enterprises and the terminal outlets and internal operation sites established by their branches shall go through the filing procedures with the local postal administrative authorities within 20 days from the day of establishment, and need not apply for the business license.”</p>
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<p>第十二条 Article 12</p>	<p><b>第十二条 快件收寄</b> 经营快递业务的企业应当对快递运单信息进行核对，发现运单信息填写不完整或填写信息不实的，经营快递业务的企业不得收寄。</p> <p><b>Article 12 Acceptance and Delivery of Express Shipment</b></p> <p>Express delivery enterprises shall verify the information in the express waybills, and shall reject the express waybills containing incomplete or untruthful information.</p>	<p>这些运单信息的核对工作真正实行有一定的难度，且快递员在实际操作中是无法确认其信息是否真实的。</p> <p>In practices, it is difficult to verify the information in these express service waybills, and it is impossible for couriers to confirm whether such information is true.</p> <p><b>建议：</b> 增加寄件人对于所交寄物品的责任与义务的规定，并由寄件人担保所填写内容的真实性以及法律责任。</p> <p><b>Suggestion:</b> The provisions on the responsibilities and obligations of senders for the items shipped shall be added, and senders shall guarantee authenticity of the information they provide and shoulder the legal responsibility.</p>
<p>第十三条 Article 13</p>	<p><b>第十三条</b> 经营快递业务的企业采用格式条款确定与用户的权利义务的，该格式条款适用《中华人民共和国合同法》《中华人民共和国消费者权益保护法》关于合同格式条款的规定。</p> <p><b>Article 13</b> Where an express delivery enterprise defines the rights and obligations of the enterprise and its users through standard</p>	<p>因为是选择性适用《合同法》或者《消费者权益保护法》（例如：快递企业与企业客户签订格式条款时，是不应该适用《消费者权益保护法》的）。</p> <p>Because the Contract Law of the People's Republic of China or Law of the People's Republic of China on Protection of Consumers' Rights and Interests is optionally applicable (for example, where an express</p>



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	<p>terms and conditions, such standard terms and conditions shall follow the provisions on standard contract terms and conditions provided in the <i>Contract Law of the People's Republic of China</i> and the <i>Law of the People's Republic of China on Protection of Consumers' Rights and Interests</i>.</p>	<p>enterprise enters into standard terms and conditions with corporate clients, the Law of the People's Republic of China on Protection of Consumers' Rights and Interests shall not apply.</p> <p><b>建议:</b> 在“《中华人民共和国合同法》”和“《中华人民共和国消费者权益保护法》”之间加上“或者”。</p> <p><b>Suggestion:</b> ".....and the Law of the People's Republic of China on the Protection of Consumers' Rights and Interests" shall be changed to read ".....or the Law of the People's Republic of China on the Protection of Consumers' Rights and Interests".</p>
<p>第十 六条 Article 16</p>	<p><b>第十六条</b> 经营快递业务的企业应当按照承诺的时限完成递送服务。因特殊原因导致承诺的时限发生变更的，应当征得用户的同意。</p> <p><b>Article 16</b> Express delivery enterprises shall complete express delivery services within the committed time limit. Any change in the time requirement committed by the express delivery enterprise due to special reasons shall get the permission of the user.</p>	<p>关于“因特殊原因导致承诺的时限发生变更的，应当征得用户的同意”，在实践中快递企业处理的快件数量特别多，而且导致承诺时限变更的情况也相当多（例如航班延误或者取消，海关查验等），无法做到每次承诺时限变更都征得用户同意。另一方面，如果用户坚持不同意时，快递企业该如何处理，本条也没有规定。</p> <p>Regarding "Any change in the time requirement committed by the express delivery enterprise due to special reasons shall get the permission of the user", as in practice, the number of express items</p>



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		<p>handled by express enterprises is huge, and such change in the time requirement occurs quite frequently (for example, due to flight delay or cancellation, customs inspection, etc.), it is impossible to get the permission of the user for each change. On the other hand, this article does not prescribe how the express enterprise should react if the user does not agree on such change.</p> <p>建议:</p> <p>Suggestion:</p> <p>(1) 最好能把“因特殊原因导致承诺的时限发生变更的,应当征得用户的同意”删除,如果发生承诺时限变更,又未获得用户同意,依法进行赔偿就好了;</p> <p>It is preferred that "Any change in the time requirement committed by the express delivery enterprise due to special reasons shall get the permission of the user" is deleted. If such change occurs without getting the permission of the user, the user shall be compensated according to law.</p> <p>(2) 如果不能按照以上第(1)点修改的话,那么,建议将“应当征得</p>
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		<p>用户同意”修改为“应当通知用户”。</p> <p>If it is impossible to make revision according to the above (1), it is suggested that "...shall get the permission of the user" be revised to read "shall be communicated to the user".</p>
<p>第十 七条  Article 17</p>	<p><b>第十七条【投递和签收】</b> 经营快递业务的企业应当将快件投递到约定的收件地址、收件人或者收件人指定的代收人。</p> <p>经营快递业务的企业投递快件时，应当告知收件人或者代收人当面验收。</p> <p><b>Article 17 Delivery and Signing for Acceptance</b></p> <p>Express delivery enterprises shall deliver the express shipment to the agreed address and the recipient or the person designated by the recipient.</p> <p>Express delivery enterprises shall ask the recipient or the person designated by the recipient to personally check and accept the express shipment.</p>	<p>随着智能快件箱等自动化末端投递设施以及企业在社区、乡镇、街道、学校、便利店等区域设立的快递末端网点的兴起，快递员将没有机会见到收件人或代收人作出第二款所要求的提醒；此外，如今快递已深入人们的日常生活，收件人已经非常成熟并有经验知道是否当面验收。</p> <p>With the increasing use of automatic terminal delivery facilities, such as smart express item lockers, and with enterprises' setup of terminal outlets for express delivery in such locations as the community, town, street committee, school and convenience store, couriers will not be able to see the recipient or collecting agent to give the reminder required in Paragraph 2. In addition, express delivery has become part of people's everyday life, and recipients are mature and experienced enough to know whether the face-to-face acceptance inspection is needed.</p> <p><b>建议：</b>删除第二款,或者修改为：“经寄件人或收件人同意，经营快递业务的</p>



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		<p>企业可以仅将快件投递到约定的收件地址。”。</p> <p><b>Suggestion:</b> Delete Paragraph 2 or revise it to read: "With the permission of the sender or recipient, the express delivery enterprise may just deliver the express item to a delivery address that is agreed on."</p>
第十 八条  Article 18	<p><b>第十八条 【无法投递无法退回的快件】</b> 无法投递的快件，经营快递业务的企业应当退回寄件人。</p> <p>无法投递又无法退回的快件，依照下列规定处理：</p> <p>（一）属于信件的，自确认无法退回之日起超过 6 个月无人认领的，由经营快递业务的企业在所在地邮政管理机构的监督下销毁；</p> <p>（二）属于信件以外的其他快件的，经营快递业务的企业应当登记，并按照国务院邮政管理部门的规定处理；</p> <p>（三）属于进境国际快件的，交由海关依法处理。</p> <p><b>Article 18 Undeliverable and Un-returnable Express Shipment</b> Undeliverable express shipment shall be returned to the senders by the express delivery enterprises.</p>	<p>邮政管理部门已经单独对于无法投递和退回快件有相关规定，建议不用单独再做规定。</p> <p>The postal administrative authority has made separate provisions on undeliverable and returned express items. It is suggested that no separate provisions be made here.</p> <p>另第 2 款第 3 项关于“（无法投递无法退回的快件）属于进境国际快件的，交由海关依法处理”，对于已经清关完毕离开海关控制区域的进境国际快件，在实践中是无法交由海关处理的。如保留，建议修改为“属于进境国际快件的，按照海关相关规定处理”。</p> <p>For Item 3 of Paragraph 2 which states " Incoming international express shipment shall be handed over to the customs and handled in accordance with the law", it is impossible to hand over those incoming</p>



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	<p>Shipments that are both undeliverable and un-returnable shall be handled in accordance with the following provisions:</p> <p>(1) Letters that are both undeliverable and un-returnable, and unclaimed over six months following the date of return, shall be destroyed by the express delivery enterprises under the supervision of the postal administrative authority in their jurisdiction;</p> <p>(2) Express shipments other than letters that is both undeliverable and un-returnable shall be registered by the express delivery enterprises, and handled in accordance with the provisions of the postal administrative authority under the State Council; and</p> <p>(3) Incoming international express shipments shall be handed over to the customs and handled in accordance with the law.</p>	<p>international express shipments that have finished customs clearance and left the customs-controlled areas in practice. If this provision is kept, it is suggested that it be revised to read " Incoming international express shipment shall be handled in accordance with relevant customs provisions".</p>
第十 九条 Article	<p><b>第十九条 【快件损失赔偿】</b> 用户交寄贵重物品的，应当事先声明。快件发生丢失、损毁或者内件短少的，对保价的快件，应当按照经营快递业务的企业与用户约定的保价规则确定赔偿金额；对未保价的快件，适用有关民事法律的规定。</p>	<p>第 1 款“对未保价的快件，适用有关民事法律的规定”，建议能进一步明确赔偿原则，减少实践中的争议，即修改为“对未保价的快件，如果经营快递业务的企业与用户对赔偿有约定的，按照约定予以赔偿；没有约定的，适用有关民事法律的规定”。</p>



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第二十三条	<p><b>第二十三条</b> 经营快递业务的企业收寄快件、验视内件后，应当按照国务院邮政管理部门的规定在快件运单上作出验视标识；用户拒绝验视的，经营快递业务的企业不得收寄。</p>	<p>见总体意见第 4 点</p> <p>See Point 4 of Overall Comments</p>



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<p>Article 23</p>	<p>经营快递业务的企业受用户委托长期、批量提供快递服务的，应当与用户签订安全协议，明确安全保障义务。</p> <p><b>Article 23</b> After examining the express shipment consigned by the sender, express delivery enterprises shall make an examination mark on the express delivery waybill in accordance with the provisions of the postal administrative authority under the State Council; in case the user refuses the examination, the express delivery enterprise shall not deliver the articles.</p> <p>When commissioned by the users to provide long-term express delivery services or delivery of articles in bulk, the express delivery enterprises shall sign a safety agreement with the user that defines the obligations for safety guarantee.</p>	
<p>第二 十五 条</p> <p>Article 25</p>	<p><b>第二十五条【场所、安检设备及安全监控的要求】</b> 快件处理场所的设计和建设，应当符合国家安全机关、海关依法履行职责的要求；具体要求由国务院国家安全主管部门、海关总署制定并公布。</p> <p>经营快递业务的企业应当配备符合国家标准的安全检查设备，</p>	<p>见总体意见第 5 点。</p> <p>See Point 5 of Overall Comments</p> <p>另外关于快件处理场所的设计建设，目前不只是安全和海关部门，包括消</p>



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<p>第四十六条</p> <p>Article 46</p>	<p>并安排专业技术人员对快件进行安全检查。</p> <p><b>Article 25 Requirements for Location, Security Equipment and Monitoring</b></p> <p>Design and construction of the express shipment handling location shall comply with the requirements for performance of duties according to law by national safety authorities and customs. Specific requirements shall be formulated and made public by the State Security Authority under the State Council and the General Administration of Customs.</p> <p>Express delivery enterprises shall have security inspection equipment in line with prescribed national standards, and assign personnel with professional skills and expertise to conduct security inspection of express shipment.</p> <p><b>第四十六条</b> 经营快递业务的企业未配备符合国家标准的安全检查设备，或者未安排专业技术人员对快件进行安全检查的，由邮政管理部门责令改正，处 1 万以上 5 万元以下的罚款；情节严重的，</p>	<p>防、住建、安监也都有参与。为避免多头管理、重复要求，建议对于场所建设应该由统一的部门协调。</p> <p>In addition, the design and construction of express shipment processing facilities are joined not only by the security and customs departments, but also by the fire protection, housing, and safety supervision departments. It is suggested that facility construction be coordinated by a unified department in order to avoid multiple management and repetitive requirements.</p> <p><b>建议：</b>修改为“快件处理场所的设计和建设，应该由邮递渠道安全管理小组统一协调负责”。</p> <p><b>Suggestion:</b> It should be revised to read "Design and construction of the express shipment handling location shall be coordinated and in the charge of a safety management team of the postal channel".</p>
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	<p>处 5 万元以上 10 万元以下罚款，并可以责令停业整顿。</p> <p><b>Article 46</b> Where an express delivery enterprise fails to have security inspection equipment that conforms to national standards, or fails to dispatch professionals to conduct security inspection on express shipment, the postal administrative authority shall order it to make correction and may impose a fine between 10,000 yuan and 50,000 yuan; if the circumstances are serious, a fine between 50,000 yuan and 100,000 yuan may be imposed; and the postal administrative authority can order the express delivery enterprise to stop business for rectification.</p>	
<p>第二十六 条</p> <p><b>Article 26</b></p> <p>第四 十七</p>	<p><b>第二十六条【用户信息安全】</b> 经营快递业务的企业应当按照国务院邮政管理部门的规定建立快件运单及电子数据管理制度，定期销毁快件运单，确保用户信息安全。</p> <p>经营快递业务的企业及其从业人员不得非法出售或者泄露快递服务过程中知悉的用户信息。在发生或者可能发生用户信息泄露、损毁、丢失的情况时，经营快递业务的企业应当立即采取补救措施，并向所在地邮政管理机构报告。</p>	<p>我们注意到邮政管理部门今年曾就《快递服务监管信息交换规范（征求意见稿）》、《快件基础数据元（征求意见稿）》、《快递码号管理办法（试行）（征求意见稿）》和《快递码号资源编码规则（征求意见稿）》征求企业意见，前二者拟设为推荐性行业标准，后二者拟设为部门规范性文件，企业都极为关切并提交了详细的意见，不清楚其与“快件运单及电子数据管理制度”的关系。目前企业的“快件运单及电子数据管理”存在什么信息安全问题？在条例已经对与用户信息保护相关的违法行为（出售、泄露、</p>



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<p>条 Article 47</p>	<p><b>Article 26 Security of User's Information</b></p> <p>Express delivery enterprises shall establish express service waybill and electronic data management systems in accordance with the provisions of the postal administrative authority under the State Council and destroy express service waybills on a regular basis to ensure the security of users' information.</p> <p>Express delivery enterprises and their employees shall not sell or disclose any user's information obtained from express delivery services. In case of actual or possible disclosure, destruction or loss of users' information, express delivery enterprises shall take remedial measures immediately and report to the postal administrative authority in their jurisdiction.</p> <p><b>第四十七条</b> 经营快递业务的企业有下列行为之一的，由邮政管理部门责令改正，没收违法所得，处 1 万元以上 5 万元以下的罚款，并可以责令停业整顿直至吊销其快递业务经营许可证：</p> <p>（一）未按照国务院邮政管理部门的规定建立快件运单及电子</p>	<p>非法提供用户信息，发生或可能发生用户信息泄露、毁损、丢失未立即补救且不向主管部门报告）制定严厉罚则（罚款、责令停业整顿、吊销许可证）的情况下，企业的电子数据管理问题为什么无法通过事后监督和处罚来解决而必须政府部门事前干预？</p> <p>We have noticed that the postal administrative authority has sought for comments from enterprises on Norms on Exchange of Express Service Supervision Information (Draft for Comments), Basic Data Elements for Express Shipments (Draft for Comments), Administrative Measures for Express Codes (Trial Implementation) (Draft for Comments), and Encoding Rules for Express Code Resources (Draft for Comments). The first two regulations are the recommended industrial standards, while the latter two are proposed as the normative documents of the authorities. Enterprises are all very concerned about them and submitted their detailed opinions. The relationship between these regulations and the "management system for express shipment express service waybills and electronic data" is unknown. What information security problems exist in enterprises' "management over express shipment express service waybills and electronic data" at present? Since the Regulations have set rigorous penalty provisions (fine, ordering suspended business for</p>
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	<p>数据管理制度；</p> <p><b>Article 47</b> Where an express delivery enterprise engages in any of the following acts, the postal administrative authority shall order it to make correction, confiscate the illegal revenues, impose a fine between 10,000 yuan and 50,000 yuan, and order it to stop business for rectification or even revoke its express delivery business permit.</p> <p>(1) Fails to establish express service waybill and electronic data management systems in accordance with the provisions of the postal administrative authority under the State Council;</p>	<p>internal rectification, cancellation of license) against illegal behaviors related to customer information protection (sales, leak, illegal provision of customer information, occurrence or possible occurrence of leak, damage, or loss without immediate remedy or reporting to competent authority of customer information), why can't the electronic data management problems for enterprises be solved through post supervision and punishment, and why is the government department's beforehand intervention is required?</p> <p><b>建议：</b> 对于运单和电子数据管理制度进一步进行明确和说明，避免在实际执行中对其不同或歧义解读。</p> <p><b>Suggestion:</b> The express service waybill and electronic data management systems shall be further defined and described so as to avoid different interpretations of them in the actual execution.</p>
第三十五 条 Article	<p><b>第三十五条【抽查制度】</b> 邮政管理部门应当建立和完善以随机抽查为重点的日常监督检查制度，公布抽查事项目录，明确抽查的依据、频次、方式、内容和程序，随机选派检查人员和抽取被检查企业。抽查情况及查处结果应当及时向社会公布。</p>	<p>根据《企业信息公示暂行条例》，工商行政管理部门以外的其他政府部门应当公示其在履行职责过程中产生的下列企业信息：（一）行政许可准予、变更、延续信息；（二）行政处罚信息；（三）其他依法应当公示的信息，因此对抽查情况向社会公布的法律依据有待明确。建议将最后一</p>



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35	<p><b>Article 35 Random Inspection System</b></p> <p>The postal administrative authority shall establish and improve the routine supervision and inspection system with a focus on random inspection, make public the catalogue of random inspection items, clearly define the basis, frequency, way, contents and procedures of random inspection, and randomly select and dispatch inspection staff and select enterprises to be inspected. Inspection information and punishment results shall be made public promptly.</p>	<p>句修改为“行政处罚信息及其他依法应当公示的信息应该及时向社会公布”</p> <p>According to "Provisional Regulations on Enterprise Information Publicity", the government departments other than the industrial and commercial administrative department shall publicize the following enterprise information during their performance of duties: i. Information on granting, changing or renewing the administrative license; ii. Information on administrative punishment; iii. Other information that shall be publicized according to law. Therefore, the legal basis for "Inspection information and punishment results shall be made public promptly" remains to be specified. It is suggested that the last sentence be revised to read "information on administrative punishment and other information that shall be made public according to law shall be made public in a timely manner".</p>
第四十条 Article 40	<p><b>第四十条</b> 经营快递业务的企业或者其分支机构有下列行为之一的，由邮政管理部门责令改正，可以处一万元以下的罚款；情节严重的，处1万元以上5万元以下的罚款，并可以责令停业整顿：</p> <p><b>Article 40</b> Where an express delivery enterprise or its branch conducts any of the following acts, the postal administrative</p>	<p>条款中“可以处一万元以下的罚款”，为了与条例中其他类似内容保持一致，建议把“一万元”改为“1万元”。</p> <p>This revision is about the Chinese expression of "10,000 yuan". There is no need to revise the English version.</p>



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	<p>authority shall order it to make correction and impose a fine up to 10,000 yuan; if the circumstances are serious, the postal administrative authority can impose a fine between 10,000 yuan and 50,000 yuan and order the enterprise to stop its business for rectification:</p>	
<p>第四十三 条  Article 43</p>	<p><b>第四十三条</b> 经营快递业务的企业收寄快件时未核对快递运单信息，或者快递运单信息填写不完整、不实仍予收寄，情节严重的，由邮政管理部门责令改正，可处以 5000 元以上 1 万元以下的罚款。</p> <p><b>Article 43</b> Where an express delivery enterprise fails to verify the information in the express service waybill when an express shipment is consigned, or accepts the express shipment with incomplete and untruthful information filled in the express service waybill, if the circumstances are serious, the postal administrative authority will order it to make correction and can also impose a fine between 5,000 yuan and 10,000 yuan.</p>	<p>条款中“或者快递运单信息填写不完整、不实仍予收寄”，为了与《条例》第 12 条第 3 款中的规定保持前后一致，建议修改为“或者发现快递运单信息填写不完整、不实仍予收寄”。</p> <p>For the clause "...or accepts the express shipment with incomplete and untruthful information filled in the express service waybill", it is suggested that it be revised to read "...or accepts, despite knowing, the express shipment with incomplete and untruthful information filled in the express service waybill" in order to be consistent with Paragraph 3 of Article 12 in the Regulations.</p>