

# Industry Error Found: The Policy Burdens of the Small Package Delivery Services (SPDS) Sector

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**Abstract:** The Small Parcel and Delivery Services (SPDS) Sector is sharply catapulted into prominence due to the increasing demands for online shopping and e-commerce activities. Further amplified by the successive quarantines due to the COVID-19 pandemic, the growth and competitiveness of the SPDS Sector are reportedly constrained by numerous challenges. The 2020 OECD Neutrality Reviews has attempted to outline these challenges, some emanating from policy burdens brought by previous and concurrent regulations governing the sector.

This paper builds from the mentioned Neutrality Reviews and examines the root causes of these policy burdens. By reviewing official documents, press releases, and reports from different agencies regarding the regulatory landscape of the SPDS Sector, the study unravels the interplay between institutions and uses a chronological examination of the gathered data.

The study found that the long transition period and constant change of hands in the regulation of the SPDS sector has resulted in a problematic premise in policy and practice. These challenges include: a distorted playing field due to PhilPost's status as a state-owned enterprise, an increase in scamming by unlicensed service providers, and fluctuating quality of service.

Moreover, the study delved into the root causes of these problems, including PhilPost as a state-controlled-entity, the limited enforcement capacity of its regulating agency, and the long transition period between regulating agencies. It is the recommendation of the study to review the existing regulations governing the sector and employ a whole-of-government approach to allow the sector complement the growth of logistics and e-commerce service.

**Key Words:** Small parcel delivery services; e-commerce; last mile; regulatory policy; logistics sector

## 1. INTRODUCTION

The Small Parcel and Delivery Services (SPDS) Sector plays a vital and critical role in our recovering economy, badly hit by the COVID-19 Pandemic. With the advent of the e-commerce industry, online shopping in Filipino households has steadily increased during the Community Quarantine periods since the beginning of the pandemic (Villanueva, 2020). The sector presents a huge potential in supporting Micro, Small, And Medium Enterprises (MSMEs), especially with the departure from traditional stores to online retail sites. Many MSMEs also employ a mixed approach with the brick-and-mortar shop and an accompanying online store (International Trade Centre, 2020). In addition, more MSMEs are recognizing the need to use digital technologies (FedEx Business Insights, 2020). This must be supported by logistics services, particularly the transport of small parcels to allow more enterprises to maximize the benefits of e-commerce (World Bank, 2020).

While the SPDS sector poses high levels of opportunities for the Philippine economy, its competitiveness is reportedly constrained by several structural and regulatory factors, which have put household consumers and businesses at risk. The OECD Neutrality Reviews Report 2020 has called attention to these issues, underscoring that the shortcomings in the existing Philippine SPDS policy environment result to slow growth of investment, innovation, and market productivity. After all, fair competition is essential to lowering the cost of services and ensuring consumer protection.

Hence, this study delves into the existing structures and policies concerning the sector. In essence, this research asks, "How do regulatory policies and state-controlled institutions within the small package delivery services (SPDS) affect the overall competitiveness sector?" It examines how they have affected the competitiveness of Filipino SPDS, whether positively or dismally. Unlike the usual cases surrounding industry competitiveness due to

private economic actors, the SPDS Sector is a unique case because its policy environment is the primary root of the issue. This paper, therefore, looks into the following: (1) the Philippine Postal Corporation's (PhilPost) status as a government-owned and controlled corporation (GOCC); (2) the evolution of its primary regulating agency: the Department of Information and Communication Technology (DICT); and (3) the exponential growth of fly-by-night or unlicensed service providers.

## 2. METHODOLOGY

This study primarily builds on the Neutrality Reviews conducted by OECD in 2020. The data collection procedure of the study was based on the relevant data inputs that shall address the purpose of the research. The study reviewed the literature on Small Package Delivery Services Sector, Philippine laws pertaining to its regulating agencies, and the regulatory landscape. Meanwhile, official press releases, documents, news articles, government websites, and issuances from government archives were sought to better understand how the emergence of the regulatory landscape. An in-depth key informant interview (KII) with a seasoned expert on logistics, supply chain, and small parcel deliveries, Mr. Samuel Bautista, was also conducted to augment the findings of the research.

Due to the constraints posed by the pandemic, the interview was conducted through a virtual meeting. Its contents were then transcribed and went through content analysis. The gathered information was chronologically presented and approached through a Historical Institutionalism (HI) lens to better understand the interplay between institutions from 1992 to the present, which resulted in problem areas directly affecting the SPDS sector. Finally, the research employed Root Cause Approach (RCA) to analyze the gathered data.

The scope of the study only pertains to small parcel delivery services. While SPDS is tied to the Private Express and/or Messengerial Delivery Service (PEMEDES) or Courier Service Providers, it must be noted that "small parcels" do not include postal services.

## 3. CONCEPTUAL FRAMEWORK

This paper employs an approach rooted in institutionalism, namely Historical Institutionalism (HI). HI is seen as a basic approach to institutions and is concerned with how institutions progress over time. It assumes that when an institution is established, its trajectory and focus are subject to regular practices, thus, making it resistant to changes in the political environment.

For instance, if a new executive office is inaugurated with a specific mandate, its policies, roles, and

behavior will most likely pertain to and concern that mandate or predecessor, as institutions tend to adhere to the "logic of path-dependence" (Schmidt, 2010) (Peters & Zittoun, 2016). As Peters & Zittoun (2016) put it, a punctuation in an institution's equilibrium will "divert" it from its original trajectory.

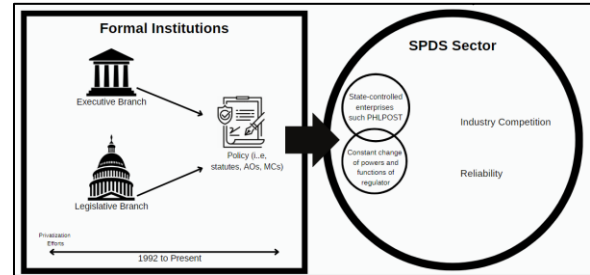


Fig. 1. Conceptual Framework

An institutionalist perspective, it rests in the contention that public policy and institutions are related in nature. Institutions affect public policy in a number of ways. They have the capacity to provide stability due to defined structures, they produce (or support) ideas that shape public policies, and finally, they are able to translate these ideas into political pressures (Peters & Zittoun, 2016). Acknowledging the existence of a state's sovereignty leads us to Max Weber's concept of state's monopoly on violence. Both concepts validate and support the claim that the state, composed of a government made up of institutions, bestows legitimacy on public policies.

Public policies echo through bigger spheres of society, even when it is only imposed on a particular segment. Case in point, the regulations directed towards the SPDS have effects on the competitiveness of the whole industry. The scope of the study begins with the privatization efforts of the government when it enacted the Postal Service Act. It looks into how the regulatory institutions evolved over time and the problem areas that emerged due to the nature and policies of regulatory institutions.

## 4. RESULTS AND DISCUSSION

In the logistics industry, the term "package" refers to a broad array of non-palletized shipments. They may be defined by weight (maximum of 31.5 kg per package) or if a single person can carry the package. OECD remarked that there is no set weight standard for packages, as different players also utilize various standards (OECD, 2020). According to the Universal Postal Union (UPU), smaller packages weighing a maximum of 2 kg are referred to as "parcels" (Universal Postal Union (UPU), 2008). As such, the weight limits of packages and parcel deliveries result in them being closely tied to postal services.

In the Philippines, package deliveries are also primarily tied to postal services, especially before

the arrival of private companies operating their own delivery services. The postal system in the Philippines spans even during the Spanish colonial period. It was only until 1987 that the Postal Service Office (PSO) was subsumed under the Department of Transportation and Communications (DOTC). By the 1980s, the government embarked on efforts to privatize many of its holdings. In 1992, the PSO became a GOCC under the Postal Service Act or Charter (Republic Act No. 7354), yet remained under the DOTC.

It was renamed as the Philippine Postal Corporation (PhilPost) and mandated to, “offer a wide array of postal services other than ordinary mail and parcels.” Like other GOCCs, the PhilPost was given the public-service obligation (PSO) to deliver letters and parcels “throughout the Philippines.” The SPDS Sector was regulated by the DOTC<sup>1</sup>. Efforts to separate its mandate relating to transportation and information and communication technology (ICT) led to the creation of Commission on Information and Communications Technology (CICT) where the SPDS where subsumed.

It was only in 2015 that this transition was completed through the creation of the Department of Information and Communications Technology (DICT) by the virtue of the DICT Law (Republic Act 10844). The long transition period and constant change of hands spanning from 2004 to 2017 between CITC, DOTC, DOST, and DICT resulted in a problematic premise in policy and practice. According to OECD’s study, industry stakeholders remarked that “due to the existence of a large number of licensees in the Philippines,” the government enacted an informal moratorium in 2006 on approving new licenses and automatically prolonging the validity of existing licenses. Under Section 19 of the DICT Act, the DOTC was given a transition period of six (6) months to transfer the systems, personnel, processes, etc. to the newly-minted DICT.

In this transition, the DICT-Postal Regulation Division (DICT-PRD) was given authority over the SPDS Sector. While the transition period was supposed to end by November 2016, the moratorium continued to take hold even after DICT’s transition period. In turn, licensed but inactive SPDS providers were reportedly trading their license on a secondary market. Since it was non-transferable, there was a practice of buying out companies with licenses to take hold of the accreditation. Currently, the SPDS Sector is regulated by the DICT by issuing Authority

to Operate to Private Express and/or Messengerial Delivery Service (PEMEDES), by adopting the requirements stipulated in the DOTC Circular No. 2001-01, series of 2001<sup>2</sup> through the DICT Department Order No. 001, series of 2017. The adoption of the existing regulations was conducted, “in order not to hamper public service.”

Under the Postal Service Act<sup>3</sup>, DOTC was also granted the authority to impose minimum rates for mail and small package delivery services. DICT-PRD maintains that the minimum rates are calculated in coordination with other government bodies, such as the National Economic Development Authority (NEDA), Bangko Sentral ng Pilipinas (BSP), and PhilPost. However, in practice, PhilPost defines the minimum rates while DICT-PRD formally approves them. As a result, private licensed SPDS providers must comply with these rates (OECD, 2020). In 2020, the DICT-PRD was subsumed under DICT’s Legal Office, as DICT Circular No. 13 created the Committee on Postal Regulation (CPR) to adjudicate cases related to PEMEDES firms and recommend policies for the postal delivery services industry. However, it must be noted that there is still limited capacity as its enabling policy, DICT Department Circular No. 13 does not provide enforcement powers to the CPR.

Several issues come to light given the current policy environment of the SPDS sector, unfolded by institutional changes, either through abolishing, creating, or redefining government institutions and continuing policy regulations with minimal to no reviews. Table 1 outlined the evolution of the regulatory landscape of the sector, showing the painstaking institutional transitions since the creation of the Postal Service Act.

| Theme                            | Year | Policy                    | Sectoral Implication   |
|----------------------------------|------|---------------------------|--|
| Redefined regulatory institution | 1992 | Postal Service Act        | Provided regulatory powers to PhilPost while providing public service obligation to deliver parcels  |
| Accreditation/Regulation of SPDS | 2001 | DOTC Circular No. 2001-01 | Gave exclusive power to DOTC to regulate the private express and/or messengerial delivery service operators                                  |
| Redefined regulatory institution | 2004 | Executive Order No. 269   | Restructured institutional environment information and communications technology (ICT) by creating CICT with PhilPost as an attached agency. |

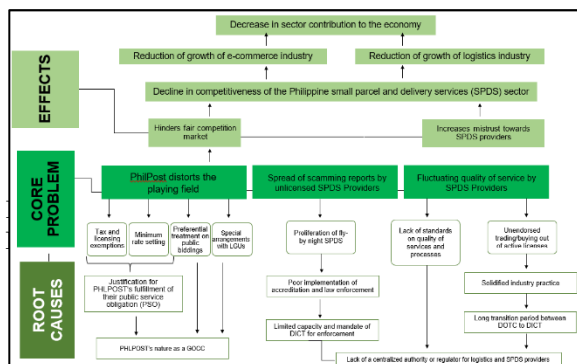
<sup>1</sup> Executive Order No. 269 2004 created CICT

<sup>2</sup> DOTC Circular No. 2001-01 was created by DOTC, precursor of DICT

<sup>3</sup> Sections 26 and 27

|                                   |      |                                 |   |
|-----------------------------------|------|---------------------------------|---|
|                                   |      |                                 | CICT to act as a transitory measure towards DICT under the Office of the President  |
| Accreditation/ Regulation of SPDS | 2006 | DOTC Informal Moratorium        | Indefinitely extending the validity of existing licenses as part of transition period   |
| Redefined regulatory institution  | 2011 | Executive Order No. 47          | Renamed CICT into the Information Communications Technology Office (ICTO), transferring it under the Department of Science and Technology (DOST). PhilPost remained under the Office of the President |
| Redefined regulatory institution  | 2015 | DICT Law (Republic Act 10844)   | Created the DICT, transferring "ICT functions" of DOTC to the new department  |
| Accreditation/ Regulation of SPDS | 2017 | DICT Department Order No. 001   | Retained and transferred the scope of powers and functions of DOTC over PEMEDES Courier Service Providers   |
| Accreditation/ Regulation of SPDS | 2020 | DICT Department Circular No. 13 | CPR was created   |

The problem tree presented in this paper encapsulates the competitiveness issues experienced by the SPDS sector including their effects and root causes. These core problems are:



#### 4.1 PhilPost's as a state-controlled entity distorts the playing field.

PhilPost is a GOCC is mandated with a public-service obligation (PSO) to deliver parcels even to far-flung and remote areas of the country. Compared

to its private competitors, PhilPost maintains a wide network of warehouses and usually has well established relationships with local governments, even in distant areas. Some PhilPost branches in provinces are located in lease-free “government centers,” often a privileged space offered by local authorities to establish postal and mailing services in rural areas (OECD, 2020). However, PhilPost does not receive compensation from the government for the fulfillment of this PSO. Moreover, they reportedly consider this inefficient which leads to many calls for its complete privatization over the years. To offset its losses, it employs a cross-subsidization model and receives advantages such as tax exemptions for any credit obligations<sup>4</sup>. As a GOCC, PhilPost is also exempted from any licensing or regulatory requirements imposed to their private counterparts.

Its nature as a state-owned entity affects how it competes as a service provider. Since it is a GOCC, its standing is advantageous when bidding for public contracts. PhilPost has arrangements with other government agencies such as the Bureau of Customs (BOC) and the Department of Justice (DOJ) for handling mail, inbound, and outbound deliveries. In 2014, BOC also provided its personnel to PhilPost 's customs warehouse office and established cooperation for the examination of parcels (DOF, 2014). Private SPDS providers may establish these arrangements with public agencies, too. However, PhilPost's nature as GOCC severely minimizes their ability to compete for public contracts (World Bank, 2020).

Based on the draft DICT IRR Section 2 of Rule 11<sup>5</sup>, licensed SPDS providers are not allowed to charge the “delivery of the mails/parcels of clients lower than that of the regulated postal charges imposed on the Philippine Postal Corporation.” Licensed service providers may appeal to have their rates reviewed by undergoing a quasi-judicial procedure that requires a public hearing. While minimum rate setting does not seem to affect PhilPost's competitors, the rationale and computation behind this must be made transparent. Moreover, this rigid regulation may not be able to keep up with the constant changes that come with the sector, as it is tied with the quickly evolving e-commerce industry.

<sup>4</sup> R.A. No. 7354. 'Postal Service Act of 1992

<sup>5</sup> DICT Rules and Regulations in Processing, Hearing and Adjudication of Applications for Authority To

Operate Private Express and/or Messenger Delivery Service (PEMEDES), and the Investigation of Complaints in Connection with the Operation of such services

#### *4.2 Spread of scamming reports by unlicensed SPDS Providers*

The rise of online transactions and household orders during the community quarantine period were also met with rising reports of various delivery scams. Recently, the DICT Circular No. 13 transferred DICT-PRD to the DICT Legal Service, allowing the former to exercise implementation of DICT's regulatory powers over licensed PEMEDES. Furthermore, it created the CPR, outlining regulatory powers relative to a service provider's Authority to Operate yet enforcement powers were not given. The Circular states that the CPR may, "seek the aid of law enforcement agencies in ensuring strict observance of postal and other related laws." There is no clear indication of which agency should DICT CPR should coordinate for bogus or scam reports; whether this may be under consumer protection of the Department of Trade and Industry (DTI) or a criminal report to the Philippine National Police (PNP) remains a question. However, there is more to this issue than a policy gap, since DICT-PRD has also reported that its implementing capacity is quite limited (OECD, 2020).

The proliferation of unlicensed SPDS providers lead to scamming and endangering the safety of customers (OECD, 2020). Government agencies have released separate warnings to the public at varying times directed at these scams, most notably the "Love Scheme" and "parcel delivery scam" run by syndicates (Damicog, 2021) (Yahoo! News, 2021). These separate warnings, along with absence of enforcement, are manifestation of the lack of a single, primary agency that governs over logistics and delivery entities. In the interview, Mr. Sam Bautista explained that, "for years, the SPDS industry, along with the logistics industry, have been expressing its desire to identify a single government entity that will regulate it." The OECD report determined that there are around 50-70 companies operating without a license. If this situation remains and exacerbates due to lack of regulation, distrust from online transactions will increase, stunting the growth of e-commerce in the Philippines.

#### *4.3 Fluctuating quality of service by SPDS Providers*

Customers and businesses face uncertainties when it comes to service quality among SPDS providers. While some service providers provide feedback mechanisms to its customers, offer training or provide equipment to their drivers, these are not mandatory practices. This is due to the lack of mandatory or industry standards on quality of services and processes in small parcel and even last

mile delivery services. There is ambiguity on which government agency shall handle this. While the DTI has an active technical committee to develop standards on logistics (DTI-BPS, 2019), the SPDS is regulated as a communication sector, rather than transportation nor logistics (World Bank, 2020). It must be noted that regulation for logistics services in the Philippines are housed under different agencies.

As prior stated, SPDS providers must secure an Authority to Operate from the DOTC (now DICT). In 2006, DOTC refrained from issuing new or renewing licenses, because it was under transition. The prolonged hold of the moratorium caused the practice of "buying out" companies to acquire active licenses, since the licenses were non-transferrable. Thus, it rendered the purpose of Authority to Operate useless. Companies under new leadership with different systems and processes became authorized service providers, without undergoing evaluation from DICT nor needing to adhere to industry standards.

### **5. CONCLUSIONS**

Efforts to even the playing field in the SPDS sector is crucial to strengthen the e-commerce and logistics industries. The fast growth of online businesses is supported by small parcel and delivery services; as such, the SPDS sector must also complement this growth. There is a need to review the existing regulations and policies relating to delivery services, including PhilPost's stature which is affecting the whole sector. The government must be proactive so that the SPDS sector complements the growing shared economy.

While the creation of the CPR is a hopeful beginning, a whole-of-government approach is recommended to clear overlapping jurisdictions. There is a need for a joint regulatory review and examine the existing policies, especially the Postal Service Act and its instruments, in consideration of the following: (1) the regulation of the SPDS Sector as a "communication" sector instead of a "transportation" or "logistics" sector; (2) the need for minimum rate setting, its calculation, and transparency; and (3) PhilPost's status as a GOCC and its compensation on settling its public-service obligations. In addition, it is also recommended to consider the creation of a single government office responsible for the policy development, regulation, mediation, and enforcement of the whole logistics industry, which includes the SPDS sector. This office may consider strengthening PhilPost's partnership with private entities for shared use and consolidation in its facilities to lower the cost of logistics; promulgation of standards on service quality; and initiatives to

strengthen human resource protection and development among small parcel delivery drivers.

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