

**BILL C-14: AN ACT TO AMEND THE
CANADA POST CORPORATION ACT**

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LEGISLATIVE HISTORY OF BILL C-14

HOUSE OF COMMONS

Bill Stage	Date
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First Reading: 29 October 2007

Second Reading:

Committee Report:

Report Stage:

Third Reading:

SENATE

Bill Stage	Date
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First Reading:

Second Reading:

Committee Report:

Report Stage:

Third Reading:

Royal Assent:

Statutes of Canada

This bill did not become law before the 39th Parliament ended on 7 September 2008.

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-14: AN ACT TO AMEND THE CANADA POST CORPORATION ACT*

BACKGROUND

On 29 October 2007, Bill C-14, An Act to amend the Canada Post Corporation Act was introduced in the House of Commons by the Minister of Transport, Infrastructure and Communities, the Honourable Lawrence Cannon. This bill clarifies Canada Post's statutory monopoly on mail delivery and allows other parties to deliver letter mail addressed to recipients located outside of Canada.

The *Canada Post Corporation Act*⁽¹⁾ (CPCA) was enacted in 1981 as the successor to a series of statutes that had governed Canadian postal services since Confederation. The CPCA removed postal operations from a department of government, under the Postmaster General, to Canada Post, a Crown corporation. According to the CPCA, the object of the Canada Post Corporation is to operate a financially self-sustaining universal postal service throughout Canada that will meet the needs of the people of Canada.⁽²⁾ In section 5 of the CPCA, postal service is defined as the “collection, transmission and delivery of messages, information, funds and goods both within Canada and between Canada and places outside Canada.”

To provide universal postal service throughout Canada, Canada Post is granted a monopoly for certain classes of letters and for certain mail activities. Letters covered by the monopoly include mail weighing under 500 grams that is specifically addressed to a recipient and that is not excluded in the *Letter Definition Regulations*.⁽³⁾ The specific activities covered by the monopoly are found in sections 14 and 15 of the CPCA under the “Exclusive Privilege of

* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

(1) R.S.C. 1985, c. C-10.

(2) CPCA s. 5.

(3) S.O.R./83-481 specifies that material excluded from this monopoly includes magazines, books, bulk mail, electronically or optically transmitted material, and urgent letters subject to a fee at least equal to three times the regular rate of postage payable for delivery in Canada of similarly addressed letters weighing 50 grams.

Corporation” heading.⁽⁴⁾ Section 14(1) states that Canada Post “has the sole and exclusive privilege of collecting, transmitting and delivering letters to the addressee thereof within Canada.”⁽⁵⁾ Activities exempted from this monopoly are found in section 15 of the CPCA and include personal delivery without payment by various entities, legal documents issued by a court of justice, letters lawfully brought into Canada for subsequent postage, express mail for a fee that is more than three times the postage rate of letters weighing under 50 grams delivered by Canada Post, intra-office mail in an organization, letters delivered by electronic or optical means, and letters delivered by foreign military forces in Canada with the consent of the Government of Canada.

Remail is a cross-border letter mail service provided by private companies, usually in conjunction with a foreign postal administration.⁽⁶⁾ Recently, Canadian remailers have contested Canada Post’s monopoly over the delivery of letter mail destined for foreign recipients.⁽⁷⁾ (These remailers are predominantly small Canadian companies working with affiliates of foreign postal administrations that collect letter mail in Canada and transport it to other countries where it is processed and remailed.) At issue was the interpretation of the French version of the exclusive privileges in section 14(1) of the CPCA and whether or not this provision granted Canada Post a monopoly over the delivery of letters to foreign destinations.⁽⁸⁾ During these cases the courts have sided with Canada Post and have held that the French version of section 14(1) of the CPCA is the correct interpretation. Thus, Canada Post has the exclusive privilege of transmission and delivery of letters to all destinations, including locations outside of Canada.⁽⁹⁾ Bill C-14 overrules the Court decision on this matter, ensuring competition between remailers and Canada Post within the bulk international mail market.⁽¹⁰⁾

(4) CPCA ss. 14-15.

(5) CPCA s. 14(1).

(6) See “Europe’s Postal Monopolies: Neither Snow Nor Rain, Nor Fax ...,” *The Economist*, 29 September 1990, p. 83, and C.J. Zepos, “Liberalizing the ‘Sacred Cows’: Telecommunications and Postal Services in the EC,” *Duke Journal of Comparative & International Law*, Vol. 3, 1992, p. 227, n. 202.

(7) See *Canada Post Corp. v. Key Mail Canada Inc.* (2005), 259 D.L.R. (4th) 309 (Ont. C.A.) [hereinafter *Key Mail*] and *Canada Post Corp. v. G3 Worldwide (Canada) Inc.* (2007), 85 O.R. (3d) 241 (Ont. C.A.) appeal to the Supreme Court of Canada dismissed 1 November 2007 (Docket 32093).

(8) The French version of section 14(1) is as follows: “Sous réserve de l’article 15, la Société a, au Canada, le privilège exclusif du relevage et de la transmission des lettres et de leur distribution aux destinataires.”

(9) See *Key Mail*, at paragraphs 8-13.

(10) See Canadian International Mail Association (CIMA), “CIMA Congratulates the Federal Government on Introduction of Legislation to Amend the Canada Post Corporation Act,” News release, Ottawa, 31 October 2007, <http://www.newswire.ca/en/releases/archive/October2007/31/c2144.html>.

DESCRIPTION AND ANALYSIS

A. Exclusive Privilege of the Corporation

Clause 1 of Bill C-14 amends section 15 of the CPCA by adding an additional restriction on Canada Post's monopoly powers. Specifically, the exclusive privilege referred to in section 14 does not include outgoing international letters.

COMMENTARY

The traditional argument for postal monopolies is that open competition of certain areas of mail delivery may hinder Canada Post's ability to provide universal postal service in Canada at a reasonable cost.⁽¹¹⁾ However, remailers have been operating in Canada for the past 20 years.⁽¹²⁾

The European Community has attempted to ensure universal postal service throughout its member countries by granting monopolies to national postal administrators while liberalizing or opening competition to certain areas of postal service.⁽¹³⁾ One area that has been gradually liberalized within Europe by Directive 2002/39/EC is cross-border letter mail (or remailing) for certain classes of mail.⁽¹⁴⁾ The goal of this directive is to promote cross-border letter mail while ensuring universal postal service by national postal administrations. The maintenance of national universal postal service has been achieved by various methods, including a compensation fund and licensing of remailers through national regulatory authorities.⁽¹⁵⁾ Full liberalization of remailing has not yet been implemented throughout the European Union.⁽¹⁶⁾ Open competition in remailing and other areas of postal service have also resulted in greater innovation by incumbent national postal administrators in Europe.⁽¹⁷⁾

(11) See CPCA s. 5 and *Key Mail* at paragraph 19.

(12) CIMA (2007).

(13) See Directive 2002/39/EC of the European Parliament of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0039:EN:NOT>. For a review of the EC policy to liberalize certain areas of postal service see Zepos (1992), "Liberalizing the 'Sacred Cows.'"

(14) CIMA (2007).

(15) European Parliament (2002), Directive 2002/39/EC.

(16) See EU Postal Legislation, http://ec.europa.eu/internal_market/post/legislation_en.htm.

(17) See E.M. Iacobucci, Michael J. Trebilcock and Tracey D. Epps, *Rerouting the Mail: Why Canada Post is Due for Reform*, C.D. Howe Institute, *Commentary*, No. 243, February 2007, http://www.cdhowe.org/pdf/commentary_243.pdf.