

To: The Ministry of Transport and Communications

1. Introduction and summary

Instabee Group (representing both Instabox A/S and Porterbuddy A/S) appreciate the opportunity to provide feedback on the proposed Postal Services Act. While we acknowledge the Ministry's goal of adapting the regulatory framework to reflect the decline in physical letters and the rise in parcels, we have concerns regarding the inclusion of **commercial parcel lockers** and the extension of **postal regulations to the B2X (business-to-business or consumer) parcel market**.

In light of those concerns, we do not agree with the suggested approach. We oppose the inclusion of commercial parcel lockers and the B2X parcel market within the scope of the new Act. Our position is that the parcel market is already highly competitive and well-functioning, making state intervention unnecessary. Furthermore, digital parcel lockers are proprietary technological products rather than public infrastructure and mandating shared access would create significant cybersecurity risks and stifle the innovation that currently benefits users. However, we welcome the proposed mandate for the authorities to collect and publish market statistics, as a clear, data-driven overview of parcel volumes and shipping methods will help to promote a competitive and healthy market.

2. Opposition to the Inclusion of Parcel Lockers (§ 17)

The proposed Act suggests extending the regulation of post office box facilities to include **parcel lockers** (*pakkeskåp*), requiring owners to grant access to other providers. We oppose this suggestion for the following reasons:

- **Technical Distinction:** Traditional postboxes and parcel lockers are fundamentally different. Parcel lockers are highly **technical products requiring digital keys** and integrated software to operate, whereas traditional boxes are static infrastructure.
- **Cybersecurity and System Integrity:** The Ministry acknowledges that access involves "digital security" considerations. Granting third-party access would require other providers to integrate into our **proprietary technology and internal systems**. This creates a substantial **cybersecurity risk** and threatens the integrity of our digital infrastructure.
- **Economic Disincentives:** Developing and maintaining these lockers involves significant investment in proprietary technology. The proposed model, where access is provided at cost without the ability to generate a profit from that infrastructure, undermines the business case for private innovation and investment.
- **Practical Limitations:** It is technically and logistically difficult to "lock" or reserve specific slots within a dynamic locker system for competitors. The current market-driven approach, where lockers are a unique selling point for specific providers, is the primary driver of their rollout.
- **Intrusive interventions:** The Ministry admits that imposing access and cooperation is **"intrusive"**. We argue this intervention is unjustified in a market already characterised by healthy competition.

3. Market Scope and the B2X Segment

The proposed Act confirms that **B2X (business-to-business or consumer)** parcel services fall within its scope. However, we argue that the commercial parcel market, particularly the B2B segment, should remain outside the remit of the Postal Services Act for the following reasons:

- **Existing Legal Framework for Consumers:** Generally, parcel service providers do not enter into agreements with end consumers, instead, end consumers enter into agreements with the businesses wishing to ship parcels to them. Consequently, the need for a legal framework safeguarding consumer interests is limited in the context of parcel services. However, to the extent that a consumer enters into an agreement with a postal service provider, that relationship is already comprehensively governed by applicable **consumer protection legislation**. As the Ministry itself notes, complaints based on consumer purchase agreements are already handled by the consumer authorities rather than Nkom. Therefore, the proposed Postal Services Act creates an unnecessary and redundant regulatory layer for commercial B2C transactions.
- **Contractual Freedom in B2B:** Since the consumer side is already protected by existing laws, the remaining scope concerns B2B relationships. In this professional environment, entities negotiate terms, prices, and service levels based on specific commercial needs. Imposing statutory rules on **delivery terms and conditions (§ 7)** is unnecessary in this segment. **Freedom of contract** should be the guiding principle, allowing the market to remain flexible and innovative.
- **Purpose of the Act:** The primary purpose of the Act should be to safeguard the universal "right" of citizens to send and receive mail. Commercial parcels do not share the same social characteristics as the declining letter market and do not require the same level of intervention to ensure availability or affordability.

4. Healthy Competition vs. Regulatory Intervention

The Ministry justifies the new structural changes by stating that "competition is a means that can help the state procure high-quality postal services". However, the parcel market is already **highly competitive with many active players** and varied service offerings.

- **No Market Failure:** Regulatory intervention, such as mandated access to lockers or infrastructure, is typically reserved for correcting market failures. As the Ministry itself notes, there is already **significant competition in the B2C and B2B parcel segments**.
- **Interference with Functioning Markets:** The Ministry states its intent is to interfere "as little as possible with those parts of the market that are functioning". Given that the parcel market is functioning optimally, imposing "mitigating measures" or access obligations like those in Section 17 is contradictory to this stated goal.

5. Registration and Regulatory Scope (§ 6)

While Instabee does not fundamentally oppose the simple registration of market participants to provide the authorities with an overview, we maintain that **commercial parcel delivery should not be categorised as "postal services"** under this Act.

If the Act's purpose is to ensure a "minimum level" of service for citizens where the market fails, commercial parcels, which are successfully delivered by the market without state intervention, should not be subject to the same reporting, security, and compensation obligations as the universal service.

6. Support for Enhanced Market Transparency and Data Collection (§ 15, § 27, and § 28)

Instabee **support the Ministry's proposal to grant the authorities (Nkom) a clearer mandate to collect and share market data.** We agree that a comprehensive overview of the market is essential for both the authorities and market participants.

- We support the expanded **duty of disclosure under Section 28**, which allows the authority to request information for **statistical purposes**, and the mandate under **Section 27** for Nkom to **map market players and compile statistics**.
- **Facilitating Competition:** We believe that publishing service quality measurements and market statistics, as enabled by **Section 15**, will help users compare services and promote healthy competition.

Conclusion

The proposed Postal Services Act represents a significant shift towards a market-oriented framework, however, certain provisions risk undermining the innovation they seek to promote. The proposed inclusion of **parcel lockers in Section 17** represents an **unjustified and intrusive intervention** into a healthy, competitive market. We urge the Ministry to reconsider this provision, respecting the technical complexity and proprietary nature of these digital systems.

Furthermore, we advocate for a clear distinction between the regulated universal postal service and the commercial parcel market:

- **Consumer Protection and B2B Freedom:** To the extent that a consumer enters into an agreement with a provider, that relationship is already governed by applicable **consumer protection legislation**, with disputes handled by consumer authorities rather than Nkom. Consequently, the only remaining scope for this Act involves B2B relationships, where **contractual freedom** should be the guiding principle to allow for professional, market-driven service levels.
- **Support for Market Transparency:** While we oppose intervention in physical infrastructure, we **support the mandate for authorities to collect and publish market statistics** under Sections 15, 27, and 28. We believe that a data-driven overview of parcel volumes and shipping methods will demonstrate that the market is functioning well.

By removing the access obligations in Section 17 and respecting the existing legal frameworks for commercial contracts, the Ministry can preserve the innovation and competition that currently benefit Norwegian businesses and consumers.