



Damage caused to inbound international postal items

THE ROLES OF AUSTRALIA POST,
AUSTRALIAN CUSTOMS SERVICE, AND
AUSTRALIAN QUARANTINE AND INSPECTION SERVICE

April 2008

Report by the Commonwealth and Postal Industry Ombudsman,
Prof. John McMillan, under the *Ombudsman Act 1976*

REPORT NO. **04|2008**

Reports by the Ombudsman

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CONTENTS

EXECUTIVE SUMMARY	1
PART 1—BACKGROUND	3
Scope and methodology	3
PART 2—PROCESSING OF INCOMING INTERNATIONAL MAIL ..	5
Receipt and preparation	5
Primary screening by AQIS and Customs	7
Secondary inspection.....	7
Opening of outer packaging.....	7
Unpacking and inspection.....	8
Section 90T openings.....	10
Resealing.....	11
Advising members of the public of an inspection	12
PART 3—WHEN DAMAGE IS CAUSED AT THE FACILITY	14
Framework for liability.....	14
Attribution of responsibility between Australia Post and border agencies.....	14
Customs and AQIS.....	14
Australia Post	14
Assessing claims.....	16
Customs	16
AQIS.....	16
Australia Post	17
Disputed claims	17
PART 4—CONCLUSIONS	18
Summary of investigation	18
Identification and recording of damage	18
Resealing of opened items	18
Informing addressees about compensation claim arrangements	18
PART 5—AGENCY RESPONSES TO RECOMMENDATIONS	20
APPENDIX 1—ACROYNYS AND ABBREVIATIONS.....	25

EXECUTIVE SUMMARY

The Ombudsman's office receives complaints each year about damaged inbound international mail items. The damage may have been caused while the item was in the mail stream either inside or outside Australia, or during border inspection.

Australia Post has overall responsibility for items being carried in the mail, between the time they are posted (or, in the case of international items, the time they arrive in Australia) and the time they are delivered. Other agencies may be involved as well— inbound international postal items are subject to inspection by the Australian Customs Service (Customs) and the Australian Quarantine and Inspection Service (AQIS).

In some cases there is agreement over which agency is liable for the loss or damage to items. But in many cases investigated by the Ombudsman's office, there are areas where liability is unclear.

We decided to conduct an investigation to clarify the responsibilities of the three agencies involved in the processing of inbound international mail.

The investigation identified the process followed in the handling of inbound international mail items. It then considered what aspects of that process might be improved to enhance the transparency of the process, and make it easier for members of the public with legitimate claims for loss and damage to make those claims to the agency responsible.

The investigation identified three principal areas in which improvements could be made:

- identifying and recording damage
- resealing of items that have been opened for inspection
- informing addressees about how to claim compensation for loss or damage.

In each of those areas, we make recommendations for change to agency processes. These are summarised below.

- Further steps should be taken to ensure comprehensive recording of damage to items. This involves improving processes to identify the stage at which damage is observed or caused, and an emphasis on accurate maintenance of damage registers.
- Clear standards should be established and adhered to for resealing items that have been opened as part of the inspection process.
- All agencies should have in place procedures for informing addressees of damage caused to items. All agencies should also have set procedures, of national application, for processing and assessing compensation claims. Agencies should work collaboratively to assist claimants to lodge claims with the liable authority.

The recommendations, and the responses of the agencies to them, are set out in full in Part 5 of the report.

Commonwealth Ombudsman—Damage caused to inbound international postal items

If these changes are implemented, customers should find it easier to pursue legitimate claims for compensation when international postal items are damaged. This in turn should increase customer satisfaction, and reduce the time that both agencies and the Ombudsman's office spend in dealing with complaints arising out of the process.

PART 1—BACKGROUND

1.1 The Ombudsman's office receives complaints each year relating to damaged inbound international postal items, particularly parcels. All such items are subject to inspection by Customs and AQIS. Australia Post is involved in these inspections in its capacity as the postal authority with responsibility for opening items selected for inspection by the other agencies. The nature of these inspections on occasion causes damage to the item being inspected or its packaging.

1.2 In some cases there is agreement over which agency is liable for this damage. But in many cases investigated by the Ombudsman's office, there are areas where liability is unclear.

1.3 There has been an increase in complaints about items that have been sent from overseas and damaged in transit. The table below shows the trend in complaints about international post over the past three years. Having regard to the increasing use of the internet to purchase items from overseas, this trend is expected to continue. This in turn may lead to more complaints being received about the way in which inbound international items have been processed.

Top three issues investigated as percentage of all issues investigated

	2004–05	2005–06	2006–07
Mail—letter post	42.0%	39.0%	37.6%
Mail—parcel post	30.0%	28.3%	30.1%
Mail—international post	9.0%	9.4%	13.5%

1.4 An investigation was conducted by the Ombudsman's office to clarify the responsibilities of the three agencies involved in the processing of inbound international mail.

1.5 The investigation focused on the following issues:

- prevention of damage
- identification and recording of damage
- assignment of responsibility for damage caused
- notification of inspection to affected members of the public
- assessment of compensation for damage caused
- exclusion of liability for damage.

Scope and methodology

1.6 Customs, AQIS and Australia Post were invited to respond to a number of questions posed by the Ombudsman and to provide relevant supporting documentation.

1.7 Australia Post management conducted tours for staff from the Ombudsman's office of Australia Post's Sydney Gateway Facility at Clyde, the old and new facilities

Commonwealth Ombudsman—Damage caused to inbound international postal items

at Tullamarine in Melbourne, and Perth Airport. A meeting was subsequently held between the same Ombudsman staff and senior management of Customs and AQIS.

1.8 We received responses to our questions from each of the agencies we contacted, enclosing documentation such as internal policy guidance on mail inspection and complaint handling. Each agency provided us with a copy of the document that sets out the way in which Customs, AQIS and Australia Post cooperate in the handling of inbound international mail: the Memorandum of Understanding (MoU) between Customs AQIS and Australia Post of August 2002.

1.9 The investigation was greatly assisted by the cooperation received from the agencies involved, and we are grateful for the effort that they made to facilitate our enquiries.

PART 2—PROCESSING OF INCOMING INTERNATIONAL MAIL

2.1 International mail arrives in Australia by air or sea. Australia Post has five gateway facilities at which international air mail may be received: at Clyde (Sydney), Darwin, Brisbane, Melbourne and Perth. Surface (sea) mail is only received at the Clyde facility.

2.2 Mail, both letters and parcels, arrives in mail bags. Parcels can also be loose-packed in large shipping containers. The handling of mail at all international facilities is largely mechanised, but still requires a degree of manual handling.

2.3 There are four distinct stages in the international mail-handling process:

- receipt and preparation
- primary screening
- secondary inspection
- resealing before despatch to distribution centres.

Receipt and preparation

2.4 On receipt in a facility, general mail is separated into small and large parcels.¹ Letters are manually arranged to face the same way and loaded into trays. At this stage, parcels 2 kilograms (kg) and over have a sticker affixed with a barcode and are scanned into the system. The bar code is affixed in compliance with Universal Postal Union² (UPU) requirements for parcels over 2 kg. The bar code allows some information about the whereabouts of the parcel (for example, when it is delivered) to be captured, but does not mean that the parcel is trackable throughout the postal system.

2.5 International mail processing centres are licensed under s 77G of the *Customs Act 1901* as Customs Areas. At the initial scanning process, parcels are therefore recorded as having been ‘scanned into Customs’. This has resulted in confusion with a number of complaints, where Australia Post has told the complainant that their item is recorded as ‘with Customs’, but was actually located with AQIS.

2.6 International Courier (‘EMS’ branded) and Express Post parcels have their international barcode scanned and an Australian tracking barcode affixed to the parcel. They are handled separately from general mail in order to comply with relevant delivery standards.

2.7 The majority of parcel handling between operational stations is done by conveyor belt. The newer systems have been designed to minimise the potential for crush damage.

2.8 At this stage, any parcel that arrives in packaging material that is prohibited by AQIS (such as fruit boxes) is removed from the mail process. The contents are

¹ Small parcels in international mail terms are items under 2 kg in weight.

² The UPU is the inter-governmental institution with responsibility for setting rules for international mail exchange. It is a specialised agency of the United Nations.

Commonwealth Ombudsman—Damage caused to inbound international postal items

repackaged by Australia Post and the repackaged parcel is returned to the processing area. Notification of the reason for repackaging is included with the contents. The removed packaging is destroyed according to AQIS guidelines.

2.9 Any damaged items identified during this phase are removed from the mail stream and relocated to a separate area of the facility for repacking. Australia Post has responsibility for this process.

2.10 A letter is included with the repackaged/rewrapped parcel that includes a suggestion that the addressee complete a Customer Complaint Form and present the parcel (including packaging/wrapping) to an Australia Post outlet for assessment and subsequent referral to the Customer Contact Centre for consideration of compensation.⁴

2.11 Australia Post operates in accordance with the UPU Parcel Post Manual 2005, which outlines the UPU's rules for international mail exchanges. The question of who should claim (the sender or the addressee), and who the claim should be made to (the country of origin or the country of the addressee) varies according to circumstances. In some cases, Australia Post will not be the compensating authority.

2.12 In our view, the advice letter provided to the addressee of a damaged item should include information about who should make a claim, the postal authority to which the claim should be made, and the appropriate contact details for that authority. This would assist members of the public who may not be familiar with the relevant provisions of the UPU agreement. The addressee could forward this information to the sender where necessary.

Recommendation 1

Advice sent to customers on making a complaint about a damaged parcel should include sufficient information for the complaint to be lodged by the person required to lodge it, with the appropriate compensating authority.

2.13 As part of the Australia Post process a 'verification note' is forwarded to the country of origin reporting receipt into Australia of the damaged item.

2.14 In its response to this investigation Australia Post stated that recording of identified damaged items was 'largely informal'. It was observed that in the Perth facility, a designated officer kept a register of damage and had a procedure for attempting to notify the addressee where the level of damage makes delivery impractical, for example, where glass has broken and/or liquid has saturated the packaging.

2.15 This informality suggests a lack of rigour in recording items that have been identified as damaged on receipt into Australia. This in turn makes it more difficult for people who have a complaint about damage occurring to their mail to identify where the damage occurred, should this become relevant to their claim.

2.16 It is our view that as a matter of good administration, a register should be kept of parcels that have been identified as damaged. Given the process already in place to send a verification note to the country of origin, the accurate maintenance of such a register should not impose an excessive burden on Australia Post.

⁴ Taken from Australia Post's response to our investigation.

Recommendation 2

- 2.1** Australia Post should implement a national policy of maintaining registers at all facilities of parcels identified as damaged on receipt.
- 2.2** The accurate use of these registers should be monitored and enforced.

Primary screening by AQIS and Customs

- 2.17 Australia Post is required to present all incoming international mail to Customs and AQIS for screening.
- 2.18 Customs advised the Ombudsman's office that it is charged with the responsibility to detect and take appropriate action to prevent, or control, the entry into Australia of goods that could be detrimental to the quality of life, or to the safety of the Australian community. Emphasis is placed on illicit drugs, guns and weapons, items subject to quarantine controls and other prohibited imports. Customs is also responsible for assessing and collecting import duty and other taxes on imported postal items where a revenue liability is identified.
- 2.19 AQIS's general function, set out in the MoU with Australia Post and Customs, is to protect Australia's animal, plant and human health and the environment.
- 2.20 Both Customs and AQIS use x-ray equipment for primary screening of small and large parcels. Parcels are carried by conveyer belt to x-ray stations, where a Customs and an AQIS officer view each item on separate video displays at the same x-ray station. Each inspector scans the parcels according to the requirements of their agency.
- 2.21 Both AQIS and Customs use detector dogs to screen incoming letter post. Dog handlers take care to ensure that the dogs do not damage mail items, and in some cases the animals may wear leather 'booties' to assist in damage prevention. From observations by the Ombudsman's office and the explanations given by the agencies, it does not appear that dog detection is a significant cause of damage to mail items.
- 2.22 If Customs or AQIS officers note existing damage to items at the primary screening stage that has not already been identified by Australia Post, they will as a matter of good practice bring this to the attention of an Australia Post employee for action.
- 2.23 Parcels identified at x-ray as 'of interest' are marked to identify the relevant border agency interest using a different coloured marker pen for each agency. The parcel is then diverted from the general mail stream and transported (usually by conveyor belt) to the second inspection area.

Secondary inspection

Opening of outer packaging

- 2.24 If either Customs or AQIS identify an article as suspect, it is the responsibility of Australia Post to open the outer packaging of the article for further inspection by

the relevant agency. Under s 90S of the *Australian Postal Corporation Act 1989* (APC Act), only an authorised Australia Post employee can open a mail article.

2.25 Opening is done using open-bladed knives. Australia Post advises that using open-bladed rather than retractable knives enables more precise opening and reduces the possibility of damage. Where possible, parcels and letters are opened by unsealing or lifting sealing tabs. Otherwise, parcels are cut to allow unpacking access by the border agency.

2.26 Australia Post advises that a senior mail officer conducts training on-the-job for authorised staff tasked with opening mail.

2.27 As noted at paragraph 1.4 above, parcels under 2 kg in the ordinary mail are not bar-coded. There is accordingly no way of tracking their progress through the inspection system. Particularly where a parcel is to be opened, we believe that some form of tracking would be desirable. One way of doing this would be to expand the bar coding of mail items to include all items which are opened.

Recommendation 3

Australia Post should give consideration to bar coding all items diverted for second inspection that have not already been bar coded. Items could then be scanned before opening and transfer to the relevant border agency.

Unpacking and inspection

2.28 After opening, items are transferred into the custody of the relevant border agency. At this time the items are unpacked and the contents removed for detailed inspection and assessment. Inspections are carried out only in designated areas of each facility.

2.29 Where the contents of a parcel need to be opened, this is done by Customs or AQIS inspectors, using an open-bladed knife or by opening or unsticking the item where possible. Where any internal packaging that is subject to quarantine is found (such as sphagnum moss or other plant material), the packaging is destroyed.

2.30 As part of its induction training, AQIS trains its staff in unpacking, inspecting and correctly repacking mail parcels. AQIS standard operating procedures (SOPs) refer to the AQIS officer's duty of care under s 49 of the *Quarantine Act 1908* to ensure that inspection is carried out in a professional manner, and to avoid unnecessary damage or loss of goods.

2.31 Each AQIS inspector is issued with an individual identifying stamp, which is applied to any item that inspector unpacks in the course of their duties. This means that tracing the handling of a particular parcel in the event of a complaint is more accurate.

2.32 The AQIS SOPs state that care should be taken in unpacking, handling and repacking items.

2.33 Customs has different operating procedures for each of the States. In the SOPs provided to the Ombudsman's office, no mention is made of the requirements for unpacking and repacking for Queensland, South Australia, Victoria or New South Wales. There is a directive for care in the Northern Territory SOPs. No SOP was

provided for Western Australia. Customs advised in response to our queries that it has recently introduced the use of an ‘accountability stamp’ by officers opening mail, in line with AQIS procedures.

2.34 The emphasis in the AQIS procedures on care being taken at each stage of the process is one that we endorse and that all three agencies could usefully adopt on a nationwide basis. In our view, it would be desirable for all three agencies to have similar standard operating procedures for opening mail. We recognise that these may not be particularly detailed in their description of methodology for opening. We do however endorse the procedure of each officer who opens mail stamping it with a unique identifying stamp, and it is recommended that all three agencies adopt this practice.

Recommendation 4

4.1 Customs and Australia Post should develop standard operating procedures, with national application, for opening mail and packets enclosed in mail for inspection.

4.2 Officers of all agencies who open mail or packets contained in mail, including Australia Post employees, should apply a stamp to the opened item that can be used to identify the officer responsible.

2.35 Once an item has been opened and inspected one of several things can occur depending on the relevant agency. Part or all of the contents of a parcel or the packaging of a parcel may be:

- retained by the agency for collection of relevant duties and/or permits
- retained pending instruction from the addressee as to what action to take
- destroyed, fumigated or otherwise treated
- referred between agencies (for example, where AQIS discovers goods for duty, related to narcotics or drugs, or goods to be screened by the Community Protection Officer these are referred to Customs⁵).

2.36 Unless the entire parcel is being retained, the parcel is repacked and returned to the mail stream.

2.37 Where an item of interest is detected by either agency, the item is removed from the parcel and notification is enclosed in the parcel informing the addressee of the details of the item and the reasons for its removal. The parcel is then resealed by Australia Post, with tape identifying the agency involved in the inspection, and returned to the mail stream, with the retained item being held in the Detained Goods Area.

2.38 It is the border agency’s responsibility for resealing packages which are contained within a parcel and which have been unwrapped in the course of inspection. There are no guidelines for doing this in the SOPs of AQIS or Customs, however AQIS staff are encouraged to take all care when repackaging an opened parcel.

⁵ As directed in AQIS SOP Inspection Procedures—International Mail Program—7.6 Australian Customs Service Referrals.

Commonwealth Ombudsman—Damage caused to inbound international postal items

2.39 Where items have been removed from a parcel for placement in the Detained Goods Area and the remainder of the parcel is to be returned to the mail stream, AQIS encourage staff to repackage and pad the empty space within the parcel.

2.40 Any damage discovered during the unpacking and inspection process by both Customs and AQIS is to be reported to Australia Post⁶ which keeps a gateway facility journal for the purpose. Damage caused during the inspection process by AQIS staff is required to be reported to senior Australia Post staff, and a form completed according to their SOPs.⁷

2.41 Items that are listed on the consignment documentation, but are not within the packaging or are at variance with the documentation, are reported to an AQIS supervisor.

2.42 It would seem that there is a general practice by Customs of reporting missing items to Australia Post. However, Customs did not at the time of this investigation have consistent policies as to how to deal with items damaged or found to be damaged.

2.43 Just as it is important to identify damage at the primary screening stage, it is equally, if not more important, to identify damage caused at the secondary inspection stage. In particular, agencies should be forthcoming in recording where damage has been caused by their actions. It should be recognised that in the act of opening a mail item, damage will occur from time to time. If it does, then the agency should as a matter of good administration be prepared to accept responsibility and to compensate the owner of the damaged item where this is appropriate.

2.44 We consider it a matter of importance that accurate records be kept of damage that is detected during the inspection process, however caused, to facilitate the making of legitimate compensation claims by the public. It should also be appreciated that good record keeping serves to protect agencies from spurious claims.

Recommendation 5

Customs should develop policies similar to those of AQIS for recording and reporting of damage identified or caused at the secondary inspection stage.

Section 90T openings

2.45 The exception to the above procedure is a 'section 90T' opening by Customs where it is reasonably believed that the item may consist of or contains certain drugs or other chemicals.⁸ Under this section of the APC Act, where a Customs officer identifies a suspect item, the item can be opened by a second (more senior) officer in the presence of a third officer. The item is then required to be closed up and returned to the normal course of carriage by the officer who opened it. A separate record of each s 90T opening is to be kept.

⁶ MoU, 'Guidelines for the Opening and Inspection of International Mail'.

⁷ Dealing with Valuable, Damaged, Missing and Separated Goods—International Mail Program 10.4, page 7.

⁸ APC Act Part 7B Dealing with articles and their contents Division 3 Limits on opening and examining articles.

2.46 The Australian Postal Corporation Regulations 1996 prescribe how and in what manner records are to be kept of the opening of articles under s 90T of the APC Act. On the assumption that the regulations are complied with, no further observations need be made in this report on that subject.

Resealing

2.47 Australia Post has sole responsibility for resealing parcels once the border agency has completed its inspection and deemed that the parcel should be returned to the mail stream. An authorised staff member seals the parcel with clear tape and a sticker is applied which identifies the agency that requested the opening of the parcel and undertook an inspection.

2.48 As previously stated, Australia Post also has responsibility for repackaging items sent in containers which are prohibited by AQIS.

2.49 Customs and AQIS have a responsibility to tape a parcel they have repacked in such a way as to prevent the contents of the parcel falling out. This is not intended to constitute a final sealing of the parcel, as the expectation is that Australia Post will complete the sealing of the outer packaging preparatory to returning the parcel to the mail stream. However, we observed in one facility items being returned to the mail stream by Australia Post without any final sealing being undertaken, because the officer involved considered that the inspecting agency had sufficiently sealed it.

2.50 If Australia Post does not finally seal items before returning them to the mail stream, this could mean that the appropriate tape, stickers and notifications are not included on the parcel. This would not only be a contravention of provisions of the APC Act (see paragraph 2.53 below); it could make it more difficult to establish where any damage to the parcel in question took place.

2.51 In our view, Australia Post should never simply return a parcel to the mail stream without applying the relevant sticker to show which agency examined it. In all cases, Australia Post should fulfil its responsibility for resealing parcels by ensuring that the item is sufficiently secure to withstand the stresses of mail handling.

2.52 Australia Post could consider resealing parcels in plastic pouches where the process of opening them has substantially weakened the outer wrapping. Where re-taping the parcel is sufficient, this should always be done so as to leave no gap in the exterior packaging of the parcel. Australia Post should accept responsibility for loss and damage caused by inadequate resealing of packages that have been opened for inspection: for example, where items are missing from a parcel that has been opened and it appears that they may have fallen out.

Recommendation 6

6.1 Australia Post should develop nationally applied standards for resealing inspected items, which includes consideration of using plastic pouches where appropriate and ensuring the integrity of resealed items.

6.2 Australia Post should acknowledge and accept responsibility for loss and damage caused by the inadequate resealing of parcels.

Advising members of the public of an inspection

2.53 All items that have been opened for inspection are required by s 90V of the APC Act to carry a notice that the item has been opened. If the article was opened under s 90T of the Act (where an article is believed to carry prohibited drugs) then the notification is the responsibility of Customs. If the article was opened under any other relevant provision then the notification is the responsibility of Australia Post.

2.54 Notification is done by fixing coloured tape to the outside of the parcel, which reads 'Opened by Australia Post for inspection by [Customs/AQIS]' and an abbreviation for the facility where the inspection was done; for example SGF for the Sydney Gateway Facility.

2.55 AQIS also places a pamphlet into an opened parcel. One such pamphlet advises the addressee that the parcel has been opened, but no items have been removed. Another advises the addressee if items have been seized. Both pamphlets are accompanied by AQIS's 'What can't be mailed to Australia?' brochure, which sets out in more detail what can and cannot be posted into Australia. This brochure is produced in a range of languages, and gives both a 1800 number to contact AQIS, and the direct numbers of the International Mail Centres.

2.56 If items are seized by AQIS, a seizure notice is also included, giving information on how the addressee might have the item treated or re-exported. This notice advises the addressee to contact the Quarantine Detained Goods Officer in the relevant state.

2.57 Customs currently does not provide any additional information for members of the public about the inspection. However, Customs advises that it is currently preparing a pamphlet with information on how to contact the organisation if there are any questions about a second inspection.

2.58 If an item is not fit to continue in the mail stream, for example where liquid is leaking from a package or where the wrapping has been damaged to the point where the contents may fall out, Australia Post staff remove the item and rewrap or reseal the item. This may occur before or after AQIS or Customs has inspected the item. If AQIS or Customs staff identify this type of item, they advise Australia Post staff, who then take appropriate action.

2.59 These items are recorded in a gateway facility journal. A Verification Note is raised and returned to the country of origin, notifying that the parcel was received in a damaged condition. The parcel is then sent on, advising the addressee that the parcel was damaged and (if appropriate) has been rewrapped by Australia Post. This advice asks the addressee to complete a Customer Complaint Form and present the parcel (including packaging) to a corporate post office outlet for assessment.

2.60 Damage may also be identified after AQIS or Customs staff open a parcel. Details are recorded (see paragraphs 2.40 to 2.42 above).

2.61 Damage may be caused by the inspection process. AQIS SOPs cause a pro forma letter to be sent to the addressee, advising that the goods were damaged by AQIS officers, and asking the addressee to contact the relevant AQIS Mail Manager.

2.62 Customs does not have a set procedure for informing clients when articles have been damaged during a Customs' inspection. Although procedures differ

Commonwealth Ombudsman—Damage caused to inbound international postal items

between States, all States have a Damaged Goods Register or equivalent, where all damage is to be recorded. The Northern Territory SOP includes a requirement that notebook entries are made by Customs staff where damage is caused by the inspection.

2.63 As noted in paragraph 2.57 above, Customs has advised that it is preparing an information pamphlet on how to raise questions about a second inspection. We consider that it would be desirable for Customs to develop a pro forma letter, similar to that used by AQIS, to advise of damage caused during a second inspection and to give information about whom the addressee of the article can contact, perhaps by reference to the new pamphlet.

Recommendation 7

Customs should develop a pro forma letter, similar to that used by AQIS, to advise of damage caused during a second inspection and to give information on who the addressee of the article can contact about it.

PART 3—WHEN DAMAGE IS CAUSED AT THE FACILITY

Framework for liability

Attribution of responsibility between Australia Post and border agencies

3.1 Australia Post accepts responsibility for the mail when it is received from the international carrier, and that responsibility then continues up until the point of delivery. The exception is when Australia Post has opened the mail for second inspection by the border agencies, at which point the agency has liability for items until they are again returned to Australia Post for repacking and re-entry into the mail stream.

3.2 The fact that an item is the responsibility of Australia Post does not necessarily mean that Australia Post is liable to pay compensation if it is lost or damaged. As noted in Part 2, the person who is entitled to claim for loss and damage, and the authority to which they must apply, may vary depending on the mail service used and whether insurance has been purchased.

3.3 It is important that agencies work together to provide mail users with certainty about whom to approach with a claim for loss or damage. This office has dealt with complaints in the past where agencies have failed to agree on who is responsible for dealing with compensation claims. Members of the public may not have access to information to enable them to make an informed choice as to who is responsible for handling their claim. Agencies therefore have a responsibility to assist claimants to go to the right place.

Recommendation 8

8.1 Customs, AQIS and Australia Post should work collaboratively to assist claimants to lodge claims for compensation with the appropriate agency.

8.2 Where an agency considers that another agency would be more appropriate to handle a claim, the agencies involved should take responsibility to decide between themselves who should do so. Claimants should not be expected to have to communicate with multiple agencies in an attempt to find someone willing to consider their claim.

Customs and AQIS

3.4 Payment of compensation for damaged goods by Customs or AQIS is expenditure of public money, and has to be authorised by law. Payments may be made by AQIS and Customs either in respect of an anticipated legal liability, in accordance with the Attorney-General's *Legal Services Directions on Handling Monetary Claims*, or under the Compensation for Detriment caused by Defective Administration Scheme.

Australia Post

3.5 The framework for Australia Post's liability for damage caused to postal items is set out in Part E of the Australia Post Terms and Conditions. The Terms and Conditions are made by the Australia Post Board under s 32(1)(b) of the APC Act.

Commonwealth Ombudsman—Damage caused to inbound international postal items

3.6 Under Clause 68 of the Terms and Conditions, Australia Post is not liable for injury, misdelivery, damage or any other loss of any kind, however caused. Under Clause 73, however, Australia Post may at its discretion pay for repair or replacement of an article up to \$50. The addressee may claim discretionary compensation under Clause 73 for damage to international postal articles coming into Australia.

3.7 There are exclusions from liability for discretionary compensation, including where:

- an article is confiscated or destroyed either under the internal legislation of the destination country, or by customs officials or other competent authorities
- loss or damage arises from the inspection or repackaging of uninsured articles, as permitted by law, by Customs or AQIS
- the possession of an article is prohibited by or under any Australian Commonwealth, State or Territory law, or is prohibited by Australia Post or by the destination country.

3.8 Articles that are damaged during carriage by post may also be covered by insurance. Insurance claims for damage are made in accordance with the UPU rules referred to at paragraph 2.11 above. This may in some cases lead to a claim having to be made to a foreign postal authority, although Australia Post is responsible for the loss or damage in question.

3.9 Australia Post should recognise that the arrangements for claiming compensation for international mail may appear counter-intuitive to claimants and may be a source of frustration. This is particularly so where an addressee becomes aware that an item has been lost while in Australia, but is referred to the sender to claim compensation from the sending postal authority.

3.10 In our view, when dealing with situations of this nature, Australia Post should be prepared to tender a sincere apology tailored to the circumstances of the case where it is apparently at fault. Australia Post should explain the reasons why it is referring the claim for compensation elsewhere. Recommendation 1 of this report, about supplying the addressee with the information necessary to make a claim, is relevant in these circumstances.

Recommendation 9

Where an addressee approaches Australia Post to claim for a lost or damaged international mail item, and the claim should be made by the sender and/or to a foreign postal authority, Australia Post should:

- (i) admit if it has been at fault
- (ii) tender a sincere apology, tailored to the circumstances of the case, where appropriate
- (iii) advise the complainant of the contact details for the relevant foreign postal authority for their information.

Assessing claims

Customs

3.11 Customs has an indemnity under s 34 of the *Customs Act 1901* against claims for loss and damage except where caused by the neglect or wilful act of an officer. The Ombudsman's office is not aware of any case in which Customs has refused to pay compensation in reliance on the s 34 indemnity.

3.12 The threshold issue is whether the damage can be attributed to the actions of Customs. As with all other procedures, the exact process varies from State to State. Generally, in order to assess the cause of the damage, Customs conducts an investigation. This can include:

- identifying the examining officer through the unique accountability stamp
- identifying the facility where the postal article was examined
- examining the Damaged Goods Register for that facility
- looking at officer notebooks
- talking to the relevant officer if identifiable.

3.13 There is no set process for assessing the cause of the damage, and therefore whether Customs is liable. Different procedures appear to be in place from State to State. We were advised in response to our questions on the subject that in Victoria, people who complain to Customs about items damaged in the inspection process are referred to Australia Post.

3.14 It is unsatisfactory for Customs' approach to claims for damage to vary depending on the State in which they are made, particularly when the majority of States are willing to consider such claims, whereas in Victoria all claims are referred to Australia Post. This has the potential to lead to blame-shifting between agencies, with resulting difficulties for members of the public in having claims for compensation considered appropriately.

3.15 In our view, Customs should have a defined, uniform system across the country for dealing with compensation claims, and there should be clarity about the circumstances in which Customs is liable to pay compensation for loss and damage.

Recommendation 10

Customs should develop nationally applicable policies for the assessment of compensation claims and the approval of compensation payments.

AQIS

3.16 An AQIS officer in the relevant Detained Goods Office normally undertakes the first level of assessment. They will receive the complaint and undertake an initial investigation of the issue. The nature of the investigation depends on the particular issue, but could include:

- identifying the examining officer through the unique accountability stamp and talking to that officer
- inspecting the onsite Discrepancy Register and the Damaged Goods Register
- assessing the information and evidence provided by the claimant.

3.17 If the matter is not resolved at that point, it is escalated to the supervisor or manager of the area. If compensation is considered to be appropriate, the matter is escalated to the National Manager, who has responsibility for approving claims. There is a pro forma document for recommending the payment of compensation, and a deed of release for the parties to sign releasing the Australian government from further liability once a payment is made.

Australia Post

3.18 Australia Post also assesses claims for damage on a case-by-case basis. Claimants are asked to provide evidence of the damage, and the value of the parcel. In practice, most claimants initially contact the Australia Post Customer Contact Centres (CCCs). Staff at the CCCs are trained to advise customers to take the contents and packaging to a postal outlet for assessment, and to complete a claim form at that point. Each claim is considered on its merits by an Australia Post employee with authority to approve payment of compensation where appropriate.

Disputed claims

3.19 Generally speaking, disputes relate to questions of fact that are best determined by the delegate responsible for deciding the claim. Where a claimant considers that an agency has gone about assessing compensation in an unlawful or unreasonable way they have recourse to the Ombudsman's office. We would encourage all agencies involved in making compensation claims to ensure that dissatisfied claimants are aware of that right.

PART 4—CONCLUSIONS

Summary of investigation

4.1 The three main themes emerging from this investigation are summarised below.

Identification and recording of damage

4.2 Members of the public may find it difficult to identify which agency is responsible for damage to mail items if they cannot identify at what stage of the process the damage took place. Equally, agencies leave themselves open to claims that may not be justified if they do not record, in a comprehensive manner, the damage that they notice or cause.

4.3 It appears that there is no reliable, systematic recording of damage identified or caused to inbound international mail items. This investigation has identified the need for such a record to be made.

4.4 It is incumbent on all agencies to keep accurate and complete records of damage found and damage caused to items, whether deliberate or accidental. Specifically, the bar coding of all items diverted for a second inspection by Customs or AQIS could assist in the recording process and consideration should be given to its implementation.

Resealing of opened items

4.5 Although there is an awareness of the requirement for opened items to be resealed, our investigation found that this was not always adhered to in practice. Independently of this investigation, the Ombudsman's office has handled complaints about items missing from packages that appear to have been opened for inspection on entry into the country, where the missing items may simply have fallen out of openings left in the packaging.

4.6 Ombudsman staff who visited Australia Post facilities as part of this investigation witnessed an item being returned to the mail stream without any resealing by Australia Post because the resealing by the inspecting agency was judged adequate. As discussed above, this means that the statutory requirement to identify the opening agency on the item that has been opened may not have been complied with.

4.7 In our view, Australia Post should ensure that it properly reseals all items that have been opened by inspecting agencies, and ensure that in all cases appropriate identifying tape, stickers or other marks are placed on the parcel for the addressee's information. Consideration should be given to resealing the whole item in a plastic pouch if taping may be insufficient.

Informing addressees about compensation claim arrangements

4.8 Loss and damage will occur from time to time in the international mail process, notwithstanding the best efforts of the agencies involved to prevent it. Australia Post's participation in the UPU means that addressees may find themselves having to pursue the matter with a foreign sender or a foreign postal authority.

Commonwealth Ombudsman—Damage caused to inbound international postal items

4.9 This can lead to addressees becoming frustrated with a process that they see as placing unreasonable burdens on them, or being a ‘blame shifting’ exercise. In our view, the chances of this would be lessened if Australia Post firstly offered a sincere apology for damage or loss, tailored to the individual circumstances of the case, where one is due. Australia Post should also provide full contact details for the overseas postal authority if addressees are being referred to it.

4.10 Use of phrases such as ‘any inconvenience is regretted’ where an item of some value has clearly been lost by Australia Post within Australia, do not really serve to address what may be justifiable feelings of anger or disappointment in an addressee. In our view, a more directly expressed form of apology is better suited to such circumstances. Where a member of the public is being told that they will need to pursue a matter of that nature with a foreign postal authority, it would show some willingness to assist if that authority’s customer contact details were included with the advice.

PART 5—AGENCY RESPONSES TO RECOMMENDATIONS

5.1 The recommendations of this report, and the responses received by the Ombudsman to them, are summarised below. Where no agency response to a recommendation is recorded, that agency did not make any comment on the recommendation in question. Comments on the agency responses are noted where relevant.

Recommendation 1

Advice sent to customers on making a complaint about a damaged parcel should include sufficient information for the complaint to be lodged by the person required to lodge it, with the appropriate compensating authority.

Response

Australia Post commented that all claims for damage to inbound international items would be handled by Australia Post, rather than a foreign postal authority. Accordingly, there should be no need for addressees to be referred to overseas postal administrations. Australia Post's practice is to include an advice letter in mail that has been repackaged following damage, providing contact details for Australia Post's CCC.

Ombudsman comment:

We welcome this clarification of the way in which claims for damage are to be directed, and note the practice that should be followed by Australia Post staff where items have to be repacked following damage.

Recommendation 2

2.1 Australia Post should implement a national policy of maintaining registers at all facilities of parcels identified as damaged on receipt.

2.2 The accurate use of these registers should be monitored and enforced.

Response

Australia Post noted this recommendation, but suggested that because verification notes are raised and returned to the country of origin where damage is identified, separate registers by themselves are not required to enable compensation claims to be progressed.

Ombudsman comment:

Our understanding from Australia Post's response to this and the previous recommendation is that the location where damage occurred—whether inside or outside Australia—is irrelevant to Australia Post's accepting responsibility for payment of compensation for damage caused.

That clarification is helpful, and to some extent negates the need for registers to be kept of damage noted on receipt. However, as a matter of good administration it is our view that there should be formal recording of verification notes raised by Australia Post—which is after all done pursuant to international obligations. A register of

verification notes should, on the basis that verification notes are always raised where appropriate, meet the recommendation that a register of incoming damaged items be maintained.

Recommendation 3

Australia Post should give consideration to bar coding all items diverted for second inspection that have not already been bar coded. Items could then be scanned before opening and transfer to the relevant border agency.

Response

Australia Post noted that the affixing of bar codes to parcels over 2 kg was in compliance with obligations imposed by the UPU. Australia Post has taken the opportunity to use this bar coding to monitor what items have been diverted to second inspection and to provide service performance awareness.

Australia Post advised that bar codes are not required by the UPU for items under 2 kg. To bar code all such items would require some 18 million items a year to be bar coded. Some 720,000 items per year are diverted to second inspection. Australia Post saw no operational benefit in bar coding these items.

Ombudsman comment:

We appreciate Australia Post's consideration of whether bar coding would be feasible. In our view there would be benefits associated with bar coding the 720,000 items sent for second inspection. This would enable any item that is the subject of an enquiry to be tracked while awaiting processing.

We acknowledge however, that the process of so doing, which would involve the capture of addressee information, would have cost implications. We accept that it is for Australia Post to make operational decisions of this nature, and simply invite Australia Post to keep this recommendation in mind should it have cause to review the question of bar coding items in the future.

Recommendation 4

4.1 Customs and Australia Post should develop standard operating procedures, with national application, for opening mail and packets enclosed in mail for inspection.

4.2 Officers of all agencies who open mail or packets contained in mail, including Australia Post employees, should apply a stamp to the opened item that can be used to identify the officer responsible.

Response

Customs advised that it has introduced new organisational arrangements to improve accountability and achieve national consistency across its cargo operations.

It has drafted national practice statements and instructions for postal activities that are intended to apply consistently in all international postal gateways. These include the use of identification stamps.

Commonwealth Ombudsman—Damage caused to inbound international postal items

Australia Post noted that Schedule 2 of the revised MoU between Customs, AQIS and Australia Post sets guidelines for the opening and inspection of international mail.

Australia Post also commented that while Australia Post officers are responsible for opening the packaging by breaking the seal, they do not participate in the unpacking of contents for subsequent inspection. Given the number of parcels opened, it is unlikely that the officer would recall individual items. In Australia Post's view, identification of the officer responsible would serve no useful purpose.

Ombudsman comment:

We welcome the work that agencies have done to review and standardise their procedures in this area.

Our recommendation about identification stamps is based on considerations of transparency and accountability. The function of breaking the seal of a postal item is a significant one, and one which has potential to lead to questions being asked if contents are subsequently alleged to be missing from the item.

The ability to identify the officer who opened an item is not solely aimed at asking that officer to remember a given item some weeks later. It also demonstrates that the item was opened according to law, and potentially allows patterns of complaints to be identified.

We remain of the view that Australia Post should, in line with the policy of Customs and AQIS, mandate the use of identification stamps by its officers who open parcels in the course of their duties for the purpose of second inspection.

Recommendation 5

Customs should develop policies similar to those of AQIS for recording and reporting of damage identified or caused at the secondary inspection stage.

Response

Customs advised that its new national practice statements and instructions covered scenarios where items are found to be damaged on receipt by Customs for inspection, or are damaged by Customs during the inspection process. The practice statements also include a uniform process of notification of damage to Australia Post.

Recommendation 6

6.1 Australia Post should develop nationally applied standards for resealing inspected items, which includes consideration of using plastic pouches where appropriate and ensuring the integrity of resealed items.

6.2 Australia Post should acknowledge and accept responsibility for loss and damage caused by the inadequate resealing of parcels.

Response

Australia Post noted that the revised MoU would contain guidelines for resealing of parcels, and advised that this would include repacking in plastic where appropriate.

Commonwealth Ombudsman—Damage caused to inbound international postal items

The MoU will provide that Australia Post is liable to pay compensation where the cause of damage was the result of processes for which Australia Post was responsible, including inadequate resealing of parcels.

Recommendation 7

Customs should develop a pro forma letter, similar to that used by AQIS, to advise of damage caused during a second inspection and to give information on who the addressee of the article can contact about it.

Response

Customs advised that it has developed a pamphlet for inclusion in packages to advise that nothing was taken during examination (if that is the case). A letter has also been developed advising addressees if any damage was caused to goods during examination and providing information about how to claim compensation.

Recommendation 8

8.1 Customs, AQIS and Australia Post should work collaboratively to assist claimants to lodge claims for compensation with the appropriate agency.

8.2 Where an agency considers that another agency would be more appropriate to handle a claim, the agencies involved should take responsibility to decide between themselves who should do so. Claimants should not be expected to have to communicate with multiple agencies in an attempt to find someone willing to consider their claim.

Responses

AQIS agreed with this recommendation. It advised that AQIS, Customs and Australia Post had almost completed a review of the current MoU, Schedule 3 of which provides guidelines for handling complaints about lost and damaged goods with a view to promoting consistency and providing guidance about the extent of each agency's liability.

Customs also noted the existence of the new MoU and its goal of promoting consistency of advice about damage and loss.

Australia Post referred to the MoU and in particular to its provision that the agency of first contact should, where possible, deal with enquiries as the sole contact.

Recommendation 9

Where an addressee approaches Australia Post to claim for a lost or damaged international mail item, and the claim should be made by the sender and/or to a foreign postal authority, Australia Post should:

- a) admit if it has been at fault
- b) tender a sincere apology, tailored to the circumstances of the case, where appropriate
- c) advise the complainant of the contact details for the relevant foreign postal authority for their information.

Response

Australia Post confirmed its stance that where loss or damage was the result of processes for which it was responsible, it would be liable to pay compensation.

Australia Post suggested that it would be inappropriate to refer addressees directly to overseas postal administrations in respect of claims for total loss or insurance, where the rights to compensation payable were those of the sender and not the addressee.

Australia Post agreed that it would acknowledge in appropriate terms where it had been at fault and would apologise accordingly.

Ombudsman comment:

We welcome Australia Post's further clarification of its liability for damage to mail items. We accept that under international postal agreements, the sender of an item may be the person entitled to claim for total loss or under an insurance policy.

A number of approaches to the Ombudsman every year evidence uncertainty or misunderstanding about this principle in the minds of addressees of lost items. We agree that it is not unreasonable for Australia Post to advise addressees accordingly where international agreements provide for the right to claim compensation to be with the sender.

Where this advice is being given to addressees, sufficient explanation should be given to them of the reason why the sender has that right (namely, the relevant international agreements) for them to be able to understand why Australia Post is unable to process a claim for compensation.

Recommendation 10

Customs should develop nationally applicable policies for the assessment of compensation claims and the approval of compensation payments.

Response

Customs noted that it already had Chief Executive Instructions dealing with compensation claims and approval for payment.

It advised that it would consider these instructions further with a view to providing specific guidance about decisions on compensation claims in the postal environment.

APPENDIX 1—ACROYNYS AND ABBREVIATIONS

APC Act	<i>Australian Postal Corporation Act 1989</i>
AQIS	Australian Quarantine and Inspection Service
Border agencies	AQIS and Customs
CCC	Customer Contact Centre
Customs	Australian Customs Service
kg	kilogram
MoU	Memorandum of Understanding
SOP	Standard Operating Procedure
UPU	Universal Postal Union