

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

DOCKET No. MC2009-24

COMMENTS OF EXPRESS DELIVERY AND LOGISTICS ASSOCIATION.
PURSUANT TO PRC ORDER 207

May 5, 2009

Order 207 is a notice of filing by the USPS to add a Negotiated Service Agreement (NSA) to the Competitive Product List; specifically a commercial agreement with Royal Mail for Inbound Air Parcel Post traffic.

XLA objects to the inclusion of the abovementioned agreement to the Competitive Product List on the grounds that the Postal Accountability and Enhancement Act (PAEA) prohibits competitive products from having unequal regulatory treatment between the USPS and other competing American international delivery providers.

The USPS is subject to a completely different inbound customs clearance regime than every other international parcel delivery company, therefore the PRC cannot allow the USPS's request without simultaneously allowing obfuscation of the PAEA.

Section 407 (e)(2) of the PAEA says:

“With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.”

Despite the clear and unmistakable language of the law, nearly two years after the PAEA's implementation the USPS continues to utilize a completely different customs clearance process (commonly referred to as 'postal customs clearance') than every other competing American provider of international delivery services (commonly referred to as 'commercial customs clearance').

XLA fully understands the necessity of the continued existence postal customs clearance channel to serve the Universal Service Obligation (USO) that is associated with Market Dominant Products. However, the USPS's attempt to move this NSA to the Competitive Product List is being done solely for commercial purposes; that is what the Competitive Product List is for. Therefore two separate customs clearance processes, one available to only the USPS, and Competitive Products are legally incompatible.

XLA requests that the PRC reject the request embodied in Order 207 until such time as one customs clearance regime is used for all importers of commercial international parcel deliveries as the PAEA requires or, alternatively, allow the request to be carried out on the condition that the USPS use the commercial customs clearance regime required of all other competing American providers of inbound international parcel delivery services.

Respectfully submitted,

WILLIAM GENSBURG

EXPRESS DELIVERY AND LOGISTICS ASSOCIATION