

POSTAL REGULATORY COMMISSION
Washington, D.C. 20268-0001

Ruth Y. Goldway
Commissioner

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Federal Trade Commission
Office of the Secretary
Room H-135 (Annex F)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: USPS Study, Project No. P071200

I am writing to urge the Federal Trade Commission (FTC) to fully assert their broad statutory responsibilities to oversee the activities of the United States Postal Service (USPS) given to it by the Postal Accountability and Enhancement Act (PAEA).

Under this reform law, the Postal Service is encouraged to act more like a private corporation. The Service is required by law to divide its products and services into two categories: competitive and market-dominant. The Service can set its own rates within a defined Consumer Price Index (CPI) cap. It can accumulate a surplus and raise pay levels for management. But the Service maintains its government agency status and can rely on its exemption from negligence and insulation from competition in many areas.

To ensure that the Postal Service does not abuse its new flexibility, Congress mandates greater transparency, requiring the Postal Service to file comprehensive financial reports and establish service standards for all mail products. The new Postal Regulatory Commission (PRC) has been established with greater responsibility for oversight, subpoena power and complaint resolution authority. We are actively engaged in establishing new rules and consulting with the Postal Service and the public on standards and procedures. But the PRC cannot be -- and is not expected to be -- the sole watchdog of the monopoly.

The FTC must use its regulatory expertise and authority to review and, if appropriate, call into question actions of the Postal Service as the Service markets competitive products that may create unfair competition with private competitors. For example, the Postal Service could unfairly subsidize those products using its monopoly-financed base rates. It could unfairly advertise those products relying on its brand name and government reputation.

Unfair competition could be created by indirect means as well, given the intrinsically high barriers to market entry. The Postal Service could, for example, create an exclusive partnering agreement with one favored private competitor, or decline to engage in business with a disfavored competitor in a manner that unfairly seizes market share or otherwise displays anti-competitive behavior.

It is important as well for the FTC to review the actions of the USPS in marketing its monopoly products. In the past, when exempt from FTC oversight, the Postal Service deceptively characterized applicable service standards, arbitrarily withheld insurance reimbursements and expended large sums on misleading advertising campaigns.¹

Just as private corporations need protection from a \$70 billion government monopoly, so do customers who rely on the Postal Service's brand yet are confused by the complexity of its product offerings and often overwhelmed by the difficulties of seeking redress through unresponsive and/or unavailable clerks, offices and telephone lines.

Postal Service customers should be able to make informed choices. The Postal Service must provide accurate information on its products and services, and be accountable if it does not do so. We look to the FTC to diligently apply the provisions of the laws² against deceptive advertising (unfair and deceptive acts and practices) --- as well as those against more general unfair methods of competition --- to make the Postal Service act as a truthful and honorable corporate citizen and steward of a government franchise.

While I speak only for myself and not necessarily for my fellow Commissioners in urging you to act on behalf of customers, especially individual consumers, I know my fellow Commissioners look forward to working with the FTC in fully and properly implementing all aspects of the PAEA.

Thank you,

Ruth Y. Goldway

¹ See e.g., Goldway, Ruth, Fly Like an Eagle, Sting Like a Bee?, USA Today Editorial Page, December 8, 1999, posted at <http://www.prc.gov/tsp/37/ruth-usatoday.htm>. See also Truth in Advertising, Letter published in the Arizona Daily Star, January 12, 2000, posted at <http://www.prc.gov/tsp/40/azstar.pdf> (discussing Priority Mail); Complaint of Life-Time Fitness, PRC Docket No. C98-1, Concurring Opinion at 1, issued January 27, 1999, posted at <http://www.prc.gov/docs/8/8717/ORD1227.pdf> (discussing Standard Mail).

² Federal Trade Commission Act of 1938, ch. 49, § 3, 52 Stat. 111, codified at 15 U.S.C. § 45(a)(1) (1994)); Section 5 of the Federal Trade Commission Act (codified at 15 U.S.C. § 45).