

Memorandum

To: Postal Regulatory Commission

From: Murray Comarow

Subject: Comments on PRC Order No. 71, April 18, 2008, Report on Universal Postal Service and the Postal Monopoly

Pursuant to the Commission's Order No. 71, April 18, 2008, these comments deal with your forthcoming report to Congress on universal service, the postal monopoly, and mailbox access. These comments are mine alone; they are not necessarily shared by the National Academy of Public Administration, nor by any client.

#### GENERAL COMMENT

Some writers, often sponsored by conservative think-tanks such as Cato, Lexington, Hoover, and AEI, have long argued for privatization. That term goes by different labels: commercialization, corporatization, liberalization, and more. Whatever the label, the purpose is to move postal functions to the private sector. Weakening universal service, diminishing the already weak postal monopoly, and impairing the mailbox monopoly would be steps in that direction.

The overarching question that Congress should have asked the Commission to examine is: "What kind of postal service, if any, would best serve our society?" That would have made constituents very nervous, and so it was not asked. The 2003 presidential commission similarly took a pass, for the wrong reasons. Thus, the PRC will indirectly approach that core question by studying the three issues mentioned above.

Seeking a contractor for assistance, PRC issued a Request for Proposals late last year. Since most of the published material was pro-privatization, I guessed that their authors, claiming expertise, would submit proposals. I therefore urged Chairman Dan G. Blair, in an "Open Letter," to seek a contractor whose views were not tilted pro- or anti-privatization. From three proposals, the Commission selected a George Mason University team that includes several individuals who have taken pro-privatization positions, as well as academics with no postal background. The Commission's schedule evidently did not allow time to begin a new search. The Commission will therefore be supported by a group arguably tilted in one direction.

The GMU role has been described solely as one of support and data collection, not one of drafting a report. The Commission itself, Chairman Blair said, will develop its recommendations. I have absolutely no doubt that this is true, but data collection is not a neutral activity. In studying a mass of documents and data, reviewers select the most relevant and useful material. These are judgment calls.

Common sense and a host of experiments have revealed "confirmation bias," that is, researchers tend to select data that support their beliefs, despite evidence to the contrary. The

data that GMU selects may be perceived as influencing the Commission, especially by those disagreeing with its recommendations. In the interests of credibility, therefore, the Commission might consider making GMU's written products reasonably accessible to the public.

### UNIVERSAL SERVICE

Logic demands that those who advocate change carry the burden of demonstrating its presumed advantages. Privatization advocates have failed to carry that burden, at least to this writer, who regards himself as a devout agnostic on the issue. Some of their arguments are openly ideological: To paraphrase an old song, "Anything government can do, business can do better." Given the tidal wave of corporate missteps and failures, not to mention criminal behavior, that is a delusion.

The Office of Management and Budget has directed many competitions between businesses and government agencies for managing government programs, with mixed results. In some cases, business has prevailed; in others, career government staff was found to be more effective, despite OMB's pro-business bias.

More sophisticated, but headed in the same direction, are those inspired by the European Union model. The EU may have much to teach us, but our society is vastly different, economically and culturally. California and Italy have about the same Gross Domestic Products, \$1.7-\$1.8 trillion. Pennsylvania and The Netherlands, \$671 billion. Nevada and New Zealand, \$105 billion. Quantitative differences, if sufficiently great, become qualitative.

EU advocates, like fans anywhere, highlight the gains EU posts have made, but neglect the downside. Strikes are permitted, a common "right" in Europe, but a crime by all U.S. federal employees. EU advocates have a duty to disclose the effect a postal right-to-strike would have here. The human and economic impacts of the crippling postal strikes on St. Patrick's Day in 1970 are surely relevant, but rarely mentioned.

In Germany recently, Deutsche Post wanted more than 38.5 weekly work-hours from its employees. The union responded by a series of "warning strikes," threatening a general strike. Deutsche Post "compromised" (their word) with the union. No increase in hours; a one-time payment of EURO 200; a four percent pay hike retroactive to November 1, 2007; and another three percent in December 2009. Looking for a piece of the U.S. carrier market, Deutsche Post acquired DHL. Not a smart investment; DHL has been losing almost 1 billion a year.

Negotiations between the Dutch TNT Post and its five unions led to rolling strikes in April. TNT sought to lay off 11,000 employees, and align wages and benefits more closely with its market. Compromises led to a one year contract, well under TNT's goals.

In the U.K., where the Royal Mail ended its monopoly in 2006, a government commission recently reported that "the status quo is not tenable," and that the "liberalization" of the postal service has not benefitted households or small businesses. Large companies, however, have seen "clear benefits from liberalization."

The organizing principle for all government corporations (see next section) is that management should be able to operate the entity, as much as possible, like a business. The Postal Service lost that battle with the enactment of the December 2006 “reform” law, although the statute does offer flexibility to adjust most prices not to exceed the rate of inflation. (That may not be possible if costs rise rapidly, and what then? It is not at all clear that the statute’s exigency provision could be invoked.)

Given the core principle that managers should be permitted to manage, I recommend that the Commission define universal service as six-day-a-week delivery at no cost to recipients, but that the Postal Service be authorized, under reasonable standards and compelling circumstances, to adjust its coverage to meet customer demand and critical needs. Some customers, for example, prefer lockboxes to delivery. They should, of course, be accommodated. No national firm is legally strapped into a one-size-fits-all corporate system or strategy. If Congress ever gets serious about letting the Postal Service run like a business, it should keep this in mind.

### THE POSTAL MONOPOLY

Some members of the postal community assert that since the Postal Service has a monopoly, it must be regulated by an outside agency. That’s wrong, and defies precedent. There are eighteen government agencies called “government corporations,” of which the Postal Service is one. The list is attached. The Congressional Research Service Report for Congress of January 31, 2008, “Federal Government Corporations: an Overview,” discusses them all. All provide commercial-type products or services. All operate entirely or substantially on customers’ revenues, not taxes. Government corporations have been parts of the federal government for over a century.

Each of the eighteen has a “monopoly” of sorts, but the boards (or the administrators who run two of them) are not free to charge whatever they wish. Their governing statutes command them to protect the public, while serving their customers or users. They set prices or fees under statutory guidelines. Their decisions must be based on substantial evidence and are subject to appeal in the Federal courts.

Private sector monopolies are regulated because they are not created to protect the public and because their history has demonstrated that they cannot be trusted to protect the public. They are responsible to shareholders and have a duty to maximize profits. Very different from government monopolies.

There is something to be said for a certain ambiguity on the letter monopoly issue. The Postal Service has modified it more than once, and it seems to work. Competitors and conservative academics aside, I am not aware of a groundswell demanding its termination. As with universal service, I recommend that the Postal Service, within broad guidelines, be authorized to adjust its scope as required by circumstances.

## THE MAILBOX MONOPOLY

Access to the mailbox is restricted to the Postal Service by 18 U.S.Code 1725. The last well-designed study I know of is the May 1997 GAO Report to a House committee (GAO/GGO 97-85, "Information About Restrictions to Mailbox Access.") Based on a national survey, and questionnaires to fifty-nine domestic organizations and eight foreign posts, GAO reported that:

- Eighty-two percent of U.S. postal customers are opposed to allowing "just anyone" to use their mailboxes.
- Fifty-eight percent favored access for companies like UPS or FedEx.
- Sixty-one percent said that "only the USPS" should place mail into mailboxes.
- Thirty-two percent said "some companies" should be allowed to do so.
- Sixty-six percent of households use unlocked mailboxes.

Opposed to repealing the mailbox monopoly were:

- The Postal Service, postal unions, and management associations, on grounds of privacy, security, and loss of revenue.
- The Justice Department, because laws governing sexually explicit material apply only to Postal Service mail, not to others who would have access.
- Ten of seventeen mailer groups, primarily on security grounds. Three favored modification; four had no opinion.

Favoring repeal or modification of the restriction were competitors and some commentators, on grounds that mailboxes are private property, that other laws can protect security, and unfair competition. While competitors have not seriously lobbied for mailbox access, I expect that they will take advantage of this opportunity to make their case.

Of eight foreign posts surveyed, six reported that open mailboxes posed no special problem. Only Germany's Deutsche Post said theft was a "very serious problem." Many customers in those countries use mail slots in doors or walls. In the Netherlands, for example, only twelve percent of households use mailboxes. The United Kingdom's Royal Mail reported that the vast majority use mail slots. In seven of the eight countries, carriers do not pick up outgoing mail, unlike the U.S. Postal Service. That would hardly please millions of our citizens, especially in rural areas, who rely on carriers to do that.

The above statements were plucked from GAO's fifty-seven page report. I would not be offended if they were analyzed for "confirmation bias" on my part.

## QUALITY OF SERVICE

“Quality-of-service” crosscuts the entire range of postal activities. Since the phrase has no official definition, for present purposes, I will view it as the sum of these parts:

- Frequency and consistency of delivery
- Behavior toward customers
- Security and privacy
- Accessibility and convenience

### Frequency and consistency of delivery.

The Postal Service is beset by an economic slump, by technological and cultural trends, and by rising costs that exceed the rate of inflation. It is losing \$200 million a month. It is irrationally constrained and its already limited ability to manage and grow has been further diluted by the December 2006 “reform” law. In the circumstances, its record is remarkable. Reducing the workforce by about 100,000 while exceeding previous delivery goals, it has earned extraordinary public approval ratings. Any move toward further weakening this beleaguered giant must be subject to strict scrutiny and persuasive evidence.

### Behavior toward customers.

There is no more important component of quality-of-service in any business, or in any government entity directed to act like a business. Here we have a mixed bag. The Postal Service is trusted more than any other government agency. Most people welcome their mail, and while the misconceived “junk mail” movement threatens volume, it has not yet made serious inroads. But the Postal Service, like any large organization, is not without its flaws.

Public attitudes are primarily shaped by letter carriers and postmasters. Carriers not only walk the last mile, but often walk the extra mile. Unfortunately, that is not generally the perception for window clerks. Complaints abound that they sometimes treat customers coldly, or brusquely. Major mailers continue to express frustration with the Postal Service’s marketing efforts. Reportedly, there is a new emphasis not only on responding to customer needs, but on learning their businesses and providing more and better services. This is what major competitors have done for years, and it works. These and similar problems are basic management issues, not for the PRC; I mention them only to round out my view of “quality-of-service.”

### Security and Privacy of Delivered and Outgoing Mail.

That the Postal Service is the most highly trusted agency (82 percent) did not happen by accident. It pervades the culture from top to bottom, and is strongly nurtured by management. The enforcement of security and privacy are in the hands of the Postal Inspection Service, which

reports to the Postmaster General, and the Inspection Service, which reports to the President and the Congress. Together, they account for less than one percent of the workforce.

Nationwide, the Postal Inspection Service employs about 3,000 people, 1,600 of whom are postal inspectors. The Inspector General employs 1,161 people, of whom 643 are investigators and 361 are auditors. The combined record of these organizations in combating mailbox theft, employee theft or misconduct, contractor overcharges, pornographic material, mail fraud, narcotics, and more, is impressive. The continued need for such focussed attention is paramount; any large group of staff and contractors, no matter how carefully culled, will have its share of malefactors.

I go into some detail on this aspect of quality-of-service because privatization advocates tend to omit or deflect it in their analyses, as they do with the impact of strikes. When queried, they dismiss it out of hand, arguing that the FBI and local police could take up the burden. That prospect should make mailers shudder.

The FBI's very different culture; its terrorism charter; its unending struggles with the CIA and the Bureau of Alcohol, Tobacco, and Firearms; and its failure to develop a computer system are only some reasons to believe that it would not see mail security as a priority concern. Local police departments will respond first and foremost to local violent crime. What I.G. investigators and postal inspectors do cannot be effectively replicated by federal or local police. Moving them as units into the Department of Justice would save little and wreak havoc.

I recommend that when the Commission considers mail security and privacy issues, it recognizes that tested enforcement measures are necessary to maintain those values.

I recommend a limited exception, however, with regard to privacy. Terrorists and crazies lead to the inescapable conclusion that in special circumstances certain mail should be opened. Authorization should be required, perhaps from the federal court (established by the Foreign Intelligence Surveillance Act) that is authorized to approve warrantless electronic surveillance. Given recent experience, I would hesitate to place that power in the hands of an Attorney General, but that would be another option.

#### Accessibility and Convenience.

As a presidential commission noted forty years ago, there are really two postal systems: the fifty largest post offices and the 37,000 others. Bulk mailers can usually work out a drop schedule with their post offices, although there will always be complaints. Individual mailers and small businesses, however, want post offices not too far away, open when they need them, and with fairly short lines. Post offices are usually open from 9:00 a.m. to 5:00 p.m., a fact that should produce increased interest in contract postal units (CPUs), but it doesn't. Forty years ago, when the U.S. population was about 200 million, there were 5,516 CPUs. Today with over 300 million of us, there are 4,169.

Contract postal units in supermarkets, department stores, and other retail businesses open earlier and stay open later than post offices. To the average citizen, they offer the same service as a post office, except for lockboxes. In my area, a CPU in the rear of a drug store (to stimulate impulse buying, of course) closed when the store went out of business. Local residents were informed that they would soon get their very own real post office. They strongly objected. Not all CPUs are as popular, of course, and some don't perform well and are closed.

I am not a big fan of closing post offices. Thousands lose money and would be closed in a heartbeat if they were run by a private firm, but they represent only a small fraction of postal costs. By law, post offices may not be closed solely for economic reasons. As a quality-of-service issue, however, increasing the number of contract postal units and unmanned automated facilities should be on the table.

The Postal Service's failure to do so is due to resistance by postmaster organizations and unions, and by a Congress everlastingly willing to curtail management in return for political support. The Commission should recommend gradual steps toward an increase in the number of CPUs and automated facilities, based upon objective criteria.

### CONCLUSION

The Commission will undoubtedly recommend changes to Congress. No serious body asked to study serious governance issues has ever told Congress that no changes are necessary. Nor do I contend that change in these postal policies would necessarily be bad. On the other hand, change is not necessarily good, either.

I trust that the Commission, grappling with these complex issues, will recommend changes only if supported by objective evidence and sound analysis, covering the factors discussed above, among others. Proposed changes should be supported by a convincing showing that they will, in all likelihood, make life better for our society. Changes that would reduce revenue would make a bad situation worse. Changes based on ideology or conviction, however sincere, are not worthy of consideration.

**Appendix 1. Federal Government Corporations**

1. Commodity Credit Corporation	(15 U.S.C. 714)
2. Export-Import Bank	(12 U.S.C. 635)
3. Federal Crop Insurance Corporation	(7 U.S.C. 1501)
4. Federal Deposit Insurance Corporation	(12 U.S.C. 1811)
5. Federal Financing Bank	(12 U.S.C. 2281)
6. Federal Prison Industries (UNICOR)	(18 U.S.C. 4121)
7. Financing Corporation	(12 U.S.C. 1441)
8. Government National Mortgage Corporation	(12 U.S.C. 1717)
9. National Railroad Passenger Corporation (AMTRAK)	(49 U.S.C. 241)
10. Overseas Private Investment Corporation	(22 U.S.C. 2191)
11. Pension Benefit Guaranty Corporation	(29 U.S.C. 1301)
12. Presidio Trust of San Francisco	(16 U.S.C. 460bb)
13. Resolution Funding Corporation	(12 U.S.C. 1441(b))
14. Rural Telephone Bank	(7 U.S.C. 942)
15. St. Lawrence Seaway Development Corporation	(33 U.S.C. 981)
16. Tennessee Valley Authority	(16 U.S.C. 831)
17. U.S. Postal Service	(39 U.S.C. 101)
18. Valles Caldera Trust	(16 U.S.C. 698-v4)

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CRS Report for Congress, Jan. 31, 2008, Order Code RL: 30365 “Federal Government Corporations: An Overview.”

## ABOUT THE COMMENTER

Murray B. Comarow was elected as a Fellow of the National Academy of Public Administration in 1974 and served on the organization's board of directors. An attorney, he was of counsel to two law firms and is a consultant to a major mailer. He was executive director of President Johnson's Commission on Postal Organization in 1967-68, and executive director of President Nixon's Advisory Council on Executive Organization in 1970-71. Additionally, he served as senior assistant postmaster general, distinguished adjunct professor in residence at American University, acting dean of its College of Public and International Affairs, partner at Booz Allen and Hamilton, executive director of the Federal Power Commission, and acting deputy general counsel in the Office of the Secretary of the Air Force.

These comments to the Postal Regulatory Commission may be considered against the background of some previous essays:

- The Dysfunctional Behavior of Mailers, August 2007
- What Does Postal Reform Do? June 2007
- The Strange Case of Postal Reform, February 2007
- The U.S. Postal Service is a Government Corporation, So What? November 2006
- The Postal Conundrum, September 2006

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