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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

**BEFORE THE UNITED STATES
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001**

SPECIAL SERVICES REFORM, 1996)
_____)

Docket No. MC96-3

BRIEF OF

DIRECT MARKETING ASSOCIATION, INC.

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January 7, 1997



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INTRODUCTION AND SUMMARY OF ARGUMENT

Direct Marketing Association, Inc. ("DMA") is a trade association whose more than 3,000 corporate members come from a broad spectrum of American business and utilize all classes of mail. DMA traditionally has had, and continues to have, a fundamental concern that the Postal Service be financially healthy and that postal rates be set in accordance with economically sound costing and pricing principles.

DMA takes no position on the merits of the classification changes and the related rates proposed by the Postal Service in this proceeding. However, DMA does have a strong interest in assuring that in reviewing those proposals the Commission applies proper principles, including the well-established principle that the fairness and reasonableness of proposed rates (and the attendant institutional cost coverages) be measured by reference to the institutional cost burdens being borne by all postal services.

The Commission last made judgments concerning the appropriate relationships among the cost coverages for postal services in the most recent omnibus rate proceeding, R94-1. Although those judgments were based on cost data for FY 1995 test year, USPS has sought to justify the instant rate changes using FY 1996 data. The evidence presented by USPS in this proceeding may be adequate to allow the Commission to determine whether the proposed rates for the services at issue herein will exceed USPS's costs for those services.^{1/} However, because the USPS presentation does not include FY 1995 cost data, it plainly is not adequate to permit a meaningful comparison of the proposed institutional cost burdens with the institutional cost burdens for all other services, reflecting the Commission's pricing judgment in R94-1.^{2/} USPS should be required to supplement the record with FY 1995 data, or bear a heavy burden of presenting some other means of making the necessary cost coverage comparisons.

^{1/} DMA takes no position as to the adequacy of this evidence.

^{2/} DMA identified this issue at the July 12, 1996 pre-hearing conference. Tr. 1/24 (remarks of Mr. Ackerly).

ARGUMENT**I. IN ASSESSING THE REASONABLENESS OF RATE CHANGES PROPOSED IN AN INTERIM CLASSIFICATION CASE, THE COMMISSION MUST COMPARE THE PROPOSED INSTITUTIONAL BURDENS WITH THE BURDENS IT HAS APPROVED FOR ALL POSTAL SERVICES IN THE MOST RECENT OMNIBUS RATE CASE.**

It is well established that the Postal Reorganization Act requires the Commission to review the fairness and reasonableness of rates proposed by USPS in two basic dimensions. The Commission must examine both (a) whether the proposed rates -- standing on their own -- cover the attributable costs of the services in question, see 39 U.S.C. § 3622(b)(3), and (b) whether the share of remaining, institutional costs borne by those services -- relative to the shares borne by all other postal services -- is appropriate based on the eight factors set forth in Section 3622(b), see id., § 3622(b)(1)-(2), (b)(4)-(9); see generally National Ass'n of Greeting Card Publishers v. USPS, 462 U.S. 810, 834 (1983). As a practical matter, omnibus rate cases, in which the rates for all postal services are reviewed by the Commission, provide the only opportunity for the Commission to assess whether USPS has proposed rates that are fair not only in isolation (i.e., in that they cover attributable costs), but also with respect to their relationship to rates for other services, so that all services bear an equitable share of USPS institutional costs.

Thus, in the most recent omnibus case, R94-1, the Commission recommended rates for all classes of mail that resulted in a sharing of institutional costs among those classes that was found to be fair and equitable. The Commission

was able to make this determination because it had before it comprehensive projected cost and revenue data for a single test period (Test Year 1995) for all of the mail classes that would be sharing USPS institutional costs. Based on these data, the Commission could estimate, for example, that the proposed rates would yield a cost coverage of 116.3% for second-class regular mail as compared to 150.9% for third-class bulk rate regular mail and reach a judgment that this relationship was fair and reasonable based on the evidence of record in that case. See PRC Op. R94-1, App. G, Sched. 1.

The requirement that proposed postal rates, inter alia, reflect a fair and equitable institutional cost burden relative to those borne by other classes is fundamental, and cannot be dispensed with simply because USPS has exercised its discretion to seek rate and classification changes for a discrete set of services rather than commencing a new omnibus rate proceeding. Fair rate relationships -- both inter and intra-class -- must be maintained at all times. USPS's proposed classification changes cannot be allowed to cause one group of mail to bear a disproportionate share of USPS institutional costs. DMA does not contend that USPS is foreclosed from seeking interim classification or rate changes, but when it seeks such changes it must support them with data that permit the Commission to assess whether the services at issue are being asked to bear a share of institutional costs that is fair and reasonable in comparison to all other rates. If this comparison cannot be made, the result of interim rate changes would be to require, absent an offsetting

adjustment, the services being modified to bear additional institutional costs because cost coverages are based on (higher) FY 1996 costs. This is clearly an inequitable result. See Thompson, Tr. 5/1358.

The rebuttal testimony of USPS witness Lyons (Tr. 9/3353-55) addresses this issue but misses the critical point. To say that "judgment is an inevitable part of the process" (Tr. 9/3354) does not negate the need for the Commission to have a solid foundation on the basis of which to exercise its judgment. By the same token, while the Commission may not be precluded from exercising its judgment "on a subset of rates and classifications without engaging in a wholesale review of all other categories" (Tr. 9/3355), it should do so only after assuring itself that the new classifications bear rates that are "fair and reasonable" when compared with the elements of the USPS rate structure that will not be changed. This assurance can be obtained only with reference to the institutional cost burdens recommended, based on the Commission's judgment, in the most recent omnibus case.

II. THE REQUIRED COST COVERAGE COMPARISONS DEMAND REFERENCE TO COST COVERAGE DATA FOR THE SAME TEST YEAR USED IN THE MOST RECENT OMNIBUS CASE.

Because the Commission's judgment in the last omnibus case was exercised with reference to the then-test-year cost and revenue data, it is difficult to see how the Commission could properly exercise its judgment in an interim classification case without referring to data for the same test year, including a

projection of the effects of the instant rate changes on revenues and cost coverages in that test year. Only by using that data could the Commission determine whether the institutional cost burdens of the services at issue in this proceeding are appropriate in relation to the burdens found to be fair and equitable in R94-1. See, e.g., Thompson, Tr. 5/1393-94; 5/1452-53.

USPS appears to concede the importance of comparing the rates proposed herein -- and their cost coverages -- with the rates and cost coverages of other postal services outside the scope of this proceeding. See Lyons Rebuttal, Tr. 9/3352. *USPS appears to contend, however, that a meaningful comparison can be made by reference to the FY 1996 data that USPS has placed in this record. Id.* (citing Patelunas Exhibits, USPS-T-5G & USPS-T-5J). However, those data are plainly inadequate, because they do not allow an apples-to-apples comparison between the cost coverages that would result from the rates proposed in this case and the cost coverages approved by the Commission in R94-1.

USPS's own exhibits provide a stunning illustration of the obvious fact that attributable costs, revenues and cost coverages for mail classes are not static. To the contrary, they change, often dramatically and in unexpected ways, from period to period, relative both to prior periods and to the projected levels upon which the applicable rates were reviewed and approved in the most recent omnibus case. The cost coverages set forth in the FY 1996 data (before rates) submitted by USPS in this proceeding differ substantially -- and in no systematic way -- from those set forth in

the 1995 Test Year data (after rates) relied upon in R94-1. For example, the coverage for Second-class, Regular was 116.3% in the 1995 data, but only 112.4% in the 1996 data; the cost coverage for Third-class, Bulk Rate Regular, by contrast was 150.9% in the 1995 data, but 167.1% in the 1996 data. Compare Exhibit USPS-T-5G with PRC Op. R94-1, App. G, Sched. 1. Similar discrepancies abound. See also, e.g., Thompson, Tr. 5/1393-94; 5/1499-1500.

As a result, reference to FY 1996 data herein would mask rather than reveal the effect of the proposed rate changes on the institutional cost burdens these services are being asked to bear relative to the burdens that were approved as fair and equitable in R94-1. While USPS witness Lyons may be correct that the 1996 and 1995 data both indicate an overall, system-wide cost coverage of 157% (Tr. 2/82-83), that says nothing about the costs coverages of individual services or groups of services. The Commission simply cannot tell from the 1996 data what the cost coverages for the services at issue, after the proposed rate changes, would be based on the costs and revenues for the 1995 Test Year, and thus there can be no comparison with the 1995 Test Year cost coverages approved in R94-1.

If USPS believes that some alternative approach is available to assess whether the rates proposed herein will result in changes in the relative institutional cost burdens -- both intra- and inter-class -- and thus depart from the fair rate relationships established in R94-1, USPS should be required to meet a high burden of

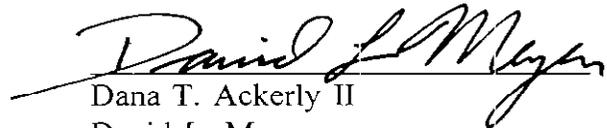
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proof in establishing that that approach will assure maintenance of fair and reasonable rate relationships throughout the entire USPS rate schedule.

CONCLUSION

For the foregoing reasons, the Commission should require USPS to submit data for FY 1995 supporting the fairness and reasonableness of the proposed rates.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Commission's Rules of Practice, as modified by Rule 3 of the Special Rules of Practice, using "Procedure (3)."


David L. Meyer

January 7, 1997