Postal Rate Commission
Submitted 9/9/2004 3:42 pm
Filing ID: 41668
Accepted 9/9/2004

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

COMPLAINT OF TIME WARNER INC. ET AL.
CONCERNING PERIODICALS RATES Docket No. C2004-1

DIRECT PREPARED TESTIMONY OF NICK CAVNAR
ON BEHALF OF AMERICAN BUSINESS MEDIA
(September 9, 2004)

My name is Nick Cavnar, and I am appearing on behalf of American Business Media. American Business Media members publish approximately 1,500 business-to-business and professional periodicals and pay approximately $300,000,000 per year to do so. Most also operate websites associated with their publications, and many publish newsletters, operate trade shows and offer data products and services.

I will cover several issues in my testimony, including:

(a) Hanley Wood's experience with co-palletizing, and what we have learned from it,

(b) witness Mitchell's error in assuming that advertising revenues, especially for business-to-business publications, can be viewed on a per-subscriber basis and the related issue of whether publishers would really limit circulation geographically as a result of differential postage rates,

(c) ECSI value, including both (i) witness Gordon's troubling but, fortunately, uninformed and erroneous testimony that apparently seeks to prove the increasing irrelevance of hard copy periodicals and (ii) the complainants' myopic view of ECSI value and how it should be reflected in rates,

(d) the complainants' prediction that, even though increased worksharing did not "drive costs from the system" in the past, it will in the future, and

(e) an overview of American Business Media's position in this docket.

Autobiographical sketch

I have worked in magazine publishing for more than 30 years, starting in 1973 as an editor for a small non-profit periodical in Ann Arbor, MI. Since 1986, my career has focused on circulation management for business magazines, and I am currently Vice President of Circulation for Hanley Wood, LLC, of Washington, DC. My circulation career has included jobs with some of the largest business-to-business publishers in the country, including Crain Communications, International Thomson, Cahners Publishing (now Reed Business Media), Primedia Business Media, and now Hanley Wood. In these positions, I have worked closely with 180 magazines, ranging from a weekly consumer publication with 200,000 subscribers to highly-targeted business magazines serving less than 15,000.

My area of expertise is circulation development and business strategy, and I do not pretend to be a specialist in distribution. However, I have been actively involved in postal issues for a number of years, serving on the American Business Media Government Affairs and Postal Committees since 1996, and serving on the USPS Mailers Technical Advisory Committee for two years from 1998 to 2000.

Co-palletizing

Co-palletization and co-mailing, as the complainants suggest, is increasingly enabling smaller circulation publications to move from sacks to pallets, but it is not and will not be available to many periodicals for a number of reasons.

I have been closely involved with co-palletizing programs for smaller circulation magazines. I participated in a committee that worked with the Postal Service in 2003 to develop the trial co-palletization discount of $.007 per copy. My company then became

the first publisher to utilize a co-palletization program introduced in June 2003 by our printer, RR Donnelly, at their Bolingbrook IL facility. Hanley Wood mails twelve magazines as periodicals, and all twelve are now co-palletized in Bolingbrook and then shipped for direct entry at points around the country. We are able to co-palletize even our smallest periodical, a magazine for swimming pool builders that mails only 17,000 copies.

For our magazines that otherwise would mail almost completely in sacks, with a single entry point, we have seen direct postage savings in the range of fifteen percent. Hanley Wood's net savings from the program are substantially less, of course, since we must also pay for the cost of co-palletization and shipping. Currently, we net only a one percent savings, based on the cost of single entry postage. We expect that as more publications enter the co-palletization pool at Donnelley and as more co-palletization and co-mail operations are started, as is happening, both competition and declining administrative costs will increase our net savings. Future rate increases, with or without rate design changes, should do the same.

Our commitment to co-palletization goes beyond immediate postage savings, however. We recognize that making periodical mail more efficient for the Postal Service can help to contain our rates long term by driving cost out of the system. We understand that sacks are a cost issue, and we have in fact achieved a dramatic reduction in the use of sack. For example, our magazine The Concrete Producer, which previously sent its 20,000 copies in 445 sacks, used only 8 sacks in its most recent mailing. A recent co-palletization pool at Donnelly reduced sack usage from 2,806, if each magazine had been mailed individually, to only 79.

Based on our own success with co-palletization, Hanley Wood is actively encouraging other business magazine publishers to work with their printers to expand these programs. I presented a seminar on co-palletization for the American Business Media in January 2004, and will be speaking on the subject at the National Postal Forum here in Washington on September 21. To judge by interrogatories recently directed to American Business Media, it even appears that my efforts have been noticed—appreciatively, I hope—by the complainants.

Precisely because I am speaking with many other publishers on this subject, however, I am very aware that not all periodicals can be palletized, at least today. Other American Business Media witnesses have explained, as has the complainants' witness Schick, that publication frequency, trim size, inserts, and circulation size either alone or in combination can preclude certain publications from participation in co-mailing or co-palletization. In my own discussions, I have learned that some publishers experience substantial service delays with co-palletization and drop shipping, compared to mailing in sacks. This has not been a great problem for Hanley Wood, but most of our magazines are monthlies and bi-monthlies that are not highly time-sensitive. I have worked with time-sensitive magazines at other companies, and I can appreciate that a single day's difference in delivery time can be critical in retaining subscribers and advertisers.

Even if an individual magazine may be well suited for co-palletization, not all magazine printers can offer their clients this service. Hanley Wood is fortunate to work with one of the nation's largest printing and distribution companies. RR Donnelley already owned facilities and equipment that could be adapted to create a co-

palletization line. But many printers do not have the volume of periodicals, or the equipment and floor space, to create a similar operation.

For the foreseeable future, and especially if the Postal Service does not develop a container than can replace sacks, there will be publications that have no choice but to continue mailing mail in sacks—either because alternatives are precluded by their mailing characteristics and delivery requirements, or because they do not have the service available to them. If Periodical rates are restructured as proposed by the complainants, these publications will be heavily penalized. Ultimately, that will affect not only the publishers, but also their subscribers, especially those who become most costly to serve.

Advertising Revenues

Complainants' witness Mitchell seeks to demonstrate that publishers' profits from each subscriber are so high that they would never seek to trim subscribers with very high postage costs. In order to prove the unprovable, witness Mitchell develops a complex formula that essentially increases advertising revenue by the average of ad revenues per subscriber for each additional subscriber and reduces ad revenues by that amount for each eliminated subscriber (Tr. 860-61). When asked directly whether he assumes advertising revenue to be directly proportional to the number of subscribers, he agreed that he did "on a long-term equilibrium basis" (Tr. 993).

Mr. Mitchell stumbled when asked to explain what "long-term equilibrium basis means," stating (Tr. 1219) that he is dealing with "general tendencies." He explained that if a periodical obtains a new subscriber it "doesn't run out the next day and raise their advertising rates" but that "it might be a while before they change their advertising

rates." His examples, however, as well as his formula seem to assume a short-term response.

It is clear that witness Mitchell does not understand how publishers, at least publishers of business-to-business and other special interest periodicals, set advertising rates and collect advertising revenues. This lack of awareness is not surprising, since Mitchell has never been employed to produce a periodical (Tr.886), has never purchased or sold periodical advertising (Tr. 887-88), and has never worked in or as a consultant to anyone in the advertising business (Tr. 889).

As someone who has actually developed and managed circulation for nearly 200 magazines, I can easily identify the fallacies in Mr. Mitchell's arguments.

First, Mitchell believes that in at least "most cases," advertisers are given a "promised" level of circulation (Tr. 1220) and, presumably, that if they do not meet that level, advertising revenues decline, perhaps on a "long-term equilibrium basis." Had Mr, Mitchell examined Time Warner's published advertising rates before being asked to do so during cross-examination, he would have seen that his guaranteed rate base hypothesis is untrue and that, even where there is a guarantee, there is no reason to believe that the loss of a minimal number of subscribers will have any affect whatsoever on advertising revenues.

For example, during cross-examination (Tr. 1222-23), witness Mitchell was directed to the rate card for Time magazine's national edition (which is in the transcript at Tr. 1281). He believed that the "rate base" of 4,000,000 was a commitment to advertisers, but he did not know whether a shortfall would lead to a rebate requirement, nor did he know whether publishers traditionally exceed their rate bases.

Mr. Mitchell was then asked to look at the rates for Time's state editions (in the transcript at Tr. 1283), and he was directed to the fact that the same per page advertising rate applies to Alaska, with a rate base of 10,000, Connecticut, with a rate base of 75,000, and New Jersey, with a rate base of 150,000 (Tr. 1224). Although Mitchell conceded (Tr. 1225) that "[t]his is an issue I haven't thought about," I, on the other hand, have thought about it, and it is perfectly clear that the advertising rates for Time's state editions are hardly circulation dependent. It is inconceivable that if the circulation of the New Jersey edition were reduced to 148,000, its ad rate would decline, given that it is now the same rate as an advertiser pays for 75,000 copies in Connecticut

Just as Time magazine does not use the same "rate base" approach for its state editions as in its national advertising rates, other magazines published by Time Warner do not base their rates on a one-to-one ration with circulation. The much smaller, 90,000 circulation, special interest publication Motocross (Tr. 1226-29) does not even use the term "rate base," but instead refers to a "circulation projection." Mr. Mitchell professed (Tr. 1228-29) that he did not know how these terms should be interpreted. From my years of experience with business-to-business publications, I do know the difference. A guaranteed rate base is just that, a guarantee to the advertiser of a specified circulation, with a rebate obligation if that level is not met. A circulation projection does not imply a guarantee, and individual issues may fluctuate from the specified level.

Since circulation fluctuates from month to month, publishers with stated rate bases typically maintain a cushion. If such a publisher chooses to reduce subscribers in an area or of a certain type, it can do so safely as long as the margin is not eliminated

and, presumably, as long as circulation efforts are stepped up in other areas if the publisher wishes to maintain its rate base and cushion.

In my experience, the notion of a guaranteed rate base is associated primarily with general interest publications, such as Time, and not special interest publications, such as Motocross and, especially, business-to-business publications. The former are selling access to "eyes." That is, advertisers, while interested in the demographics of the readers, are primarily buying a certain numbers of readers.

For special interest and business-to-business publications, advertisers care far more about the quality of the readership. They want to reach only people who are truly involved in a particular field, and therefore likely to buy their products. That is why the detailed demographic information in our audited circulation statements is so important. Most business-to-business publishers could, and do at times, trim the total number of subscribers without affecting the quality of the readership in the eyes of the advertiser or the page rate paid by advertisers. More importantly for purposes of refuting witness Mitchell's formula, we can reduce our readership marginally—or even more than marginally—without affecting either our promise to advertisers (because there is none) or our page rates.

For example, Hanley Wood purchased the magazine Tools of the Trade from another company in December, 1997. At the time of acquisition, Tools of the Trade had been serving an average 80,680 qualified subscribers per issue. With the first issue under Hanley Wood's ownership, we reduced the circulation to 75,102 subscribers. Ad rates were not reduced correspondingly—on the contrary, the 1998 rate card increased from the previous year. Why were advertisers willing to pay a higher rate for a smaller

circulation? Because the reduction was achieved by eliminating "lower quality" subscribers, which in that case meant individuals who were not identified as professional construction contractors and subcontractors.

In January 2002, we reduced the circulation of Tools of the Trade again, from 75,000 to 65,000, while again increasing ad rates. Again, advertisers accepted the reduction because at the same time we improved the "quality" of the circulation, this time by greatly increasing the percentage of subscribers who had personally requested a subscription within one year.

Tools of the Trade illustrates how business-to-business publishers can and do constantly shift the composition of our circulation to deliver the right market for our advertisers while lowering our own cost. It is very common for us, especially with request publications (for which there is no subscription charge), to refuse service to subscribers we deem marginal without affecting either our promise to advertisers (because there is none) or our page rates.

Mitchell uses the publication Pit & Quarry as an example in the application of his formula, concluding that the "implied profit" from a zone 8 subscriber to this request publication is $100.37 (Tr. 863), driven, of course, by his assumption that it would lose 1/24,000ths of its advertising revenue if it ceased delivery to that subscriber. Unlike Mr. Mitchell, I have examined the relevant section of Pit & Quarry's latest media kit, where it makes no rate base promises but mentions the same 24,000 circulation noted by witness Mitchell. It also shows how many subscribers in 2002 were "qualified," how many are officers, administrative executives and department heads, how many are

sales and marketing subscribers, and how many of its subscribers qualified in the past year.

I have also examined data concerning Pit & Quarry's advertising rates and circulation. It shows:

PIT & QUARRY
Rate card and circulation history

Year	Full page 1x b/w rate	BPA qualified av. circ.	BPA total circ.
1996	$ 4,521	23,449	24,828
1997	$ 4,520	23,577	25,359
1998	$ 4,520	23,479	25,129
1999	$ 4,791	23,463	25,664
2000	$ 5,130	23,665	25,961
2001	$ 5,179	24,247	25,834
2002	$ 5,340	23,873	25,469
2003	$ 5,500	23,762	25,193
2004	$ 5,890	23,794	25,353 (June only)

For most advertisers, the only number that matters is qualified subscribers. These data show, for example, a decline in average circulation from 2001 to 2002 of 410 qualified subscribers, or 1.7%, but an increase in the rate for a black and white page of 3.1%. As is obvious, Pit & Quarry's ad rates and therefore revenues do not vary with modest changes in circulation. Rather, like ad rates in general, including I'm sure for the complainants, they vary with the market, the economy and other factors. I am confident that Pit & Quarry could cut a few hundred subscribers from its rolls without suffering the loss of advertising revenues hypothesized by witness Mitchell.

Mitchell seems further unaware that, even if a publisher were to consider each subscriber in some way responsible for a pro rata share of advertising revenue, we also

constantly evaluate subscribers by their cost to acquire and serve. We compare the cost of acquiring and renewing subscribers by direct mail to the cost of telemarketing or broadcast email, and shift our sources accordingly. We also look at any factors that would increase the cost to serve a particular subscriber, including and especially the cost of postage.

For example, Hanley Wood publishes a number of controlled circulation magazines for professionals involved in residential construction and design, including Building Products, Custom Home, Residential Architect, Remodeling, and the aforementioned Tools of the Trade. None of these magazines offers controlled subscriptions in Canada, even though we could easily find qualified professionals in Canada and even though many of our advertisers market their products in Canada as well as the United States. The reason is simply that cost of mailing issues into Canada is roughly five times the cost of postage within the United States.

I have spent a good deal of time on this issue, because, like witness Mitchell, I think it is important. At the rates and schedule proposed, not only would the zoning of editorial content cause certain copies to experience larger rate increases than a publication's other subscribers, but other features, such as the very large sack charge proposed, would cause an enormous increase in rates for many copies that, for one reason or another, must be mailed in small sacks. At an extreme, I point to witness Stralberg's agreement (Tr. 237) that a single piece in a sack could cost as much as $3.70 to mail. Therefore, the temptation to reduce circulation to save a disproportionate amount of postage, or to market in particular areas, could affect not only subscribers far from the entry point but also subscribers in less densely populated areas of the country,

where building large sacks might be impossible. If costs for serving different subscribers within the United States varied as much as or more than the current cost for mailing into Canada or Mexico, I am quite confident that publishers would find ways to identify and restrict the most expensive subscriptions.

ECSI Value and Periodicals Rates

Through witness Gordon, the complainants claim to be addressing the limited question of whether a flat editorial rate is still necessary to assure that the nation is bound together by the wide distribution of periodicals. I believe that Gordon's testimony goes well beyond that issue and that the complainants' presentation fails to address the proper role of ECSI value in the setting of Periodicals rates.

I found witness Gordon's testimony to be very troubling, and, frankly, I cannot understand why Time Warner and the other complainants would sponsor the testimony of a witness who apparently believes that periodicals are obsolete and that the print medium, which he suggests is no longer necessary, has no further need for preferred rates. I understand that Gordon's testimony had as its limited purpose to persuade the Commission that zoning the editorial pound rate will not cause harm to the flow of information, even if some subscribers no longer receive hard copy publications, since equivalent information is allegedly available on cable television and the Internet. But it certainly appears to go well beyond that.

I suggest that the Commission should re-read the following excerpt from the transcript (at 704):

> Q You don't believe that it's superfluous and unjustifiable for periodicals to enjoy lower rates because they have editorial content?
>
> A I think it is far less necessary now. I think I'm not at all sure that it accomplishes or helps to accomplish in any significant way the object.
>
> Q Well, I think you just told me two things. You said you don't think it superfluous and unjustifiable, but then I think you went on to say that it's pretty much superfluous and unjustifiable.
>
> Let me ask you again. Is a rate preference for periodicals based on ECSI value superfluous and unjustifiable?
>
> A I think, yes, a rate preference is. I think the object of binding the nation together intellectually and culturally is a great social good.
>
> Q But the rate preference for periodicals doesn't contribute to that good?
>
> A Not any more I don't think.

I know that after this exchange received some publicity in the trade press, a spokesperson for Time Warner explained that Gordon misspoke and that he was confused between the rate preference received by periodicals for their ECSI value, which was the subject of the questions, and the flat editorial pound rate, which the complainants oppose.

Any witness can become confused, and I do not wish to hold Mr. Gordon to higher standard than I hope will be applied to me when I appear for cross-examination. Neither of us is a professional witness and, I believe, neither of us has ever testified before. Nevertheless, I find the defense of Mr. Gordon and the attempt to explain away his views simply demonstrates that he lacks the perspective and experience to offer views on postal rates, given other exchanges during his cross-examination. For

example, although in Gordon's response to *written* cross-examination, where he had the advantage of having his responses at least reviewed by counsel and others, he agreed with the proposition that "Periodicals bind the nation together by providing a common source of information," when alone on the witness stand he was not so sure. He was asked whether, because of television and the Internet, Periodicals are less important in binding the nation together than they once were, and he answered "Yes" (Tr. 714). When asked whether the nation would be "less bound together than it is now" if there were no periodicals, he said "I suppose so, but not by a significant matter" (Tr. 715). If no Periodicals were sent to Alaska and Hawaii, he says (Tr. 715), residents of those states would be "only marginally" less integrated into the fabric of society than they are today.

A few minutes later, the cross-examining counsel had changed, but Gordon's views had not. The following exchange took place (Tr. 739):

> Q You indicated this morning, and correct me if I'm wrong, that in your view preferential postage rates play no role in contributing to the extent to which publications help bind the nation together.
>
> A I believe that it's marginal at best at this point.

Make no mistake about the fact that American Business Media and I vehemently disagree with Mr. Gordon. We believe, as does Time Warner witness Schick (Tr. 501), that reflection of ECSI value in rates continues to be important to maintenance of a "healthy, vibrant, and diverse" Periodicals class. Fortunately, that is fortunately for all Periodicals mailers including the complainants, there are sound grounds for rejecting Gordon's views on the continuing importance of Periodicals in binding the nation together.

His basic thesis is that television and, to a greater, extent the Internet have rendered periodicals redundant. Yet he does not appear to have the background and experience to draw this conclusion. While he reads a number of publications on a regular basis (Tr. 635), he reads no specialized business periodicals on a regular basis (Tr. 636-37). Although he gives opinions on the printing industry and the feasibility of printing at multiple plants (Tr. 622), he has no experience in that industry and professes to have the knowledge of "an informed layman" (Tr. 660). Yet despite his testimony about the availability of multiple plant printing, he did not know whether all periodicals can cost-effectively be printed at multiple plants today (Tr. 662). I think that an "informed layman" ought to be able to answer a resounding "no" to that question. As the record shows (Tr. 129), the complainants print only six publications at multiple plants, all weeklies with multi-million circulation. The fact that no monthlies, even the very heavy ones that would presumably benefit the most from avoided transportation, print at more than one plant shows that it cannot be done economically today. It shows as well that witness Gordon's suggestion (Tr. 617 and 622) that changes in printing technology affect the need to bind the nation together with rate preferences for Periodicals should be given no weight.

Deserving of more serious attention but no different conclusion is Gordon's view that the Internet has made hard-copy publications unnecessary. Once again, Gordon's lack of knowledge—and in fact his own website—serve to undermine this view. The interrelationship between hard-copy publications and both associated websites and unrelated websites covering the same topics is a complicated one that Gordon's simplistic views about everything being available on line do little to elucidate.

Many or perhaps most American Business Media member publications now operate related websites. I understand that in some of those cases the content of the website duplicates that in the publication (and may contain updates as well), while some do not. Some have associated charges, and some do not. Time Warner witness Mitchell recognized (Tr. 1137) that, in general, publishers' web sites do not contain the entire publication or its advertising content.

Again, I can refer to my own company's experience. Hanley Wood publishes 20 magazines in all. We also have a very successful eMedia division that provides web sites and email newsletters, incorporating content from our magazines along with unique online content. However, we maintain web sites for less than half the magazines, and even our most robust web sites do not attempt to carry all of the editorial and advertising information available in the related magazine.

As shown by some of the material quoted in Time Warner's interrogatories to American Business Media, the great majority of business-to-business media companies, like Hanley Wood, do see the Internet as crucial to their financial futures. We recognize that our readers now look to the Internet—as well as the hard copy publication—for information. The ability to offer both readers and advertisers multi-media exposure is moving from a nice fringe benefit to essential. But with very few exceptions, and those tend to be in the high-tech industries, publishers are not even considering the abandonment of hard-copy publications. The Internet provides value added but well less than full value. And, I might add, I strenuously disagree with the notion that, because Mr. Gordon's Google search for the type of information contained in Automotive News, Fire Engineering, Mayo Clinic Proceedings, and the New England

Journal of Medicine produced, for example in the case of Automotive News, more than half a million hits, information of the kind and quality that appears in that publication is available on any of them or even all of them combined (Tr. 771-79). Even witness Gordon did not bother to look at any of the sites to which Google directed him to determine the nature of their content (Tr. 780-81). He also agreed (Tr. 713-14) that it is far easier to put information on the Internet than to publish it in a periodical, which to me means that one must be more suspicious about the accuracy and thoroughness of the former, a point driven home by Gordon's own inaccurate web site (see Tr. 647-49 and 711). Gordon admitted (Tr. 710) that if he published a newsletter with the same type of information that appears on his website, it would be more accurate.

It ought to be clear that if a publication folds due to high costs, such as high postage costs, its website(s) are highly likely to disappear along with it. Websites can and do provide incremental advertising revenue, but not enough to replace the print advertising that in turn supports the editorial content of the publication (along with its distribution). Therefore, there should be no serious debate about the fact that, if a publication carrying important information ceases publication, the broad dissemination of information will be adversely affected.

I expect that Time Warner will answer that, at least insofar as some publishers might trim high-cost subscribers, web sites of the publisher, or even digital versions of the publications, will provide a viable substitute. Mitchell testified (Tr. 818) that even if (contrary to his hypothesis) some publications did drop a portion of their subscribers, the information available elsewhere would prevent any adverse affect on the "unity or cohesion of the nation." Unfortunately, the fact is that no matter how important the

information, the number of people who are willing and able to access it electronically, which would often require hours of reading off a computer screen, are limited. While Hanley Wood and, I suppose, virtually all publishers believe that the information they produce is vital to the industries or other constituencies that they serve, we recognize that many of our readers simply will not accept the same information on a computer.

Having worked with publications serving a wide variety of industries, I am particularly aware that access to and usage of electronic media still varies greatly in our markets. Hanley Wood, for example, serves many small building and remodeling contractors who do not spend their work day at a desk in front of a computer. Certainly they use electronic media, but it may not be as accessible and easily used as a printed publication they can carry with them to a job site. I can see their attachment to the print media even in response to our direct marketing for new subscribers and renewals: We enjoy significantly higher response rates to traditional direct mail and printed renewal forms in this market than I have seen in high technology industries such as telecommunications. In other words, different industries and population segments require different mixes of media.

It also remains true that many rural and remote areas of the country still do not enjoy the same quality of Internet and even telephone service as urban areas. Unfortunately, these are the same subscribers who could become most costly to serve under the rate structure proposed by the complainants. So the individuals most susceptible to losing their printed magazine subscription due to high postal cost might also have greater difficulty accessing an electronic replacement.

If all of our subscribers today would prefer to receive content exclusively by electronic media, and if the advertisers would spend enough to cover our reduced costs, why would any of us be publishing hard copy? Time magazine alone could save the cost of printing and mailing 200 million pieces a year, probably close to $100 million, if the Internet truly provided a viable alternate to print media. But it does not. If postage rates unnecessarily rise to the point where some publications, or some significant portion of some publications, can no longer be mailed economically, the flow of information will suffer, and the mandate to bind the nation together will not be met.

From the focus of their testimony, it would be fair to conclude that the complainants view ECSI value and its role in setting rates more narrowly than American Business Media and I do. They seem to think that it's relevant only to the issue of whether or not the flat editorial pound rate should be retained, and they appear to believe that the Commission will have done all it needs to do to recognize ECSI value if it continues the low cost coverage for Periodicals, particularly for editorial content through editorial pound and piece discounts, while letting the rest of the postal "chips" fall where they may. See Tr. 933, where witness Mitchell asserts that the degree of rate "attractiveness" for all periodicals should be the same.

We have a different view. We think that when Congress insisted that ECSI value be considered, it sought to ensure that the Commission recognized, in the famous words of Congressman Ford, that "a book, a magazine or a newspaper has more intrinsic value to the public than a brick" and that periodicals are granted a rate preference in order to bind the nation together through the broad dissemination of information. We believe that the Commission may and in some circumstances must

assess the overall impact of a rate proposal and its potential effect on segments of the periodicals industry with ECSI value in mind, and it is not enough simply to say that every pound of editorial matter gets the same discount, so no more is needed.

The Commission has long recognized that it is required to provide for the widespread dissemination of information, as part of its responsibility to "bind the Nation together through the personal, educational, literary, and business correspondence of the people." Opinion in R090-1 at ¶ 5279, quoting 39 U.S.C. § 101(a). It said there that it "will not recommend a rate structure that will impair" the special treatment of editorial content. Although the Commission in that case applied these concepts in rejecting an earlier proposal by witness Mitchell (then testifying for the Postal Service) to zone editorial content in order to send the proper price signals and improve fairness (see ¶ 5275), the concepts of ECSI value and broad dissemination of ideas need not be limited to the flat editorial rate. In Docket No. MC91-3, pages 6-7, the Commission found:

> Similarly, we find that the national policy in favor of the widespread dissemination of information is intended to encourage the availability of both large and small circulation publications, and to keep the Postal Service as a viable carrier for the national delivery of all types of publications.

In this case the Commission should also consider the needs of "all types of publications," of "both large and small circulation publications," and if it does so, I submit, it will not endorse the complainants' recommendations.

Nor must it do so in order to assure that the complainants receive significant credit for their publications' ECSI value, for they already enjoy substantial savings. One way to measure that credit is to compare the rates they now pay with the rates they would pay if they mailed at the Standard rates (or, if they weigh more than a pound, the

Bound Printed Matter rate)—that is, the rates that apply to similar pieces that are not given ECSI credit. Witness Stralberg provided that rate comparison for several of the complainants' publications (Tr. 108). As he shows there, the differential is very large. For example, Time magazine pays 17.76 cents per copy at the present rates and would pay 23.35 cents per copy at Standard rates. That difference of 5.59 cents, or an "ECSI discount" of about 24%, saves Time Warner more than $11,000,000 per year (at approximately 200 million copies per year). Readers Digest receives an "ECSI discount" of 8.26 cents per copy, or 29%, for annual savings of nearly $11,000,000 (at approximately 128 million copies per year). At the proposed rates, these differentials would increase by about $5,000,000 each.

By contrast, at the rates proposed, I believe that many Periodicals mailers would see their rates increase above the Standard rates, creating, it would seem, an ECSI penalty. That would be the case for the hypothetical but "representative" non-drop shipped publication used by witness Mitchell in response to ABM/Time Warner-T1-93 (Tr. 989), as shown by McGraw-Hill witness Schaefer. I do not know how one can reconcile a rate schedule that charges more for many Periodicals than they would pay at the Standard rates with a statutory requirement that ECSI value be recognized in Periodicals rates and that rates for Periodicals bind the nation together.

Finally, in this regard, I would like to respond to allegations that, under the present rate schedule, larger publications subsidize smaller ones. I cannot deny that different publications pay different percentages of "their" attributable costs, and I think that we all agree that 100% editorial publications pay less than attributable costs, as do no doubt many others with the mark-up as low as it has been in recent years. But I do

not accept that publications paying higher mark-ups are necessarily subsidizing those with lower or no markups. It is possible that the publications with lower than average mark ups are being "subsidized" by mailers in other classes. In other words, it may be that the present per copy rates of lower than 18 cents now paid by, among others, Time, Entertainment Weekly, Newsweek and TV Guide would not be lower but for the rate preferences for the publications that are their target in this case. It is equally plausible that, but for those preferences, the lowest Periodicals rates would be the same, but the class mark up over attributable costs would have been maintained at a somewhat higher level by virtue of greater revenues from the allegedly high-cost publications targeted here.

In other words, assume that in the past few cases the Commission had decided that rates for small circulation publications must be even higher because of the costs that they impose on the postal system, as the complainants allege here. It is possible that the Commission could have assigned the additional revenues not to a reduction in the rates paid by the complainants and others similarly situated but to payment of institutional costs in order to increase the cost coverage closer to its historic level.

In order to give the Commission some indication of the important and, I submit, irreplaceable content of business-to-business publications, I have attached two exhibits. Exhibit NC-1 is a press release related to the fiftieth anniversary of American Business Media's Jesse H. Neal National Business Journalism Awards, which honor excellence in business-to-business editorial content. Exhibit NC-2 provides brief synopses of recent award winners and, I hope, will help the Commission understand that the type of

editorial content in business-to-business publications cannot be replaced by cable television shows or Google searches.

Driving Costs from the System

The linchpin of the complainants' case, other than the large rate decreases they would enjoy, is that rates must be changed in order to change mailers' "behavior," and that such behavior changes will "drive costs from the system." In other words, if mailers can only be given incentives to prepare their mail differently and increase the level of worksharing, postal service processing costs will decline, and the seemingly inexplicable upward pressure on rates in the past will ameliorate or reverse.

In the words of the Complaint that initiated this proceeding (pages 4-5):

> For the past seventeen years, Periodicals mail processing costs have been rising and Periodicals mail processing productivity has been falling, despite extensive efforts by both the Postal Service and mailers to bring about more efficient Periodicals handling.

This theme was repeated by the complainants' witnesses. For example, witness Mitchell agreed (Tr. 912) that for the past twenty or so years, mailers took steps that should have reduced Postal Service processing costs and (Tr. 1029-30) that:

> inordinate increases in the attributed costs and rates of Periodicals mail have occurred since the early 1990s *despite* significantly increased use of pallets, increased dropshipping and increased worksharing of other types by Periodicals mailers during that period.

My question is, if the significant changes made by all segments of the Periodicals industry in the past twenty years did not have the expected effect of "driving costs out of the system," why should we believe that similar changes in the next few years will have that effect? There is an adage that is often, although I think incorrectly, attributed to Sigmund Freud that goes "insanity is doing the

same thing over again and expecting different results." I do not believe that the complainants are insane, but when asked to confirm the possibility that the effort to develop new price signals and to respond to them might have little effect on Postal Service costs, witness Mitchell would not even confirm that possibility (Tr. 1106). Interestingly, that question was asked by the Postal Service itself, which leads me to believe that it might doubt that forcing mailers to change the way they present their mail (if they can) will result in significant cost savings.

I believe it was Time Warner witness Stralberg himself who coined the phrase "automation refugees" to explain why processing costs did not decline as they should have with automation (Tr. 298). As I understand it, the basis for the automation refugee hypothesis is that the Postal Service has difficulty reducing costs as activity in specific functions declines, possibly because personnel that become excess are reassigned to functions where additional labor is not necessarily needed. I have seen nothing that convinces me that that the same phenomenon will not continue to exist, for whatever reason. Of course, if my fears are correct, then rates that assume cost reductions that do not exist will soon have to be raised as cost coverage drops into the negative zone, leaving behind those publishers, who may become former publishers, who were unable to respond to the price signals and faced rate increases of 30%, 50% and even 80%.

Conclusion

American Business Media does not have a final position at this stage of the proceeding. Nevertheless, certain conclusions will not change as the record develops further. One is that, notwithstanding witness Gordon's discussion of technology changes, print publications—ours and the complainants'—are not anachronisms, and television and the Internet are not now and will not in the foreseeable future be viable substitutes for print publications. If postage rates cause there to be fewer Periodicals, or cause some Periodicals to reduce circulation in distant or rural areas as a result of rate design, the nation will be worse off for it. Another immutable conclusion is that even though some publications can change the way they present mail to make it less costly for the Postal Service to handle, those changes are underway and increasing today, without the need for new "price signals." And, finally, even the complainants do not deny that some publications, because they have valid service issues, or they are weeklies, or they have very small circulations, or they are printed by very small printers in out-of-the-way locations, will not be able to avoid punishing rate increases if the rate structure and level proposed were to be implemented.

At this point, therefore, American Business Media's position is that it cannot support and must oppose significant structural changes likely to increase rates for many Periodicals without:

1. An alternative to sacks for those that cannot palletize.
2. Protection for mailers that cannot change.
3. Better information on the effect of Delivery Point Sequencing, Automated Package Processing and other upcoming changes.

4. A convincing case that the Postal Service can actually capture theoretical savings.

5. Reasonable notice and phasing of major changes (just as Congress phased the major changes required in the Postal Reorganization Act).

EXHIBIT NC-1

IN ITS 50th YEAR, A JOURNALISM COMPETITION IS TOUGHER THAN EVER

A record 1,283 entries vie for the 2004 Neal Awards; this year's ceremony will pay tribute to all past recipients and to one courageous editor

NEW YORK, Feb. 26, 2004— *Washington Technology* exposes 60 government officials who obtained phony degrees from diploma mills. Editorials in *University Business* tackle the inability of colleges to prepare students for survival in a complicated world. *CSO* teaches readers how to prevent competitive espionage and intellectual property theft. *Workforce Management* takes HR leaders to task for the executive compensation practices that have scandalized Wall Street.

These are among the 78 finalists for the 50th Annual Jesse H. Neal National Business Journalism Awards, which honor b-to-b editorial excellence. The finalists were chosen from a record 1,283 entries, making this year's Neal Awards the most competitive ever. Winners—and the recipient of a new award recognizing editorial courage and integrity—will be announced at a luncheon ceremony on Thursday, March 18, at The Waldorf=Astoria in New York.

For the last two years, stories related to 9/11 and terrorism seem to have dominated the work of Neal finalists. Now, business-to-business publications have returned to an emphasis on the craft of industry reporting. The Neal Board of Judges remarked that this year's finalists presented fresh angles and unexpected points of view—evidence that editors are working harder than ever to provide new information in their core topics.

Several of the finalists broke major news. One of the more dramatic examples: *Aviation Week & Space Technology* was the first to write about the Columbia shuttle's reentry photo showing damage to the left wing—a scoop later picked up by the general news media.

At the 2004 Neal Awards ceremony, a new award recognizing editorial courage and integrity will be introduced: the Timothy White Award, named after the longtime editor of *Billboard* magazine who passed away unexpectedly in June 2002. White was known to artists and music moguls alike as "the conscience of the music industry," and this new award will be given to an editor whose work exemplifies the passion, courage and integrity that White displayed in his career. There is no entry fee, and the deadline for entries is Monday, March 1. Visit www.americanbusinessmedia.com for more information.

Also being honored at the 2004 Neal Awards are Vernon Henry, Advanstar's corporate editorial director, who will receive the Crain Award for lifetime achievement; and Aric Press, editor in chief of *The American Lawyer*, recipient of the 2004 McAllister Editorial Fellowship.

The Neal Awards are open to members of American Business Media, the association for b-to-b information providers. American Business Media's member companies represent over 3,000 print and online titles and reach an audience of 90 million professionals.

EXAMPLES OF NEAL AWARD WINNERS, 2003

Article: **Tech Alert**
Publication: *CIO*
Award: Grand Neal Winner

CIOs manage the business lifeline in a language few understand – which translates into blame, headaches and flare-ups amidst a sprinkling of credit. Career survival hinges on keeping sane while keeping the peace with bosses who don't know a bit from a byte.

Enter *CIO*, with a special issue of hands-on advice from seasoned peers on every aspect of the job and life. From how to run a Microsoft-free shop to how to refuse homework to how to neutralize the CFO, readers get practical information on timely topics, from their perspective and in their tone.

Article: **Deadly Dilemmas**
Publication: *Photo District News*
Award: Best Article

Increasingly, photojournalists face a choice: your integrity or your life. From a U.S. government that buys photographers' allegiance, to rebels who stage events and threaten cameramen with assault rifles, the power of the press now puts young hopefuls in a risk-or-die bind.

How do you strike a balance between industry ethos and personal responsibility? How do you sniff out "spin" in strange situations? *Photo District News* answered these essential questions with grit, showing the smarts, dedication and courage it takes to discern truth from propaganda in a world where combatants are out to work the media.

Article: **Blunt Conscience**
Publication: *Editor & Publisher*
Award: Best Staff-Written Editorials

Scolding Tennessee dailies for striking a "Faustian bargain" that undermines the cause of open government. Lauding a local Cincinnati paper that took down a bullying water treatment conglomerate and made municipal water quality a national issue. Week to week, *E&P*'s editors take on an industry that can bite back, and they never back down. *E&P* does what many media fear most: hold an industry up to its professed standards, naming names in the process. Challenging readers with thinking while shedding light on events whose import might otherwise be missed has earned *E&P* the nickname of "industry conscience."

Article: **Terror Ready**
Publication: *RN*
Award: Best Article Series

How do you prepare for an unprecedented epidemic? *RN* published the definitive series for registered nurses on the front lines of anxiety, mixing comprehensive treatment protocols with first-hand counsel from a military nurse. From recognizing the biological, chemical, and nuclear agents that would be used in a terrorist attack, to preventing the spread of diseases they create, to caring for people who have been exposed – the series covered it all. But it didn't stop there: A final installment showed RNs how to assess the readiness of their facilities, and what to do if they're found lacking.

EXAMPLES OF NEAL AWARD WINNERS, 2003

Article: **Higher Purpose**
Publication: *Architectural Record*
Award: Best Staff-Written Editorials

As an architect and editor, Robert Ivy calls industry design colleagues to their profession's social, political and human dimensions in terms that can be described as poetic. He celebrated the late architectural great Sam Mockbee for "going to war" against the housing conditions plighting the poorest of the poor, while urging colleagues to lift the curtain on social injustice and find creative ways to serve the needs of neglected markets. He attacks cronyism, pushes for government advocacy of design, and calls on the architectural community to stand up to bureaucrats and preserve historical buildings.

Article: **Eye Source**
Publication: *Review of Optometry*
Award: Best Article Series

Can your doctor do genomics?

Genetics is on the fast track, and doctors have to sprint to keep up. Since scientists first used gene therapy (genomics) to restore vision in dogs blinded by disease, the rate cor human eye treatments has sped to full-throttle. Avoiding progress isn't an option; genetic counseling, diagnosis, and treatment are eventual norms that will determine doctors' careers. *Review of Optometry*'s four-part series answered the critical questions about a brave new world of diagnostic tools, customized drugs and DNS disease predictors for people who have our sight in their hands.

Article: **Need for Speed**
Publication: *QSR*
Award: Best Magazine Issue

In fast food, one second can mean $100 in sales. Some chains make upwards of 60 percent of revenues from drive-thru customers, so pushing motorists "through the loop" is every bit a science. *QSR*'s "Best Drive-Thru in America" issue is an anticipated event for such quick-service restaurateurs, who need uncommon depth of information to keep up to pace. From charts that detail service times and order inaccuracies (Do employees more often forget the napkins or give the wrong topping?), to in-depth interviews with industry stars, *QSR* gives readers the inside track.