

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

Postal Rate Commission
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EXPERIMENTAL PRIORITY MAIL FLAT-RATE
BOX, 2004

Docket No. MC2004-2

REPLY COMMENTS OF THE UNITED STATES POSTAL SERVICE
IN SUPPORT OF THE STIPULATION AND AGREEMENT
(September 16, 2004)

The United States Postal Service and the Office of the Consumer Advocate (OCA) have both filed Comments requesting that the Commission issue an opinion and recommended decision favoring implementation of the flat-rate box classification and rate according to the terms of the Stipulation and Agreement filed on August 10, 2004.¹ Only one other participant, Mr. David B. Popkin, filed a brief commenting on the Stipulation and Agreement.² Because the various arguments advanced by Mr. Popkin are either unfounded or are addressed by the Stipulation and Agreement, they provide no basis for the Commission to issue a decision that varies from what has been requested by the Postal Service and the OCA.

I. THE EXPERIMENTAL FLAT-RATE BOX WILL BENEFIT ALL MAILERS WHO VALUE CONVENIENCE AND EASE OF USE.

Mr. Popkin asserts that the flat-rate box proposal will only benefit what he terms “the sophisticated mailer,” perhaps because it does not include, in his judgment, sufficient steps to ensure that “unsophisticated mailers” will be able to choose rationally

¹ See Comments of the United States Postal Service in Support of the Stipulation and Agreement (September 9, 2004); Office of the Consumer Advocate Comments in Support of Motion of the United States Postal Service for Consideration of the Stipulation and Agreement As the Basis for Recommended Decision (August 18, 2004).

² See Initial Brief of David B. Popkin (September 9, 2004).

between existing Priority Mail options and the flat-rate box. This argument fails for two reasons. First, there is no evidence in the record to suggest that Priority Mail users will be unable to decide whether using the flat-rate box is in their best interests. Second, the Stipulation and Agreement, the data collection plan, and the draft communications plan prepared by the Postal Service all take steps to ensure that Priority Mail customers—who today are able to make rational choices—will still be able to do so if the flat-rate box becomes available.

A. Priority Mail Users are Capable of Determining Whether Utilizing the Flat-Rate is in Their Best Interests.

Mr. Popkin's apparent argument that the flat-rate box proposal will only benefit "sophisticated" mailers is fatally flawed because it rests on the untenable assumption that some Priority Mail customers are unable to make rational choices. No record evidence supports this assertion, despite Mr. Popkin's many attempts to probe and distinguish decisions made, respectively, by "sophisticated" and "unsophisticated" mailers. Moreover, the evidentiary record indicates that customers can be presumed to make rational decisions.³

The Postal Service is aware of Mr. Popkin's specific concern, which is entirely based on the potential situation in which a customer could mail a particular item via Priority Mail either by using a flat-rate box or some other box that could be sent using a lower weight- and zone-rated postage. Mr. Popkin fears that this customer will choose the more expensive flat-rate box option, and that the Postal Service will abet that mistaken choice.

³ See USPS-T-1 at 9-10.

This concern, however, misapprehends why the flat-rate box is consumer-friendly,⁴ and thus why choosing the flat-rate box even though it may constitute a higher rate is not inherently problematic. Customers will be able to obtain flat-rate boxes in anticipation of the need to send something whose weight and zone is then unknown.⁵ When, for example, a customer later acquires a gift for a grandson's birthday, the item can be sent via Priority Mail without the need to weigh and rate it, calculate its postage, or physically enter it at a retail counter.⁶ In such instances, a customer may well conclude that the convenience and ease of use provided by the flat-rate box are more important than the effort to determine, and perhaps use, some other Priority Mail rate.⁷

Mr. Popkin's specific concern fails to account for the fact that customers will likely consider the relative merits of the flat-rate box before deciding to use it. The flat-rate box is a new product that simply constitutes one new choice for consumers among a range of existing options they have previously encountered.⁸ Mailers would also have no *a priori* expectations about how the rate for a flat-rate box relates to other Priority Mail rates.⁹ As a result, customers who utilize the flat-rate box would do so not out of habit, but rather as a voluntary departure from their customary mailing practices.¹⁰

⁴ See OCA Comments at 2 ("Having reviewed the matter closely, the OCA believes the new consumer-friendly flat-rate box should become a very valuable and desirable postal product.").

⁵ See USPS-T-2 at 6; Response to DBP/USPS-T2-5 (June 18, 2004). The dimensions of the two proposed flat-rate boxes also allow for the packaging of a wide variety of items, thus providing a flexibility that enhances their convenience and utility to mailers. See USPS-T-2 at 5.

⁶ USPS-T-2 at 3-4.

⁷ Furthermore, because the dimensions of the proposed boxes can clearly accommodate a wide variety of items, including heavy ones, their convenience may also come with a lower Priority Mail postage rate than would previously have been available. See USPS-T-1 at 7-8 (discussing parcels that are eligible to migrate down to the flat-rate box).

⁸ *Id.* at 9.

⁹ See Response to DBP/USPS-T2-11(i) (June 18, 2004).

¹⁰ *Id.*; USPS-T-1 at 9.

Before mailers depart from their normal practice in favor of a new product, it can be expected that they will act rationally and consider the merits of using the new product.¹¹

B. The Stipulation and Agreement Addresses the Minimal Risk that Some Consumers Might “Over-Pay” for the Flat-Rate Box.

Though Mr. Popkin may believe that customers are irrational,¹² the Postal Service does not share his view. No record evidence demonstrates that any confusion would result from the introduction of the flat-rate box; instead, most mailers are likely to evaluate the relative costs of the flat-rate box amidst existing Priority Mail options. At the same time, the Postal Service has no interest in deceiving any of its customers, and recognizes the business value in providing information that informs customer mailing choices. The Postal Service has therefore addressed the issue of providing mailers with information about the relative price of the flat-rate box by agreeing, in the Stipulation and Agreement, ¶ 9, to place a notice on the flat-rate boxes indicating that the flat-rate box may not be the least expensive option. It has also agreed to the express inclusion of this issue in the draft communications plan.¹³ These actions demonstrate that the Postal Service intends to avoid any potential misimpression that the flat-rate box has the lowest rate within Priority Mail.¹⁴

Mr. Popkin argues that the data collection plan is insufficient because it does not require the Postal Service to report on the methods used to inform the public about the flat-rate box and the alternative Priority Mail rates until the second year of the

¹¹ USPS-T-1 at 9-10.

¹² Mr. Popkin defines “sophisticated” mailers as capable of rational decisions; hence by implication unsophisticated customers are not. See Initial Brief of David B. Popkin at n.1 and 2.

¹³ See Compelled Response to DBP/USPS-T2-19 (August 19, 2004).

¹⁴ Response to DBP/USPS-T2-12 (June 18, 2004).

experiment.¹⁵ He does not explain, however, what purpose would be served by requiring the Postal Service to report on such matters earlier than is provided for in the Stipulation and Agreement. Requiring an earlier report would do nothing to improve or advance the goals of the experiment, and would also have no effect on any possible subsequent proceedings concerning the flat-rate box. As such, there is no reason to upset the terms of the data collection plan as agreed upon by the signatories to the Stipulation and Agreement.

II. MR. POPKIN FAILS TO PRESENT ANY EVIDENCE TO SHOW THAT THE PROPOSED RATE IS UNREASONABLE OR VIOLATES THE ACT.

While Mr. Popkin expresses “concern” about the proposed rate, the import of his concern is difficult to discern,¹⁶ and he fails to articulate how it implicates the pricing criteria of § 3622. Mr. Popkin appears to insinuate that the proposed rate may be too high. The evidentiary record contains ample justification and support for the proposed rate, however, and Mr. Popkin does not argue otherwise.

The record shows that witness Scherer first derived a base rate from the existing Priority Mail schedule using Priority Mail parcel density data developed by witness Loetscher.¹⁷ After deriving the base rate, witness Scherer judgmentally arrived at an a

¹⁵ In a similar vein, Mr. Popkin also asserts that the Postal Service should have included the design of the proposed boxes and the communications plan as part of its original proposal. He fails to realize that matters such as the design of the boxes and the content of the communications plan require a significant investment of resources, and are highly dependent on the outcome of the Commission proceeding. Hence, it would have been infeasible and uneconomical for the Postal Service to have included such information in its original proposal.

¹⁶ Mr. Popkin writes, “The question is whether the appropriately calculated postage rate is sufficiently close to \$7.70 to allow for rounding it to \$7.70 to take advantage of this ‘convenience’ or the appropriately calculated postage rate was significantly less than \$7.70 but has been inappropriately raised to \$7.70 under the guise of providing this alleged convenience.” Initial Brief at 1. The imprecision of this sentence makes his argument difficult to discern.

¹⁷ USPS-T-1 at 3-4.

priori premium range, which was then added to the base rate.¹⁸ The premium range was designed to protect against the risk of revenue leakage during the course of the experiment, and to allow the value created by the flat-rate box's convenience and ease of use to be shared by the mailer and the Postal Service.¹⁹ When witness Scherer realized that twice the Priority Mail flat-rate envelope rate, for which a stamp is already available, was within his target range and therefore an appropriate rate for the flat-rate box, he proposed the \$7.70 rate.²⁰

Mr. Popkin fails to cite to any record evidence demonstrating that another base rate, premium, or flat-rate box rate has been proposed, let alone justified. It appears that he attempts to challenge the data upon which the base rate was derived in a single two-sentence paragraph; instead he demonstrates his misunderstanding of witness Loetscher's study.²¹ In any event, Mr. Popkin does direct the Commission's attention to the strengths of the study by pointing to portions of the evidentiary record that discuss the study's exemplary precision. Indeed, after reviewing the strength of the pound increment samples (and in response to Mr. Popkin's query), witness Loetscher

¹⁸ *Id.* at 4-6.

¹⁹ The Postal Service has noted that the experimental nature of this proposal makes the use of a premium to protect against revenue leakage prudent, see USPS-T-1 at 5, 10, and has clearly articulated the numerous factors that make the flat-rate box a convenient and simple method of entering Priority Mail. See USPS-T-2 at 3-8.

²⁰ Mr. Popkin claims that the convenience provided to mailers by the fact that the proposed rate equals two existing \$3.85 stamps is "greatly reduce[d]" by the Postal Service's aviation security regulations. This opinion is undermined by his failure to address other aspects of the box's convenience such as the various entry methods it supports, including letter carrier pick-up, the fact that it allows mailers to avoid weighing or rating, the versatility of the two proposed box sizes, or the various methods of postage payment that customers can utilize. See USPS-T-2.

²¹ The first sentence of the paragraph suggests that Mr. Popkin misunderstands how the sample was drawn and how precise the study's estimates for virtually all Priority Mail parcels are, since he cites an interrogatory response that explains in some depth the various measures of statistical precision applicable to witness Loetscher's study. The second sentence, meanwhile, simply throws out one mischaracterized number concerning the study's precision, with no explanation from Mr. Popkin as to its overall relevance.

concludes, "The fact that sampling efforts produced more observations than needed to satisfy relatively strict precision levels for the dominant pound increments leads me to conclude that the study has provided an accurate measure of Priority Mail sizes by pound increment."²²

III. THE "NO WEIGHT LIMIT" WORDING ON THE FLAT-RATE BOX IS SUFFICIENT TO INFORM MAILERS OF THE WEIGHT LIMITATIONS APPLICABLE TO THEIR USE OF THE FLAT-RATE BOX.

Mr. Popkin argues that the language on the flat-rate box should be changed to reflect the 70-pound weight limit applicable to Priority Mail that will also apply to the flat-rate box. While it is indeed possible that a mailer may be able to place more than 70 pounds in a flat-rate box, the record shows that such a scenario is exceptionally unlikely considering the volume of the two proposed boxes and the Postal Service's experience with other, and sometimes larger, Priority Mail packaging.²³ Mr. Popkin offers no justification for why such an extremely rare possibility should be addressed on the scarce real estate available for each box.

IV. CONCLUSION

As detailed above, the various assertions made, or apparently made, by Mr. Popkin in his brief are wholly unsupported by the record, are addressed by the terms of the Stipulation and Agreement, and/or are otherwise without merit. As such, they provide no basis for a deviation from the terms of the Stipulation and Agreement. The Commission should therefore issue an opinion and recommended decision favoring

²² Response to DBP/USPS-T3-7 (July 28, 2004).

²³ Response to DBP/USPS-T2-33 (August 27, 2004).

implementation of the flat-rate box classification and rate according to the terms of the Stipulation and Agreement.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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