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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON DC 20268-0001

REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY	))	Docket No. PI2008-3

COMMENTS OF
NATIONAL POSTAL POLICY COUNCIL
AND THE FINANCIAL SERVICES ROUNDTABLE
(June 30, 2008)

The National Postal Policy Council ("NPPC") and The Financial Services Roundtable ("FSR") respectfully submit these comments pursuant to Order No. 71, *Universal Service Obligation*, issued by the Commission on April 18, 2008, and published in the Federal Register at 73 Fed. Reg. 23507 (April 30, 2008).

NPPC is an association of firms in the banking and financial services, insurance, telecommunications, utilities and mail services industries. NPPC members annually mail nearly 39 billion pieces in the United States, at a postage cost of more than $9.5 billion. NPPC supports a robust postal system as key to its members' business success and the health of the economy generally.

FSR is a national association that represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. FSR members provide fuel for America's economic engine, accounting directly for $66.1 trillion in managed assets, $1.1 trillion in revenue, and 2.5 million jobs. These member companies are large business users of First-Class Mail.

For the reasons explained here, NPPC and FSR believe that the Commission should refrain at this time from codifying the Postal Service's current universal service obligations in any detail, substantially modifying those obligations, or abrogating the Postal Service's monopolies over letter mail and the mailbox. Implementation of the Postal Accountability and Enhancement Act of 2006 ("PAEA") is still in its early stages, and the economic consequences of PAEA for the Postal Service and its stakeholders are still largely unknown. Second, the recent erosion of volume and revenues to the Internet, the overall slowdown of the American economy, and the recent run-up of energy prices has placed the finances of the Postal Service under stress. Third, the pending elimination or curtailment of the monopolies of the postal operators in the European Union represents a large-scale social experiment that may conceivably provide a useful empirical test of these competing economic theories. Prudence suggests waiting until domestic economic conditions stabilize, the PAEA is fully implemented and its impact better understood, and the consequences of liberalization in Europe become much clearer, before seriously considering either detailed codification of or major changes to the USO or the postal monopolies.

I. Topic No. 1: Scope of "Universal Postal Service" and "Universal Service Obligation" and Topic No. 2: Historical Development of Universal Service, the USO and Monopoly Laws

Some of the of the characteristics of the services that the Postal Service is obligated to provide universally throughout the United States are prescribed in Title 39. 39 U.S.C. § 101(a) states that the Postal Service "shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide

prompt, reliable, and efficient services to patrons in *all areas* and *shall render postal services to all communities*." (Emphasis added.)

39 U.S.C. § 101(b) provides that the Postal Service "shall provide a *maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining*. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that *effective postal services be insured to residents of both urban and rural communities*." (Emphasis added.)

39 U.S.C. § 403(a) directs the Postal Service to "receive, transmit, and deliver *throughout the United States, its territories and possessions*, and, pursuant to arrangements entered into under sections 406 and 411 of this title, throughout the world, written and printed matter, parcels, and like materials and provide such other services incidental thereto as it finds appropriate to its functions and in the public interest." (Emphasis added.) Moreover, the Postal Service "shall serve *as nearly as practicable the entire population of the United States*." *Id*. (emphasis added).

As the Commission has noted, many of the characteristics of the services that the Postal Service must provide universally are not defined by Title 39 or any other statutory provision. 73 Fed. Reg. at 23508. As a practical matter, however, the characteristics and features of universal service have been defined as much by usage as by law. After many years of universal mail service, its features have become engrained in the expectations of both senders and recipients of mail. Business mailers have made long-lived investments in their businesses in reliance on the ability to the reach essentially every household and business in the United States. Consumers have

decided where to live and work on the same basis. Governments—state, local and federal—rely on universal service to reach their constituents. And the USPS and its employees have made investment and staffing decisions on the assumption that the USPS is obligated to provide universal service. So, whether or not the law explicitly requires it, the assumption that the postal system will continue to provide a level of universal service at roughly its current level now provided is certainly an expectation of the American public and its political representatives, at least as long as this level of universal service remains affordable.

II. Topic No. 3: Universal Service: Geographic Scope

An essential attribute of universal service is geographic ubiquity—i.e., the availability of mail delivery to all delivery points. *How* the Postal Service serves those delivery points—e.g., through to-the-door delivery or delivery to cluster boxes, post office boxes, or institutional mailrooms—is a different question. So long as each individual and business addressed can by reached at a reasonable frequency and a reasonable cost to the mailer, however that is accomplished, the obligation has been satisfied.

The qualifier "reasonable" obviously cannot be ignored. It has long been recognized that the Postal Service need not provide daily delivery where geographic obstacles and low population density make daily delivery prohibitively expensive, particularly in places where daily transport systems don't currently exist (the outer non-main islands in Hawaii for instance). The best policy is probably to leave it to local stakeholders and USPS to determine appropriate arrangements for unusual specific

circumstances where they apply. Commission intervention via the complaint mechanism should be reserved for instances when bilateral negotiations break down.

III. Topic No. 4: Universal Service: Range of Product Offerings

All market dominant products currently offered by the Postal Service obviously should be included in the USO.

Further, new product offerings should be subject to the universal service obligation when cost-effective.

As for competitive products, if they are truly competitive, the USPS should hardly wish to abandon one of its strongest selling points: delivery everywhere.

IV. Topic No. 5: Universal Service: Access to Postal Facilities and Services

Access to services appears to be at about the correct level. Access to facilities, by contrast, is probably excessive: the Postal Service probably operates far more retail facilities than necessary or economical.

While it may be contentious to close rural post offices, creatively optimizing the retail network in urban and suburban areas should be easier, and should keep costs under control. Network optimization should continue to be accomplished with the sensitivity to the local community and postal workers that the Service has shown over the past few years of cost reduction.

Further, the costs of retail access can be reduced while maintaining or actually increasing access through technically innovative ways of selling stamps, accepting

letters and parcels, and providing other retail services. These solutions are likely to be less expensive, equally convenient, and greener. A Postal Kiosk which sells stamps and special services and accepts mail is just one example. Even as the number of retail facilities decreases, the effective level of access can be increased.

Moreover, even more advanced imaging and other digital solutions should enable further innovative postal uses of the internet that will expand access, while improving and adding to services generally. The testimony of Earth Class Mail witness Cameron Powell at the May 22, 2008, field hearing in Flagstaff, Arizona, provides a good illustration of this potential. We encourage vigorous exploration by USPS of the technology and adaptability to the needs of the system, mailers and recipients possibilities such as those presented by Earth Class Mail.

V. Topic No. 6: Universal Service: Frequency of Delivery

Whether the Universal Service Obligation should include universal delivery six days a week is not a simple question to answer. Stakeholder positions vary on this issue, even within NPPC and FSR. Some mailers can be flexible in their mailings and prioritizing. Other mailers' business plans, not to mention customer expectations, may need to be more rigid. Six days may be an essential attribute of universal service to some, but not to others.[1]

Further, reducing the number of days of mail delivery may not produce significant cost savings. To set some rough numbers, the 2007 CRA (PRC version) showed that

[1] In addition, for some mail services—particularly remittance mail—seven-day service is required by mail receivers and provided by the Postal Service.

there were about $10.7 billion in fixed carrier street costs and rural carrier costs out of total USPS costs of $77 billion. So eliminating one day of delivery could save at most about $1.8 billion—or a little over two percent—of Postal Service costs. Eliminating even three additional delivery days per week would save at most about $5.3. billion—about seven percent of Postal Service costs. Furthermore, these cost savings could be offset in large part by in-office cost increases for handling and storing the additional inventory of undelivered mail (assuming that the necessary storage space exists). We trust the Commission's consultant's report will shed some light on this issue.

Finally, even if there were agreement that reducing the number of delivery days would be beneficial, and how many delivery days should be eliminated per week, there is likely to be strong disagreement among mailers over which delivery day or days should be eliminated. The response rate for solicitation mail often varies by the day of the week, and the optimal day varies by industry and product. Thus, if high response rate days are different for different products, even if there were general agreement on fewer days of delivery, there would still be no doubt lively debate among stakeholders on which day or days would be best to eliminate.

VI. Topic No. 7: Universal Service Obligation: Rates and Affordability of Service and Topic No. 8: Universal Service: Quality of Service

Businesses and individual consumers are unified in their expectation of affordable, consistent mail delivery. The lack of affordable, consistent, reliable postal services is the primary impetus for congressional attention and legislative change (in 2006 as in 1970). At the same time, however, the quality of service that the Postal

Service can afford to provide very much depends on its financial health. Ultimately the value of extra service quality must be balanced against its costs.

NPPC and FSR believe that the Commission should refrain at this time from prescribing additional rate or service standards at this time under the rubric of the universal service obligation. In the uncertain and rapidly changing economic environment in which the Postal Service currently operates, the Commission should refrain from locking the Postal Service into operating standards that changing market conditions and technology may quickly render excessive or insufficient.

At the same time, however, the Commission should remain vigilant to ensure that changes in service standards which have a significant economic impact on the costs of mailers or recipients are properly factored into the CPI-based indexing mechanism established under 39 U.S.C. § 3622(d). The comments filed with the Commission last year in Docket No. RM2007-1 revealed a broad consensus among mailers that an adjustment to the index prescribed by 39 U.S.C. § 3622(d) for significant changes in the quality of service is necessary to carry out its purposes.[2] This consensus is also supported by the scholarly economic literature. "In contrast to cost-of-service regulation, a price-cap regulated firm has an incentive to reduce quality of service in an

[2] *See, e.g.*, Docket No. RM2007-1, ANM-NAPM-NPPC Comments (April 6, 2007) at 7-9; DMA Comments (April 6, 2007) at 6; Mulford Associates (April 6, 2007) at 3; NNA Comments (April 6, 2007) at 10-12; OCA Comments (April 6, 2007) at 18-20; Pitney Bowes Comments (April 6, 2007) at 9; McGraw-Hill Reply Comments (July 30, 2007) at 6-7; Transcript of Kansas City field hearing (June 22, 2007) at 40 (Randy Stumbo testimony for Meredith Corporation); Transcript of Los Angeles field hearing (June 28, 2007) at 38 (John Carper testimony for Pepperdine University); Transcript of Wilmington field hearing (July 9, 2007) at 19-20 (testimony of Sr. Georgette Lehmuth for National Catholic Development Conference); *id*. at 30 (testimony of Daniel C. Emens for J.P. Morgan Chase); NPPC Comments on Order No. 26 (Sept. 24, 2007) at 7-9.

effort to reduce costs and increase profits."[3] Attention to quality of service is particularly important in rate indexing for regulated industries that are not experiencing rapid productivity gains.[4]

The Commission, while stating that it was "sympathetic to these concerns," announced in Order No. 26 that it would defer consideration of a quality adjustment until after the promulgation of rules for the collection of data on service performance. Order No. 26 ¶ 2067. In the interim, the Commission stated that it "expects that the Postal Service will operate within both the letter and the spirit of the PAEA." *Id*. ¶ 2068. Given the likelihood (and, indeed, the desirability) of changes in service standards over time, this issue warrants further consideration.

VII. Topic No. 10: The Implications of the Universal Service Obligation for the Postal Monopoly. Topic No. 11: Universal Service, the Universal Service Obligation and the Postal Monopoly in Other Countries

As the Commission has recognized, the postal "monopoly" actually consists of two separate monopolies: a monopoly on the delivery of "letters" and a separate monopoly on access to customer mailboxes. We address each one in turn.

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[3] Michael A. Crew and Paul R. Kleindorfer, "Pricing, Entry, Service Quality, and Innovation under a Commercialized Postal Service," in J.G. Sidak, ed., *Governing the Postal Service* 164-165 (1994); *accord*, Jean-Jacques Laffont and Jean Tirole, *A Theory of Incentives in Procurement and Regulation* 212, 233 (1993). This basic problem is the reason why Pentagon contract managers tend to "favor performance over cost. They often feel that fixed-price contracts encourage contractors to make 'uneconomic' reliability trade-offs and be reluctant to make design improvements." *Id*. at 233 n. 13.

[4] Michael A. Crew and Paul R. Kleindorfer, "A Critique of the Theory of Incentive Regulation: Implications for the Design of Performance Based Regulation for Postal Service," in Crew and Kleindorfer, eds., *Future Directions in Postal Reform* (2001).

The Letter Monopoly. The issue of whether the letter monopoly should be eliminated has generated widespread debate in the United States and other advanced economies. On the one hand, the proponents of liberalization have contended that the competitive pressures unleashed by eliminating the monopoly on mail delivery could lead to significant reductions in the average cost of mail service provided by the Postal Service and its counterparts abroad. On the other hand, the opponents of liberalization have contended that elimination of the monopoly, by allowing new entrants to "cream-skim" the Postal Service's most profitable mail volume (e.g., mail to and from downtown business districts and affluent suburbs) could destroy the Postal Service's ability to subsidize universal service to relatively high cost rural and inner-city areas.

For several reasons, NPPC and FSR believe that tinkering with the scope of the letter monopoly would be imprudent now, and the issue should be deferred for consideration in the future. First, implementation of the Postal Accountability and Enhancement Act of 2006 ("PAEA") is still incomplete, and its full consequences for the Postal Service and its stakeholders are still uncertain. Second, the recent erosion of volume and revenues to the Internet has placed the finances of the Postal Service under stress, as have the overall slowdown of the American economy and the recent run-up of energy prices. Third, the pending elimination or curtailment of the monopolies of the postal operators in the European Union represents a large-scale social experiment that may conceivably provide a useful empirical test of these competing economic theories. Justice Oliver Wendell Holmes once observed that, in the life of the law, an ounce of experience is worth a pound of logic. So it is with the letter monopoly. Prudence suggests that the United States should wait until domestic economic conditions stabilize, the PAEA is fully implemented and its impact better understood,

and the consequences of liberalization in Europe become much clearer, before seriously considering such a radical experiment on our own soil.

The Mailbox Monopoly. Most other advanced industrial countries have eliminated the mailbox monopoly. Doing likewise in the United States could facilitate competition and innovation in services, with benefits in products and prices available to recipients and senders. In addition, open the mailbox may also offer environmental advantages. Today FedEx and UPS selectively use the USPS to provide delivery or the last mile of service to many parts of the United States. This is a fuel-efficient arrangement. Future collaboration is likely to continue to be warranted.

There are important countervailing arguments against opening the mailbox, however. Doing so could create mail security issues, real or perceived. How would the mail itself be kept secure against theft, including identification theft, damage or opening? How would proliferation of private delivery companies threaten the actual or perceived physical security of homeowners, especially those with mail slots and mailboxes attached to their houses? Whether these concerns are justified or not, opening the mailbox is likely to stimulate additional diversion of personalized business correspondence to the Internet at a time when the Postal Service needs all the volume of such mail that it can get. For this reason, NPPC and FSR believe that on balance the mailbox monopoly should be maintained for now.

VIII. Topic No. 12: Other Issues

The Postal Service is one of the most environment-friendly branches of the federal government. Mail is a substitute for automobile travel, particularly for shopping

and purchasing goods and services. Moreover, both the Postal Service and the members of NPPC and FSR have been taking steps to further reduce the environmental impact of mail.

In recent months, however, misplaced concerns about the environmental effects of mail have led to political demands for “do not mail” legislation and other measures that could have the intended or unintended consequence of suppressing the volume of advertising mail. A significant reduction in the volume of advertising mail could depress postal revenues to the point of destroying the financial basis for universal service. In Italy, for example, a statutory opt-in requirement caused a 30 percent decline in direct mail volume. A similar development in the United States would present Congress with a Hobson’s choice: resuming taxpayer subsidy of the postal system, or further isolating the most fragile among us: people who cannot afford Internet service or other alternatives to the mail.

CONCLUSION

NPPC and FSR respectfully request that the Commission base its recommendations on the principles stated in these comments.

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