

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

Notice of Market-Dominant Price
Adjustment and Classification Changes
Related to Move Update Assessment

Docket No. R2017-7

**COMMENTS OF THE
NATIONAL ASSOCIATION OF PRESORT MAILERS, ASSOCIATION OF MAIL
ELECTRONIC ENHANCEMENT and IDEAlliance**

(July 20, 2017)

Pursuant to Order No. 3990, the National Association of Presort Mailers (NAPM), the Association of Mail Electronic Enhancement (AMEE) and IDEAlliance (Joint Commenters)¹ respectfully submits these comments to the Postal Regulatory Commission's Notice of Market-Dominant Price Adjustment and Classification Changes Related to Move Update Assessment (Docket No. R2017-7).

The Joint Commenters support the Postal Service's continuing efforts to improve address quality, reduce the costs associated with undeliverable-as-addressed (UAA) mail, and leverage the Postal Service and the industry's investment in the Full Service Intelligent Mail barcode (FSIMb) – all of which help support growth in mail volume.

I. Advance Notice and Publication in the Federal Register

The Joint Commenters commend the Postal Service for filing its Notice well in advance of the proposed implementation date of the new Move Update verification

¹ NAPM is a nonprofit organization that represents mailers, both mail owners and mailing service providers who commingle, sort and prepare quality mailings inducted and compliant with work share requirements. Representing over 100 member companies mailing in 36 states, it collectively provides approximately 35% of the total First Class mail volume and over 50% of the Full Service volume. NAPM member mail service provider companies interact with and perform mailing services for tens of thousands of clients and businesses that use postal mailing products.

AMEE has 33 member companies representing mailers, associations, and supporting vendors who have a primary interest in increasing the value and utility of First-Class Mail, and are engaged in developing or promoting technology in the area of mail electronic enhancement.

Idealliance is a global industry association representing the visual communications industry, comprised of content and media creators, and their print and digital service providers, material suppliers and technology partners. Serving thousands of member companies employing hundreds of thousands of professionals, Idealliance provides an open and cross-industry platform for motivated professionals to create a more sustaining, competitive, and compelling graphic and visual communications industry.

methodology (Address Quality Census Assessment and Measurement Process (“Census method”)) and the corresponding changes to the assessment charge and the related classification changes. Advance notice will help mailers and mail service providers prepare for and develop processes responsive to the proposal. Advance notice is critical because the proposed changes may require mailers and mail service providers to plan for and implement complicated systems and operational changes, as well as make considerable capital investments.

The Joint Commenters further credit the Postal Service for publishing the current and previous versions of the proposed Move Update verification method in the *Federal Register*.² Formal processes for developing and publicizing mailing eligibility requirements, especially those that relate to compliance issues and potentially subject mailers and mail service providers to compliance assessments, is critical. More formal and transparent processes also help facilitate the mailer’s ability to comply with the requirements. The Joint Commenters appreciate the Postal Service’s response to the comments received on previous iterations of the proposed Census method. If approved, any future changes to the proposed assessment fee or the error threshold should likewise be made through a *Federal Register* notice process and be subject to further review and approval by the Commission.

II. Uniform Compliance Standards and Double Jeopardy

The discussion in the Postal Service’s Notice regarding compliance with the requirements of 39 U.S.C. 3622 does not meaningfully address Objective 8 (“establish and maintain a just and reasonable schedule of rates and classifications”). This is an important omission.³ Two issues that require further clarification bear directly on the question of whether the proposed price adjustment and classification change are reasonable.

The Notice states that “[a]s was the case with MERLIN verification, Census verification alone does not establish compliance or noncompliance with the Move Update standard.” Notice at 6, n.6. This statement ignores the fundamental difference between the prior MERLIN verification scheme, a sampling methodology, and the proposed Census

² See *Address Quality Census Measurement and Assessment Process*, 82 Fed. Reg. 11871 (proposed Feb. 27, 2017); 81 Fed. Reg. 43,965 (proposed July 6, 2016); 79 Fed. Reg. 76,930 (proposed Dec. 23, 2014).

³ It is not sufficient to assert that any price or classification change made pursuant to the price cap structure set forth by section 3622(d) furthers the statutory objective of a just and reasonable schedule of rates and classifications. If that were so, there would be no need for Congress to have separately included Objective 8 in the PAEA.

method. Under the Census method the goal is to assess the address quality of every piece in every mailing. For this very reason, the initial proposals of the Census method expressly stated that the new process would supplant the existing Move Update requirements. The previous iterations of the proposal were appropriately styled as a results-based, data-driven assessment -- mailers would pay for only those non-compliant pieces above a pre-determined threshold. This approach was widely supported because it would have provided mailers and mail service providers with realistic compliance goals and it would have aligned those compliance goals with enforcement standards (i.e., the error threshold would operate as a safe harbor). That approach was fair and reasonable.

The current proposed Census method does not provide the same level of certainty. Under the current proposed Census method mailers and mail service providers may be subject to disparate compliance standards. Even if the Postal Service reviews every piece in a mailing and concludes that it does not trigger the error threshold, under the new process the very same mailing may be found to be noncompliant with the Move Update requirements in a subsequent investigation by the U.S. Postal Inspection Service.⁴ This is not just or reasonable.

Additionally, in its Order approving the Move Update surcharge in Dkt. No. R2010-1, the Commission held that the Postal Service had not clearly defined the distinction between “the conditions that subject a mailing to Move Update Assessment Charges and those that would subject it to the steeper penalties associated with a finding of noncompliance.” Order No. 348 at 13. The proposed Census method fails to correct this deficiency. In Dkt. No. R2010-1 the Commission conditioned its approval on the imposition of a good faith standard; a finding of noncompliance was reserved to those cases where the mailer could not demonstrate a good faith attempt to comply with the Move Update requirements (e.g., failure to adopt remedial efforts, persistent problems, etc.). See *id.*, at 13-14. To satisfy Objective 8 the same conditions should be applied to the proposed Census method to distinguish instances of an assessment from a finding of noncompliance.

Additionally, the Commission previously raised concerns regarding the risk that a mailer may be charged twice on the same mailing for the same reason. See *id.*, at 13. This

⁴ The threat of an investigation poses an intolerable risk where, as the U.S. Postal Service Inspector General has documented, the Postal Service and the USPIS do not rely on the same compliance standards. See USPS OIG Audit Report – Move Update Program and Investigations (Report No. SA-AR-10-001)(May 12, 2010). It also undermines the integrity of the error threshold, if the USPIS can continue to enforce to a zero tolerance standard on the very same mailings.

type of double jeopardy would be clearly unjust and unreasonable. In Order No. 348 the Commission held that the “charges were not cumulative” and, again, distinguished between good faith efforts to comply and chronic noncompliance. See *id.* The Commission should likewise clarify that to satisfy Objective 8, a mailer cannot be charged twice for the same reason. At a minimum, payment of the assessment surcharge on any mail pieces above an error threshold should discharge any future liability as to those mail pieces.

To satisfy the just and reasonable objective of section 3622(b)(8) the Postal Service should also provide additional detail with respect to the appeals process. Specific guidance should be provided as to the type of information that the Postal Service will require to rescind or revise an assessment. The Postal Service should also provide clear guidelines on what would be considered acceptable evidence on appeal and whether it will provide data and other information (e.g., images of mail pieces deemed to be non-compliant) to substantiate claims of COA errors. It is not reasonable to impose an assessment charge without providing mailers or mail service providers with evidence to support the claim or a meaningful opportunity to appeal. Lack of this type of information also often prevents the mailer from being able to accurately identify the cause of the error and take action to prevent it occurring in the future.

III. Assessment Charge and Error Threshold

The Notice does not provide any support for the proposal to increase the assessment charge from \$.07 to \$.08. The Postal Service simply asserts that it “has determined that a Move Update assessment charge of \$0.08, and a threshold of 0.5 percent, are appropriate to encourage mailers to improve their address quality by reducing COA mail.” Notice at 6. The Postal Service further states that the assessment charge “is designed to serve as an incentive.” *Id.* But again, no explanation is provided as to why \$.08 is an appropriate charge, or why \$.08 incentive rather than \$.07 will help drive improved compliance outcomes and improve the operational efficiency of the Postal Service (factor 7). The Postal Service credits the Commission with anticipating the need to modify the assessment fee if the methodology changed, Notice at 8, but it is far from clear that the Commission was endorsing charging more per piece when moving from a sampling method to a Census method.

The proposed increase in the assessment charge also ignores the investments the industry has made to reduce UAA mail. The USPS Office of Inspector General reported

that UAA mail cost the Postal Service approximately \$1.5 billion in FY2014, but cost the industry approximately \$20 billion in the same period; thus, mailers and mail service providers bear the disproportionate burden of UAA mail costs.⁵ Increasing the assessment charge will likely penalize mailers without any offsetting benefits.

Many in the industry have expressed concerns regarding the proposed error tolerance being set so low for the implementation of an entirely new business process. The Joint Commenters share the concern that there may be unintended consequences (as there usually are) as a new system is implemented. A more prudent approach would be to have less stringent tolerances established initially, with the understanding that the error tolerance will be tightened as the process and changes stabilize and mature. In addition, the methodology for measuring and adjusting the tolerances should be clearly defined and documented so that all will understand how the “tightening” in tolerances will occur. This was the approach used when the Postal Service introduced the MERLIN Move Update method; the same approach should be applied here. The Joint Commenters also share the concern that imposing additional complexity and cost on mailers at a time when mail volumes are declining may have unanticipated negative effects on mail volume trends. Because of the industry practices and USPS rules currently in effect for address correction services and disposition of the mailpieces, there is potential that First-Class Mail users will be at higher risk for non-compliance assessment on Move Update than USPS Marketing Mail users. Accordingly, a .5 percent error threshold may be an appropriate end goal, but the Postal Service should offer a phased implementation to allow mailers and mail service providers to budget for and implement any necessary systems or operational changes.

A phased or graduated implementation over a definite timeline with the goal of settling on a final error threshold of .5 percent would further the Postal Service’s stated goal of encouraging compliance with mail preparation requirements without penalizing mailers and mail service providers. See Notice at 6. A phased implementation would also allow the Postal Service more time to work through and resolve important data quality issues associated with the mailer scorecard, including reconciling inconsistent results from NCOALink, MPE NCOALink, and ACS.

The phased implementation should be paired with a USPS customer education campaign. In its filing, the Postal Service states “[T]he Postal Service certifies that it will

⁵ See *Strategies for Reducing Undeliverable as Addressed Mail*, USPS OIG MS-MA-15-006 (May 1, 2015).

inform customers of the price adjustment, as required by Rule 3010.12(a)(3). In addition to this Notice, the Postal Service is publishing notice of the price change via an Industry Alert and a DMM Advisory. Thus, widespread notice of these prices is being provided prior to their planned implementation date. The Postal Service also plans to provide public notice of the approved price changes in the *Federal Register* and on the Postal Explorer website.” (Notice pg 3). While these are good efforts, they focus on communications strictly related to the price aspects of the change. We believe much more is needed. The Postal Service should provide the Commission with a customer communications/education plan with measurable outcomes for how it will prepare commercial mailers for this change. The plan should include how it will update the various websites (e.g., RIBBS, PostalPro,TM Business Customer Gateway, etc...) with current and relevant information. Navigation of the websites to obtain current information is challenging today, to say the least. There is a great deal of disjointed information spread across various Postal functional organizations (e.g., Business Mail Entry and Acceptance, Intelligent Mail, National Customer Support Center, etc...) that needs to be better connected for end user ease of use. In addition, it should provide the Commission with periodic updates during the phased implementation process on how its Customer Outreach Programs (BMEU Outreach, PCCs, NCSC outreach, etc...) are performing along with the data to support recommendations to make tolerance adjustments. Move Update compliance has a long history of significant litigations and extremely costly settlements, so in implementing this new process the mailing customers should be well informed and provided the opportunity to easily obtain the assistance and information to thoroughly understand the required compliance standards.

The Joint Commenters also have concerns about how the tolerances will be monitored and changed. The Notice does not address this issue, but the most recent *Federal Register* notice stated: “[t]he Postal Service sets and revises error thresholds through a periodic statistical analysis of quality for all mailings. The Postal Service has committed to providing at least 90 days of notice prior to changing a threshold.”⁶ As noted above, at a minimum, any proposed changes should be published in the *Federal Register* and subject to Commission review and approval. Additionally, to the extent the Postal Service proposes to modify the error threshold on the basis of a “periodic statistical analysis for the quality of mailings,” those analyses should be made available. For example, in

⁶ See 82 Fed. Reg. 11871, 11874 (Feb. 27, 2017).

reviewing the historical documents on tolerance thresholds, the Postal document titled “Threshold Process – June 2015 V2.0” refers you to the “Mail Entry Road Map” for additional information about each error type. The Mail Entry Road Map July 2015 V8.1 posted on the PostalPro™ website indicates an error threshold of .8% for Move/Update (which was the tolerance level presented by the USPS to industry at the time).

Since that time, and prior to this instant filing, the Postal Service created the “Publication for Streamlined Mail Acceptance for Letters and Flats” June 2017 version 0.1 draft (Pub 6850) that now indicates the error threshold as being proposed at .5%. However, there is no content within the document that explains the rationale for changing it from .8% to .5%. It is unclear how or why the USPS tightened the error threshold prior to this filing, and NAPM recommends the earlier stated approach of a phased implementation supported by USPS education efforts, with the error tolerance goal set at .5% at the end of the implementation. The USPS also should continue to perform the “statistical periodic analysis” and provide it to the Commission prior to making adjustments to the tolerance.

The Commission should request in this proceeding that the Postal Service provide any and all analyses conducted to support the proposed .5 percent error threshold so that the baseline assessment for the Census method is part of the record.

The Joint Commenters would like to point out that in the two prior *Federal Register* Notice proposals the industry raised concerns regarding the “accountable party” for meeting the Move Update standards. The Joint Commenters believe this issue was not resolved to the satisfaction of the industry and are certain that some will certainly comment on it in this proceeding. The Joint Commenters support other industry commenters promoting the position that the Postal Service, with the requirement of By/For information, should measure and assess address quality at the Mail Owner CRID level. Given the informational power of Intelligent Mail (Full Service and eDoc), solution capabilities to better manage the mailing quality and assessment information are readily available. It is also our opinion the potential currently exists for developing even better solutions, such as the “pay-as-you-go” model discussed in the FRN process to make mailing less costly, complex, and user friendly.

IV Extension of Free ACS

The Joint Commenters support the proposal to extend the \$0.00 Full Service ACS fee to qualifying Basic automation and non-automation pieces mailed by a predominantly Full Service mailer. The Joint Commenters request that as soon as a mailer is subjected to

the Census Verification method then all mailings being verified under that method should receive the free ACS information for all pieces in the mailings. This supports the USPS stated intent that the Free ACS will promote more adoption and further reducing the UAA impact.

The Joint Commenters appreciates the Commission's consideration of these comments.

Respectfully submitted,

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