

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

PUBLIC INQUIRY ON THE
CLASSIFICATION OF THE
INBOUND LETTER POST PRODUCT

Docket No. PI2018-1

**RESPONSES OF THE UNITED STATES POSTAL SERVICE
TO QUESTIONS 1-6 OF COMMISSION INFORMATION REQUEST NO. 2**
(October 5, 2018)

The United States Postal Service hereby provides its responses to the above-listed questions of Commission Information Request No. 2, which was issued on September 13, 2018. The questions are stated verbatim and followed by the responses. The Postal Service has filed an unredacted version of the response to Question 6(a) under seal. In support of its non-public filing, the Postal Service hereby incorporates by reference the application for non-public treatment that was filed on August 1, 2018 in connection with the Postal Service's response to Commission Information Request No. 1.¹

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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¹ Notice of the United States Postal Service of Filing Nonpublic Folder USPS-PI2018-1/NP1 and Application for Nonpublic Treatment, Docket No. PI2018-1, Aug. 1, 2018.

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**RESPONSES OF THE UNITED STATES POSTAL SERVICE TO
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1. Please refer to the Postal Service's Responses to Commission Information Request No. 1 (CIR No. 1), question 2.a. The Postal Service states that a foreign mailer could opt to mail an Inbound Letter Post mailpiece as a "parcel post" mailpiece using Inbound Parcel Post (at UPU rates), Inbound Air Parcel Post (at non-UPU rates), or "parcel post provisions in any applicable Inbound Competitive Multi-Service Agreements with Foreign Postal Operators contract[.]" Responses to CIR No. 1, question 2.a.
 - a. Please explain why a mailer would send an item that is eligible to be mailed as an Inbound Letter Post mailpiece as a parcel post mailpiece.
 - b. Please explain why this situation (*i.e.*, a mailer having the option of sending a mailpiece by market dominant or competitive product offerings) is unique to the Inbound Letter Post product. For example, a mailer can opt to mail a Library/Media Mail mailpiece as a Priority Mail or a First-Class Package Service Retail mailpiece. In situations where a mailer could opt to send a mailpiece by either market dominant or competitive products, please confirm that it is the Postal Service's position that the applicable competitive products compete with the applicable market dominant products. If not confirmed, please explain.

RESPONSE:

- a. It is possible that, at some foreign points of origin, the rates available to a mailer for a parcel post mailpiece might be equal to or more favorable than the rates available for Inbound Letter Post because of ABC remailing activities, ETOE operations, or other arrangements. In addition, parcel post might offer features that are more appealing to a specific mailer than those included in Inbound Letter Post, including a different delivery time, tracking, indemnity, and other features. As an example, a mailer may choose to send an item as parcel post because of the availability of insurance or indemnity. These features are not an option for foreign origin inbound letter post, as indemnity is not offered except with registered mail combined with letter post, and the indemnity limit is relatively small. In addition, a mailer may choose parcel post for the availability of a signature upon delivery.

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Response to Question 1 (continued)

b. Confirmed. There are multiple factors that inform the classification of domestic services, but have no relevance for classification of international services. For instance, USPS Marketing Mail, Periodicals and Bound Printed Matter have nonprofit or special rate analogs, which is the not the case with Inbound Letter Post.

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2. Please refer to the Postal Service's Responses to CIR No. 1, question 2.b. The Postal Service states that "[p]arcel or other packages that competitors ship from abroad to the United States can compete with [the] Inbound Letter Post product. These include the package shipping products of integrators, such as FedEx, UPS, and DHL, and freight forwarders and consolidators, such as SkyBox, BraBox, and Amazon." *Id.* question 2.b.
- a. Please identify the FedEx products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - b. Please identify the UPS products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - c. Please identify the DHL products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - d. Please identify the SkyBox products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - e. Please identify the BraBox products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - f. Please identify the Amazon products that directly compete with the Inbound Letter Post product. For each product, please provide the basis for the Postal Service's determination that the product competes with the Inbound Letter Post product and whether it competes on service, price, or both.
 - g. Please identify all other integrators, freight forwarders, and consolidators that offer products that directly compete with the Inbound Letter Post product. For each integrator, freight forwarder, and consolidator that offers products that directly compete with the Inbound Letter Post product, please identify the specific products and provide the basis for the Postal Service's determination that the products compete with the Inbound Letter Post product and whether they compete on service, price, or both.

RESPONSE:

- a. FedEx has acknowledged that its products compete with Inbound Letter Post. See Comments of Federal Express Corporation, Docket No. IM2016-1, July 21, 2016, at 24

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Response to Question 2 (continued)

("FedEx and UPS, and smaller companies such as International Bridge, compete actively against foreign D[esignated]O[perators] for the business of collecting and conveying e-commerce merchandise to the U.S. for distribution by USPS or other delivery services"). Based on product descriptions from www.fedex.com, specific FedEx products that compete with inbound letter post include International Priority and International Economy, which both offer faster transit times than inbound letter post products. The competitiveness of the prices for these FedEx products would depend on the rates for UPU products set by postal operators serving mailers at the foreign point of origin.

b. UPS has acknowledged that its products compete with Inbound Letter Post. See Reply Comments of United Parcel Service, Inc., Docket No. RM2017-3, March 30, 2018, at 7 ("[p]arcels within the scope of Inbound Letter Post are contestable by private sector companies, including UPS"). Based on product descriptions from www.ups.com, specific UPS products that compete with inbound letter post products include UPS Worldwide Express, Worldwide Saver, Worldwide Express NA1, Worldwide Expedited, and UPS Express Plus, which offer faster transit times than inbound letter post products. The competitiveness of the prices for these UPS products would depend on the rates for UPU products set by postal operators serving mailers at the foreign point of origin.

c. In its report titled "Terminal Dues in the Age of Ecommerce," the USPS Office of Inspector General ("OIG") identified the DP DHL GM Packet as a product that competes with inbound letter post at certain weights. OFFICE OF INSPECTOR GENERAL, UNITED

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Response to Question 2 (continued)

STATES POSTAL SERVICE, RARC-WP-16-003, TERMINAL DUES IN THE AGE OF ECOMMERCE

(Dec. 14, 2015), at 17 (available at

[https://www.uspsaig.gov/sites/default/files/document-library-files/2015/RARC-WP-16-](https://www.uspsaig.gov/sites/default/files/document-library-files/2015/RARC-WP-16-003.pdf)

[003.pdf](https://www.uspsaig.gov/sites/default/files/document-library-files/2015/RARC-WP-16-003.pdf)). Based on product descriptions from www.dhl.com, DHL Express, which offers faster transit times than inbound letter post products, is another DHL product that competes with inbound letter post products. The competitiveness of the prices for these DHL products would depend on the rates for UPU products set by postal operators serving mailers at the foreign point of origin.

d. The Postal Service is not able to identify specific products currently offered by Skybox that compete with inbound letter post.

e. The Postal Service is not able to identify specific products currently offered by BraBox that compete with inbound letter post.

f. Amazon competes with inbound letter post products through its drop-ship and logistics services and its in-store and direct delivery services. See UNIVERSAL POSTAL UNION, TRENDS AND DRIVERS FOR INTERNATIONAL LETTER MAIL, PARCELS, AND EXPRESS MAIL SERVICES (2016), at 8 (available at http://www.upu.int/uploads/tx_sbdownloader/researchOnPostalMarketsTrendsAndDriversForInternationalLetterMailParcelsAndExpressMailServicesEn.pdf).

g. The integrators and consolidators that offer products that compete with inbound letter post products include:

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Response to Question 2 (continued)

- One World Express,² which uses services of Royal Mail or a contracted airline in combination with the Postal Service for last mile delivery;
- Aramex,³ which uses a combination of direct airlines, integrators, and postal delivery, with last mile delivery provided by the Postal Service, UPS Ground, FedEx Ground, or FedEx Priority services; and
- First Flight⁴ and DTDC,⁵ which use direct airline services, and Postal Service or UPS Ground services for last mile delivery.

In general, the products of integrators and consolidators that compete with inbound letter post products offer faster transit times. The competitiveness of the prices for these products would depend on the rates for UPU products set by postal operators serving mailers at the foreign point of origin.

There are more than one hundred freight forwarders located throughout the world that offer products that compete with inbound letter post.⁶ In general, service for these products is slower. The competitiveness of the prices for these products would depend on the rates for UPU products set by postal operators serving mailers at the foreign point of origin.

² Information regarding One World Express is available at www.oneworldexpress.com.

³ Information regarding Aramex is available at www.aramex.com.

⁴ Information regarding First Flight is available at www.firstflight.com.

⁵ Information regarding DTDC is available at www.dtdc.com.

⁶ For a directory of freight forwarders, see www.freightforwardersfamily.com/directory, www.gffdirectory.com, or www.forwarders.com.

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3. Please refer to the Postal Service's Responses to CIR No. 1, question 5.
- a. The Postal Service indicates that the first page of Non-Public Attachment 1 was created on or about May 2017, and finalized by June 1, 2017. The Postal Service also indicates that the second page of Non-Public Attachment 1 was finalized on or before April 6, 2018. Responses to CIR No. 1, question 5.b.ii. Please provide the date Non-Public Attachment 1, pages 3-38 were finalized or presented to the Postal Service.
 - b. The Postal Service states that Non-Public Attachment 1, page 1 "was part of a draft for an anticipated presentation that did not occur on that date." *Id.* Please confirm that the anticipated presentation took place. If confirmed, please provide the date of presentation. If not confirmed, please explain.

RESPONSE:

- a. The referenced pages were created in or about May 2017 (exact date not known) and finalized by June 1, 2017.
- b. The anticipated presentation did not take place, but the materials were used to brief senior Postal Service management informally.

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4. Please refer to Non-Public Attachment 1.
- a. Non-Public Attachment 1 references “USPS Inbound package[s].” Non-Public Attachment 1 at 3. Please identify the specific Postal Service market dominant or competitive products that are included within the term “USPS Inbound package[s].”
 - b. Non-Public Attachment 1 provides the Postal Service’s share of the “US Inbound Market.” *Id.* at 7. Please identify the specific Postal Service market dominant or competitive products that are included within the term “USPS Inbound Market.”
 - c. Non-Public Attachment 1 provides “Integrators (and Other Shippers)” share of the “US Inbound Market.” *Id.* Please identify the companies included in the term “Integrators (and Other Shippers).”
 - d. Please discuss how the Postal Service and the “Integrators (and Other Shippers)” shares of the “USPS Inbound Market” were calculated. *See id.*
 - e. Non-Public Attachment 1 references “market dominant products.” *Id.* at 15. Please identify the specific Postal Service market dominant product(s) included in this usage of the term “market dominant products.”
 - f. Non-Public Attachment 1 refers to specific “international letters.” *Id.* at 22. Please identify the specific Postal Service market dominant product(s) included in “international letters.”
 - g. Non-Public Attachment 1 references “impacted international FCMI.” *Id.* Please identify the specific Postal Service market dominant product(s) included in the term “impacted international FCMI.”

RESPONSE:

- a. The term “USPS Inbound package[s]” includes packets or packages in Inbound Letter Post, International Registered Mail, Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators, Inbound Parcel Post (at UPU rates), International Business Reply Service (IBRS) Competitive Contracts, Inbound EMS, Inbound Air Parcel Post (at non-UPU rates), and Inbound Competitive Multi-Service Agreements with Foreign Postal Operators.
- b. The term “US Inbound Market” includes the products identified in the response to Question 4(a) above.

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Response to Question 4 (continued)

- c. The term “Integrators (and Other Shippers)” includes UPS, FedEx, DHL, and the organizations identified in the Slide titled “Competitors – Landscape” in the file “NONPUBLIC CIR1 Q5aAtt1.pdf” in USPS Library Reference USPS-PI2018-1/NP1 and other similar organizations.
- d. The shares were calculated as described in Slide 2 of Public Attachment 1 in the Non-Public Annex filed with the Motion for Reconsideration.⁷
- e. The term “market dominant products,” as used in this context, refers to outbound FCMI.
- f. The term “international letters” refers to outbound FCMI.
- g. The term “impacted international FCMI” refers to outbound FCMI.

⁷ United States Postal Service Notice of Filing Nonpublic Annex to the Motion for Reconsideration of Order No. 4451 and Application for Nonpublic Treatment, Docket No. ACR2017, April 6, 2018.

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5. Please refer to the Postal Service's Motion for Reconsideration. The Postal Service stated that the primary reason why it has not requested to transfer the Inbound Letter Post product, or parts thereof, from the market dominant to the competitive product list is because it is unable "to separate Inbound Letter Post that is subject to the Private Express Statutes ('PES') from Inbound Letter Post that is not subject to PES." Specifically, the Postal Service pointed to the fact that small packets may contain documents as well as goods as the source of its inability to separate Inbound Letter Post mailpieces that are subject to the PES and those that are not subject to the PES.
- a. Please provide examples of the types of "documents" that may be included in small packets.
 - b. Please provide the percentage of Inbound Letter Post small packets that include "documents" that are considered "letters" and are subject to the PES.
 - c. In the Motion for Reconsideration, the Postal Service stated that if small packets contained only goods, then it would be in "a much better position to seek transfer of the new 'small packets' items (containing only goods) to the competitive products list." Motion for Reconsideration at 7. Please explain how the Postal Service planned to separate Inbound Letter Post small packets from Inbound Letter Post bulky letters if Inbound Letter Post small packets contained only goods.

RESPONSE:

- a. Under UPU regulations applicable to Inbound Letter Post, there are no limitations on the types of "documents" that may be included in small packets, other than prohibitions in Article 19 on obscene or immoral articles; documents having the character of current and personal correspondence exchanged between persons other than the sender and the addressee or persons living with them; and travellers' cheques, bank notes, currency notes, or securities of any kind payable to bearer, if uninsured.
- b. Currently the Postal Service does not have the ability to identify and separate Inbound Letter Post small packets containing goods only, goods and documents, and documents only, or the ability to identify and separate Inbound Letter Post small packets that include "documents" that are considered "letters" and are subject to the PES. See Responses of the United States Postal Service to Questions 1-

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Response to Question 5 (continued)

11 of Commission Information Request No. 1, Docket No. PI2018-1, Aug. 1, 2018, at Response to Question 4(a); United States Postal Service Motion for Reconsideration of Order No. 4451, Docket No. ACR2017, April 6, 2018, at 6.

c. In its previous analysis (in 2017) the Postal Service was unable to conclude that inbound letter post packets could be transferred to competitive classification, and currently the Postal Service is revisiting this issue. Our current analysis, which is ongoing, suggests that our prior concerns regarding the PES may not be a barrier to the transfer of Inbound Letter Post to the competitive classification. Had the UPU Congress adopted the Integrated Product Plan as originally envisioned, then bulky letters would still have been format E items. However, bulky letters are not required to bear an S10 barcode, as that requirement applies only to letter packets containing goods, and as such, the Postal Service could have considered whether simplifying assumptions could be made concerning items bearing S10 barcodes. Efforts to address the distinction between bulky letters and small packets might also have taken hold in the Postal Operations Council through adoption of Convention Regulations to recognize a distinction between bulky letters and small packets, for instance through specific barcode or item numbering assignments. It is of course impossible to know how the Postal Operations Council might have responded to such efforts, since ultimately there was no need for the creation of distinguishing characteristics, at least insofar as the Postal Service is concerned.

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6. In Docket No. MC2011-22, to allow for the transfer of commercial First-Class Mail Parcels to the competitive Lightweight Commercial Parcels product, the Postal Service proposed a classification change that restricted the contents of Lightweight Commercial Parcels product to prohibit the product from containing items classified as “letters” under the PES.
- a. Please confirm that is possible for the U.S. government to seek a reservation to the Universal Postal Union Convention to restrict small packets to only goods (and documents related to those goods such as invoices or receipts) at the appropriate time for reservations.
 - b. If confirmed, please discuss the process for seeking such a reservation.
 - c. If not confirmed, please explain.

RESPONSE:

- a. The U.S. Department of State is responsible for negotiating the Universal Postal Convention, including any parts of the Convention that address reservations, and for determining whether to seek a reservation under the Convention. That said, it is a possibility for the United States to seek a reservation to the Convention along the lines posited in this question. Such reservation would not be taken by right, but rather would be submitted to the UPU Congress for consideration. [REDACTED]
[REDACTED]
[REDACTED]
- b. Under Article 39 of the Universal Postal Convention, reservations must be submitted to Congress, and to become effective, they must be approved by the majority required for amendment of the article subject to the reservation. See *also* UPU Congress Rules Article 26 (establishing procedural rules for reservations). Reservations are applied on a reciprocal basis between the reserving member country and other

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member countries. Because of the UPU's general rule, as described in Article 39, that "any member country whose views are not shared by other member countries shall endeavor, as far as possible, to conform to the opinion of the majority[, r]eservations should be made only in cases of absolute necessity, [with] proper reasons given."

c. N/A.