



POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Chairman

August 20, 2019

VIA U.S. MAIL AND EMAIL

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW, 7th Floor
Washington, DC 20520

Dear Mr. Secretary:

This responds to the June 28, 2019, letter from the Department of State requesting the views of the Postal Regulatory Commission (Commission) on proposals to amend rates or classifications for market dominant products or services that will be considered at the upcoming 2019 Universal Postal Union (UPU) Extraordinary Congress. See 39 U.S.C. § 407(c). Consistent with its regulations, the Commission opened Docket No. IM2019-1 to solicit comments regarding the general principles that should guide the Commission in providing its views on 2019 UPU Congress proposals to amend rates or classifications for market dominant products or services.¹ Eight interested participants filed comments, which are available on the Commission's website at <http://www.prc.gov>.²

¹ Docket No. IM2019-1, Notice and Order Establishing Section 407 Proceeding, June 20, 2019, at 2 (Order No. 5127).

² The Commission received comments from the Small Business & Entrepreneurship Council; the Public Representative; the U.S. Chamber of Commerce; Frontiers of Freedom; Loggerhead Tools, LLC; the Association for Postal Commerce; the Lexington Institute; and the Postal Service.

The Commission has repeatedly expressed concern that the UPU pricing regime for the Inbound Letter Post product continues to result in non-compensatory terminal dues.³ Additionally, recent Annual Compliance Determination reports describe UPU terminal dues as discriminatory because they are not equivalent to domestic postage rates in the destination country.⁴ Accordingly, the Commission consistently recommends that terminal dues should be aligned as closely as possible with domestic postage rates.⁵

Moreover, the Commission contracted with Copenhagen Economics to qualify and quantify the distortions caused by the current terminal dues system, finding global net financial transfers among designated postal operators will range from 2.8 billion to 4 billion

³ See Docket No. ACR2018, Annual Compliance Determination, April 12, 2019, at 85 (FY 2018 ACD); Docket No. ACR2017, Annual Compliance Determination, March 29, 2018, at 68 (FY 2017 ACD); Docket No. ACR2016, Annual Compliance Determination, March 28, 2017, at 66 (FY 2016 ACD); Docket No. ACR2015, Annual Compliance Determination, March 28, 2016, at 70 (FY 2015 ACD); Docket No. ACR2014, Annual Compliance Determination, March 27, 2015, at 53; Docket No. ACR2013, Annual Compliance Determination, March 27, 2014, at 59; Docket No. ACR2012, Annual Compliance Determination, March 28, 2013, at 143; Docket No. ACR2011, Annual Compliance Determination, March 28, 2012, at 143-144; Docket No. ACR2010, Annual Compliance Determination, March 29, 2011, at 130-131; Docket No. ACR2009, Annual Compliance Determination, March 29, 2010, at 108-109; Docket No. ACR2008, Annual Compliance Determination, March 30, 2009, at 81; Docket No. ACR2007, Annual Compliance Determination, March 27, 2008, at 115, 118.

⁴ FY 2018 ACD at 85; FY 2017 ACD at 68; FY 2016 ACD at 66; FY 2015 ACD at 70.

⁵ Docket No. IM2016-1, Notice of Posting Views, October 7, 2016, at 8 (2016 UPU Congress Views); Commission Response to Section 407(c)(1) Request for View in Connection with 2012 Universal Postal Union Congress in Doha, Qatar, September 12, 2012, at 3-4, available at https://www.prc.gov/sites/default/files/reports/View_Ann_Fisher_111212.pdf, Views Provided to U.S. Dept. of State for the 2008 UPU Congress, in Accordance with 39 U.S.C. 407(c), June 30, 2008, at 3, available at https://www.prc.gov/sites/default/files/reports/2008_Views.pdf.

Special Drawing Right (SDR)⁶ in 2021.⁷ Copenhagen Economics concluded that the solution would be that a postal operator should charge its customers similar prices for similar services, irrespective of a mailer's country of origin or its status as private or public operator. 2014 Copenhagen Economics Report at 13-14.

On August 23, 2018, President Donald J. Trump issued a presidential memorandum addressed to you and I, among others, entitled "Modernizing the Monetary Reimbursement Model for the Delivery of Goods Through the International Postal System and Enhancing the Security and Safety of International Mail."⁸ The Presidential Memorandum notes that the current terminal dues system does not "align with United States economic and national security interests[.]" Presidential Memorandum § 2(c). Specifically, the Presidential Memorandum maintains that the current terminal dues system "distorts the flow of small packages around the world by incentivizing the shipping of goods from foreign countries that benefit from artificially low

⁶ An SDR is a reserve asset that the International Monetary Fund (IMF) created to serve as a unit of account for the IMF and some international organizations, including the UPU. Its value is based on a basket of five major currencies: the U.S. dollar, the Euro, the Chinese renminbi, the Japanese yen, and the British pound sterling.

⁷ Copenhagen Economics, Terminal Dues: Impact on Financial Transfers Among Designated Postal Operators of the Universal Postal Union 2018-2021 Cycle Agreements, September 22, 2017, at 7, available at https://www.prc.gov/sites/default/files/reports/Terminal%20Dues_Impact%20on%20financial%20transfers_FINAL%2022%20September%202017.pdf; see Copenhagen Economics, The Economics of Terminal Dues, Final Report, September 30, 2014, available at https://www.prc.gov/sites/default/files/reports/The%20Economics%20of%20Terminal%20Dues_final%20report%20300914.pdf (2014 Copenhagen Economics Report); Copenhagen Economics, Quantification of Financial Transfers Caused by Universal Postal Union Terminal Dues, Final Report, November 3, 2015 (revised December 22, 2015), available at https://www.prc.gov/sites/default/files/reports/Quantification%20of%20financial%20transfers%20caused%20by%20Universal%20Postal%20Union%20terminal%20dues_221215_revised.pdf.

⁸ Presidential Memorandum for the Secretary of State, Secretary of the Treasury, Secretary of Homeland Security, Postmaster General, and Chairman of the Postal Regulatory Commission, August 23, 2018, available at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission/> (Presidential Memorandum).

reimbursement rates.” *Id.* § 2(c)(i)(C). The Presidential Memorandum directed you to seek agreement to reform the UPU terminal dues system so that the prices are consistent with the policies outlined in the Presidential Memorandum. *Id.* § 4(b).

Following the UPU’s Second Extraordinary Congress in 2018,⁹ the Department of State reported that there was insufficient progress made to reform the terminal dues system in line with the policies outlined in the Presidential Memorandum.¹⁰ On October 17, 2018, the White House announced that the President concurred with the Department of State’s recommendation that the United States should adopt self-declared rates for terminal dues as soon as practical, but no later than January 1, 2020. *Id.* Also, on the same day, you notified the UPU that the United States would withdraw as a member country, effective one year from the announcement. *Id.* The White House announcement stated that the Department of State will seek to negotiate bilateral and multilateral agreements that resolve the problems identified in the Presidential Memorandum. *Id.*

As the Department of State sought to negotiate bilateral and multilateral agreements to resolve the issues identified in the Presidential Memorandum, the Postal Service requested the Commission approve the transfer of Inbound Letter Post small packets and bulky letters from the market dominant to the competitive product list. See *generally* Docket No. MC2019-17. The Postal Service asserted that the new Inbound Letter Post Small Packets and Bulky Letters product would fulfill all of the criteria for competitive products under section 3642.¹¹ Although the Postal Service did not provide

⁹ The UPU held its first Extraordinary Congress in Berne, Switzerland, in 1900, and the second in Addis Ababa, Ethiopia, in 2018. The 2019 UPU Extraordinary Congress will be the third held by the UPU.

¹⁰ Statement from the Press Secretary, October 17, 2018, available at <http://www.whitehouse.gov/briefings-statements/statement-press-secretary-38/> (Press Secretary Statement).

¹¹ Docket No. MC2019-17, United States Postal Service Request to Transfer Inbound Letter Post Small Packets and Bulky Letters and Inbound Registered Service Associated with Such Items, to the Competitive Product List, November 16, 2018, at 5-8 (Docket No. MC2019-17 Transfer Request).

proposed prices for the Inbound Letter Post Small Packets and Bulky Letters product, it stated that it expects such prices to be “fully remunerative and provide healthy contribution to institutional costs,” thereby satisfying 39 U.S.C. §§ 3633(a)(1) and (2). Docket No. MC2019-17 Transfer Request at 9. After reviewing the request, the supporting documentation, comments, and reply comments, the Commission conditionally approved the transfer of Inbound Letter Post small packets and bulky letters from the market dominant to the competitive product list, noting that the transfer would not be complete until the actual prices took effect.¹²

Congress is the supreme authority of the UPU and meets every four years. Plenipotentiaries from the UPU’s 192 member countries gather on this occasion to, *inter alia*, decide on a new World Postal Strategy and set the future rules for international mail exchanges.¹³ The 27th UPU Congress will take place in Abidjan, Côte d’Ivoire, in 2020.

However, an Extraordinary Congress of the UPU may be convened with the support of at least two thirds of the member countries of the UPU. As you know, member countries voted in favor of convening a third Extraordinary Congress *to make decisions on a possible revision of small packet and bulky letter remuneration rates* before the end of the Istanbul Congress cycle (2018-2021).¹⁴ The third Extraordinary Congress will take place from September 24 to 26, 2019, in Geneva, Switzerland.

¹² Docket No. MC2019-17, Order Conditionally Approving Transfer, January 9, 2019, at 19 (Order No. 4980). Because the transfer of Inbound Letter Post small packets and bulky letters does not become effective until the effective date of the prices approved by the Commission, these mailpieces have not yet transferred from the market dominant to competitive product list. Order No. 4980 at 19.

¹³ See Second Additional Protocol to the General Regulations of the Universal Postal Union, Article 1, Functions of Congress, Berne 2018, available at http://www.upu.int/uploads/tx_sbdownloader/actsActsOfTheExtraordinaryCongressAddisAbebaEn.pdf.

¹⁴ Formal Invitation to the Third UPU Extraordinary Congress in Geneva, Switzerland, and Related Information from Bishar A. Hussein, Director Gen., UPU, to UPU Member Countries, June 15, 2019, available at http://www.upu.int/uploads/tx_sbdownloader/genevaCongressInvitationLetterEn.pdf.

Among other proposals, the 2019 UPU Extraordinary Congress will consider three options—A, B, and C—to amend terminal dues for small packets and bulky letters. Option A would increase the cap rates agreed to at the 2016 UPU Congress for some country groups, and would harmonize terminal dues for all country groups, effective January 1, 2020.¹⁵ Option B would allow member countries, on an optional basis, to set self-declared terminal dues, not to exceed 100 percent of domestic postage rates and subject to maximum revenue increases, for Calendar Years (CYs) 2020 and 2021.¹⁶ These self-declared terminal dues would be subject to specific business rules. Option C would harmonize terminal dues for all country groups, effective January 1, 2020, at rates that would exceed the prices decided by the 2016 UPU Congress and the prices proposed in Option A.¹⁷ For CYs 2021 through 2025, member countries, on an optional basis, could set self-declared rates, not to exceed 70 percent of domestic postage rates and also subject to maximum revenue increases. These terminal dues would be subject to the same business rules as proposed by Option B.

In addition to these three options, the UPU has continued to publish on its website several additional proposals. Most proposals are amendments to Option C, including a proposal from the United States. As noted above, *the sole focus of the 2019 UPU Extraordinary Congress is on bulky letter and small packet remuneration*, which the Commission conditionally transferred to the competitive product list in January 2019. Therefore, all proposals being considered by the 2019 UPU Extraordinary Congress are limited in whole or in part to bulky letter and small packet remuneration rates. Given that competitive products are not subject to the provisions of 39 U.S.C. § 407(c)(1)—combined with the unique circumstances discussed above of the United States possibly withdrawing from the UPU in October, depending on the outcome of the 2019 UPU

¹⁵ See Proposals 20.29.1; 20.30.1.

¹⁶ See Proposals 20.28.1.Rev 1; 20.28.91; 20.29.2; 20.30.2.

¹⁷ See Proposals 20.28.2.Rev 1; 20.28.92; 20.29.3; 20.30.3.

Extraordinary Congress—the Commission does not provide a view on the consistency of these proposals with 39 U.S.C. § 3622. It does, however, plan to provide views on proposals to the Department of State in the future, consistent with 39 U.S.C. § 407(c)(1).

In summary, the Commission reiterates its longstanding recommendation that terminal dues should be aligned as closely as possible with domestic postage rates. Moreover, the Commission encourages your consideration of the eight comments submitted from the Small Business & Entrepreneurship Council; the Commission's Public Representative; the U.S. Chamber of Commerce; Frontiers of Freedom; Loggerhead Tools, LLC; the Association for Postal Commerce; the Lexington Institute; and the Postal Service. As noted above, these comments were filed in Docket No. IM2019-1 and are available on the Commission's website.

On behalf of the Postal Regulatory Commission, I wish the U.S. delegation the greatest success at the 2019 UPU Extraordinary Congress.

With best wishes, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Robert G. Taub', with a long horizontal flourish extending to the right.

Robert G. Taub
Chairman

cc: Kevin E. Moley
Assistant Secretary for International Organization Affairs
Bureau of International Organization Affairs

Nerissa Cook
Deputy Assistant Secretary
Bureau of International Organization Affairs

Stephen Anderson
Director
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs

Thomas Moore
International Postal Affairs Officer, International Postal Policy Unit
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs