

ORDER NO. 5408

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Michael Kubayanda, Vice Chairman;
Mark Acton;
Ann C. Fisher; and
Ashley E. Poling

Removal of Return Receipt for
Merchandise Service from the Mail
Classification Schedule

Docket No. MC2015-8

ORDER APPROVING REMOVAL OF RETURN RECEIPT FOR MERCHANDISE
SERVICE FROM MAIL CLASSIFICATION SCHEDULE

(Issued January 16, 2020)

On December 10, 2019, the Postal Service filed a renewed request to remove Return Receipt for Merchandise (RRM) service from the Mail Classification Schedule (MCS).¹ For the reasons discussed below, the Commission approves the request.

¹ Renewed Request of the United States Postal Service to Remove Return Receipt for Merchandise and Motion to Reopen Docket, December 10, 2019 (Renewed Request).

I. BACKGROUND

The Postal Service filed its original request to remove the RRM service from the MCS on November 17, 2014.² RRM service “provides retail and commercial mailers with the ability to obtain a mailing receipt and a return receipt postcard (with the recipient’s signature and date of delivery) for packages containing merchandise.” Request at 2. The Postal Service asserted that RRM service has become outmoded and as a result, volumes and revenues have declined over the years. *Id.* at 2-3. The Postal Service also stated that (1) other shipping service providers offer similar services, (2) customers would continue to have access to equivalent or improved features by using either Signature Confirmation or Certified Mail with Return Receipt, and (3) there had been no negative feedback from small businesses that have migrated to Signature Confirmation or Certified Mail services. *Id.* Attachment B at 5-6.

Based on these assertions, the Commission approved the request but found that the removal was subject to adjustments to the unused rate adjustment authority for the Special Services class.³ Subsequently, the Postal Service provided notice that it elected to indefinitely defer the removal.⁴ After a series of appeals, the D.C. Circuit issued its opinion on April 6, 2018, vacating the Commission’s previous orders on the removal of the RRM service.⁵ In particular, the D.C. Circuit concluded that review under section 3642 is a “sufficient and complete mechanism for the Commission’s consideration whether the lists of available postal products should be changed.” RRM Opinion at 1269.

² Request of the United States Postal Service to Remove Return Receipt for Merchandise Service from the Mail Classification Schedule, November 17, 2014 (Request).

³ Order Conditionally Approving Removal of Return Receipt for Merchandise Service from Mail Classification Schedule, January 15, 2015 (Order No. 2322).

⁴ Response of the United States Postal Service to Order No. 2322, January 28, 2015.

⁵ See *United States Postal Serv. v. Postal Reg. Comm’n*, 886 F.3d 1261 (D.C. Cir. 2018) (RRM Opinion).

On August 29, 2019, the Commission closed Docket Nos. MC2015-8 and MC2015-8R because it had been more than one year since the RRM Opinion and the Postal Service had not indicated a renewed intent to discontinue the RRM service.⁶ The Commission also held that it would evaluate any future requests to remove a product from the MCS in light of the RRM Opinion, including examining whether the request is a pretext for an abuse of market power and understanding the Postal Service's rationale for the discontinuation. Order No. 5214 at 3.

In its renewed request, the Postal Service asks the Commission to reopen this docket because it contains the record on which the Postal Service relies in renewing its request.⁷ The Postal Service states that the Commission has already held that the removal of the RRM service comports with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*, and therefore, no new section 3642 analysis is necessary. Renewed Request at 1. In addition, the Postal Service asserts that there have been no material changes concerning RRM service since 2015 that require revisiting the Commission's findings in Order No. 2322 on removal. *Id.* at 3. The Postal Service explains that RRM volume has flattened, while alternative products and services have experienced growth. *Id.* Thus, the Postal Service requests that the Commission reinstate its original finding that the removal of RRM service comports with 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.* *Id.* The Postal Service attached proposed changes to the MCS should the Commission approve the request. *See id.* Attachment A.

On December 13, 2019, the Commission issued an order reopening this docket, appointing a Public Representative, and inviting comments from interested persons.⁸

⁶ Docket Nos. MC2015-8 and MC2015-8R, Order Closing Dockets, August 29, 2019, at 3 (Order No. 5214).

⁷ Renewed Request at 1 (citing 39 C.F.R. § 3001.45).

⁸ Notice and Order Concerning the Removal of Return Receipt for Merchandise Service, December 13, 2019 (Order No. 5351).

II. COMMENTS

The Public Representative filed comments on January 9, 2020.⁹ No other interested person submitted comments.

After reviewing the record, the Public Representative states that there does not appear to be any reason for revisiting the issues of whether the Postal Service's explanations are sufficient to meet the requirements of section 3642 and 39 C.F.R. § 3020.30 *et seq.* PR Comments at 10, 13. He also states that he "does not believe that sufficient evidence exists to establish that the discontinuation of RRM is a pretext for an abuse of market power." *Id.* at 9. The Public Representative explains that he shares many of the Commission's past concerns regarding the effect of RRM's removal on mailers who value physical receipt of mailing. *Id.* at 13. However, he believes that "any potential harm to consumers due to RRM's discontinuation will be minimal," "given evidence that the majority of former RRM mailers appear content to migrate to cheaper electronic services." *Id.* Therefore, the Public Representative recommends that the Postal Service's Renewed Request be granted. *Id.*

III. COMMISSION ANALYSIS

The Commission evaluates a request to remove a product from the list under 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.* Section 3642 provides that the Postal Service may change the list of Market Dominant products under section 3621 by removing products from the lists. 39 U.S.C. § 3642(a). Section 3642(b) states that all determinations by the Commission shall be made in accordance with criteria such as whether the Postal Service exercises sufficient market power, whether a product is covered by the postal monopoly, and several additional considerations. 39 U.S.C. § 3642(b). The Commission also requires certain information to be provided in support of the request, including a demonstration of why the change is in accordance with the

⁹ Public Representative Comments, January 9, 2020 (PR Comments).

policies and applicable criteria of chapter 36 of title 39 of the United States Code. See 39 C.F.R. § 3020.32. Furthermore, the Commission recently stated that it would evaluate future requests to remove a product from the MCS in light of the RRM Opinion, including examining whether the request is a pretext for an abuse of market power and understanding the rationale for the discontinuation. Order No. 5214 at 3.

After reviewing the Renewed Request, the record, and the comments from the Public Representative, the Commission approves the request. The Commission previously found that the request met the applicable requirements of 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.* With no material changes concerning RRM service and flattened volume, the Commission again finds that the removal meets the applicable requirements of 39 U.S.C. § 3642 and 39 C.F.R. § 3020.30 *et seq.*

In addition, the Commission finds that there is no evidence to suggest that discontinuing RRM service is a pretext for an abuse of market power. The Postal Service seeks to remove an outdated product with declining volumes and revenues. Since the initial request in 2015, RRM volume has flattened, while alternative products and services have experienced growth. Moreover, and as the Public Representative noted, it appears that former RRM mailers are content to migrate to cheaper alternative services.

Accordingly, the Commission approves the removal of the RRM service from the MCS. The Commission also accepts the revisions to the MCS presented in the attachment to this Order. The Postal Service shall notify the Commission of its effective date.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Renewed Request of the United States Postal Service to Remove Return Receipt for Merchandise and Motion to Reopen Docket, filed December 10, 2019, is approved.
2. The revisions to the Mail Classification Schedule appear below the signature of this Order. The Postal Service shall notify the Commission of the effective date.

By the Commission.

Ruth Ann Abrams
Acting Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part A—Market Dominant Products

1420 Bound Printed Matter Parcels

1420.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)

- ~~Return Receipt for Merchandise (1505.14)~~

1425 Media Mail/Library Mail

1425.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)

- ~~Return Receipt for Merchandise (1505.14)~~

1500 Special Services

1500.2 Products Included in Class

- Ancillary Services (1505)

- ~~Return Receipt for Merchandise (1505.14)~~

~~1505.14 Return Receipt for Merchandise~~

1505.14.1 Description

- ~~a. Return Receipt for Merchandise service provides mailers of Priority Mail, USPS Marketing Mail parcels, USPS Retail Ground, Package Services, Parcel Select, and USPS Retail Ground with a mailing receipt and a return receipt providing evidence that the mail has been received at the delivery address, including the recipient's signature. If the initial attempt to deliver the item is not successful, a notice of attempted delivery will be provided to the addressee.~~
- ~~b. Return Receipt for Merchandise service also supplies the mailer with the delivery address if it is different from the address used by the sender.~~
- ~~c. If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request evidence of delivery from the delivery record, at no additional charge.~~
- ~~d. Return Receipt for Merchandise service must be requested at the time of mailing.~~

1505.14.2 Prices

	(\$)
Per Piece (Requested at time of mailing)	4.30

Part B—Competitive Products

2110 Priority Mail

2110.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)

- ~~○ Return Receipt for Merchandise (1505.14)~~

2115 Parcel Select

2115.5 Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)

~~• Return Receipt for Merchandise (1505.14)~~

2135

USPS Retail Ground

2135.5

Optional Features

The following additional postal services may be available in conjunction with the product specified in this section:

- Ancillary Services (1505)

~~• Return Receipt for Merchandise (1505.14)~~

Part C—Glossary of Terms and Conditions

3009

H

Held Mail

Mail will be held at the office of delivery for a specified period of time upon request of the addressee, unless the mail has contrary retention instructions, is perishable, or is Registered Mail, COD mail, insured mail, ~~return receipt for merchandise mail~~, Certified Mail, or Priority Mail Express for which the normal retention period expires before the end of the specified holding period.
