

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Section 407 Proceeding

Docket No. IM2020-1

COMMENTS OF THE U.S. CHAMBER OF COMMERCE  
May 15, 2021

The U.S. Chamber of Commerce (Chamber) urges the Postal Regulatory Commission (Commission) to find that the terminal dues proposals for setting rates for delivery of inbound market dominant postal items submitted for adoption by the 27th Congress of the Universal Postal Union (UPU)<sup>1</sup> are not “consistent with the standards and criteria established by the Commission under section 3622.”

In its recent *Annual Compliance Determination Report Fiscal Year 2020*, the Commission forcefully underscored the incompatibility between UPU terminal dues and the U.S. legal framework for national postal services.

The Commission reiterates its concern that the UPU pricing regime results in non-compensatory terminal dues. . . . The Commission emphasizes that . . . domestic mailers are still subsidizing the entry of Inbound Letter Post by foreign postal operators who use the same postal infrastructure but bear none of the burden of contributing to its institutional costs. Id. Because UPU terminal dues were not equivalent to domestic postage rates in the destination country in FY 2020 for format P/G items and for format E items in Quarter 1, the Commission has found them discriminatory.

Furthermore, the Commission notes that terminal dues are only available to designated operators, and that non-designated operators that provide international mailing services are not able to access these terminal dues for inbound mailpieces to the United States. The Commission recommends that the Postal Service work to ensure that terminal dues and self-declared rates are

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<sup>1</sup> See UPU, 2021 Congress, Doc 36 (rev. Apr. 30, 2021) and Proposals 20.28.1 (rev. Apr. 30, 2021), 20.29.1, and 20.30.1. The 27th UPU Congress is scheduled to be held in Abidjan in August 2021 or in Switzerland in September 2021 depending on the status of the global pandemic.

nondiscriminatory.<sup>2</sup>

The Commission has made similar observations in every annual compliance determination report since 2008. As Commissioner Acton observed in response to similar terminal dues proposals for the 2016 UPU Convention, “despite years of Postal Service efforts and Commission concern addressing the plain inequities that exist in the present UPU rate setting approach, meaningful systematic reform at the UPU level appears no nearer at hand today than it was eight or even four years past.”<sup>3</sup> And Commissioner Taub opined, “Taking into account the significant inconsistency with this last factor [national policies towards international postal services and other international delivery services set out in 39 U.S.C. § 407a)], combined with the failure to be consistent with almost all nine objectives and 14 factors [39 U.S.C. § 3622(b)-(c)], I am compelled to find the terminal dues proposals inconsistent with the law.”<sup>4</sup>

Five years later, the terminal dues rates applicable to inbound market dominant products proposed for the 2021 UPU Convention are in no respect more consistent with regulatory standards applicable to domestic postage rates. It is inconceivable, for example, that the Commission would accept a Postal Service proposal for highly discounted domestic postage rates available only to foreign tourists who did not work for private sector companies in the transportation sector.<sup>5</sup>

For these reasons, the Chamber urges the Commission to formally advise the Secretary of State that the proposed terminal dues rates for delivery of inbound letter post documents are not consistent with U.S. regulatory standards adopted by the Commission to govern domestic postage rates. At the same time, we recognize that “if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to

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<sup>2</sup> At 59-60 (footnotes omitted, emphasis added).

<sup>3</sup> Docket IM2016-1, Letter from Robert G. Taub, Chairman, Postal Regulatory Commission, to Bathsheba N. Crocker, Assistant Secretary for International Organization Affairs, Department of State, Aug. 31, 2016, Separate Views of Commissioner Acton at 2.

<sup>4</sup> Id., Separate Views of Acting Chairman Taub at 13.

<sup>5</sup> The legal infirmities in the proposed terminal dues system for the inbound documents at issue in this docket continue even though in 2019, the UPU grudgingly adopted significant reforms in the terminal dues system for “E-format items,” i.e., inbound goods and bulky documents outside the scope of this docket.

ensure consistency with the Commission's views,"<sup>6</sup> the Secretary may, consistent with U.S. law, conclude a new UPU Convention that establishes rates for delivery of inbound market dominant products that not consistent with U.S. regulatory standards. Even such case, however, the Commission's determination and the Secretary's explanation of countervailing foreign policy factors will serve to clarify the need for further reform of the UPU's terminal dues system in the future.

Respectfully submitted,



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<sup>6</sup> 39 U.S.C. § 407(c)(2).