

**BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001**

Transferring Bound Printed Matter  
Parcels to the Competitive Product List

Docket No. MC2021-78

**RESPONSE OF THE PARCEL SHIPPERS ASSOCIATION TO THE MOTION OF THE  
UNITED STATES POSTAL SERVICE FOR LEAVE TO FILE REPLY COMMENTS**

(June 11, 2021)

Pursuant to Postal Regulatory Commission (PRC) rule 106, 39 C.F.R. §3010.160, the Parcel Shippers Association (PSA) responds to and opposes the instant motion.<sup>1</sup> It should be rejected.

The Postal Service seeks to file lengthy, unauthorized reply comments<sup>2</sup> in this docket nearly three weeks after the initial comment deadline. Under some circumstances, unauthorized reply comments are helpful to the Commission, but filing such replies is the Postal Service's normal course of business of late. This is the third time in a month the Postal Service has made this extraordinary request.<sup>3</sup> The Commission should strongly discourage the Postal Service from making such filings, particularly those filed long after the comment deadline with no apparent purpose other than to get the last word and "spin" the case.

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<sup>1</sup> Motion of the United States Postal Service for Leave to File Reply Comments (June 4, 2021) (USPS Motion).

<sup>2</sup> Reply Comments of the United States Postal Service (June 4, 2021) (Proposed Reply Comments).

<sup>3</sup> In addition to the filing in this Docket, the Postal Service has filed two other unauthorized reply comments in the last month. See Docket No. RM2021-4, Reply Comments of the United States Postal Service Regarding Proposal Two (May 25, 2021); Docket No. RM2021-3, Reply Comments of the United States Postal Service Regarding Proposal One (May 11, 2021).

The Postal Service says in its Proposed Reply Comments, which are not yet part of the record and may never be, that it wishes “to help clarify matters for the Commission’s review and decision.” Proposed Reply Comments at 1. Putting aside the question of why this offer of help is in its Proposed Reply Comments, instead of its motion that is supposed to explain why the comments should be admitted,<sup>4</sup> the Proposed Reply Comments offer nothing new. Rather, they attempt to distract from the obvious fact that, as we showed in our comments,<sup>5</sup> if the transfer is approved, the Postal Service can and will raise BPM Parcels prices significantly without risk of losing a significant level of business to other firms offering similar products (if there really are any). And this means that BPM Parcels meet the statutory definition of a market-dominant product:

The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.<sup>6</sup>

So, the proposed product transfer should be rejected.

As we said in our comments, this is a simple case.<sup>7</sup> Apply the law to the facts. The Proposed Reply Comments’ analysis of arcane antitrust principles is nothing more than an unhelpful head fake.

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<sup>4</sup> Once again, the Postal Service has filed its Proposed Reply Comments concurrently with its motion asking that they be admitted. So, if the Commission rejects the USPS Motion, a mere one paragraph statement of belief that the filing “will aid the Commission,” the extensive Proposed Reply Comments will still have been out there on the Commission’s website for all to see and consider, even though they may never be admitted. See USPS Motion.

<sup>5</sup> See Comments of the Parcel Shippers Association (May 17, 2021) (PSA Comments).

<sup>6</sup> Postal Accountability and Enhancement Act, Pub. L. No. 109-435, 120 Stat. 3198 (Dec. 20, 2006), 39 U.S.C. § 3642(b)(1).

<sup>7</sup> See PSA Comments at 1.

Surprisingly, the Proposed Reply Comments admit “the basic fact that neither Parcel Select Lightweight nor any other product previously transferred participates in the same market as BPM Parcels.” USPS Reply Comments at 12. We concur and this “basic fact” is further reason that the Commission should not feel bound by its decisions in prior transfer proceedings. And we note that UPS and FedEx Ground (the competitive products identified by the Postal Service) -- end-to-end, much higher-priced products with tighter service standards -- are similar (and thus offer realistic competition) to Priority Mail, not BPM Parcels.

Certainly, as the Postal Service notes in its Proposed Reply Comments,<sup>8</sup> raising prices substantially would result in some volume loss but given the much higher prices of UPS and FedEx Ground, that loss would be from BPM Parcels not being sent at all, rather than business lost to other firms offering similar products.<sup>9</sup> The internal nonpublic analysis described in the Proposed Reply Comments as Attachment A does not show volume shifting to *other firms*. As PSA noted in its nonpublic comments, the volume decline estimated in Attachment A cited here by the Postal Service is likely overstated. In its nonpublic comments, at pages 10-15, PSA explains why there will be *no significant loss of business to other firms*. And the higher resulting BPM Parcels profit margins would more than offset the negative impact of volume declines giving the Postal Service a profit incentive, absent a price cap, to substantially increase prices. Only the Postal Service’s captive BPM Parcels customers will lose.

Unlike with Priority Mail, which does compete with UPS and FedEx Ground, the Postal Service cannot be overly concerned that price increases will result in substantial losses in BPM Parcels business to other firms. The Postal Service admits it used hypothetical BPM Parcel “prices hikes between 3 and 50 percent” (and perhaps even

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<sup>8</sup> See Proposed Reply Comments at 14.

<sup>9</sup> See United States Postal Service Request to Transfer Bound Printed Matter Parcels to the Competitive Product List (March 26, 2021) at 6.

higher; that information from Attachment A is sealed) to test the effect on volume.  
Proposed Reply Comments at 14.

Finally, while Parcel Select Lightweight and BPM Parcels are different products, the Postal Service is clearly wrong that “the history of Parcel Select Lightweight prices is not germane to the market power analysis here.” USPS Reply Comments at 12-13. Given the close correlation between the Parcel Select Lightweight situation just prior to its transfer and BPM Parcels situation now,<sup>10</sup> this history is extremely informative. No responsible analyst would ignore it.

The history of the Parcel Select Lightweight product confirms that BPM Parcels would experience substantial price increases with little volume lost to other firms subsequent to a transfer. It is the Commission’s statutory duty to ensure that this does not happen by denying the USPS proposal.

Respectfully submitted,

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<sup>10</sup> See PSA Comments at 5-6.