

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

Modification of Special Services Product
List

Docket No. MC2022-60

COMMENTS OF THE ASSOCIATION FOR POSTAL COMMERCE
(July 7, 2022)

Pursuant to Order No. 6174, the Association for Postal Commerce (“PostCom”) submits these comments regarding the Postal Service’s ongoing pilot test allowing postal customers to convert payroll and business checks into gift cards (“Pilot”).

PostCom has generally supported Postal Service efforts to expand its product set and to make use of the provisions of the Postal Accountability and Enhancement Act (“PAEA”) allowing for expedited procedures for implementation of market tests. Experimentation, under appropriate conditions, can allow the Postal Service to evaluate new products with the potential for additional revenue, while limiting the time and expense of litigation.

Because PostCom’s members provide a substantial proportion of the revenue that ultimately funds said experimentation, PostCom has an interest in ensuring that, when market tests are conducted, the Postal Service exercises necessary managerial control and follows sound procedures. In fact, PostCom’s comments in other Market Test dockets have generally offered suggestions on how a test could be improved to provide better data and greater insight.

In choosing to offer check cashing services in four locations, PostCom believes that the Postal Service has failed to follow Commission rules by conducting a market test of a new service without necessary regulatory authority. The Postal Service’s claim that it is merely

accepting a new form of payment for an existing service is contradicted by empirical evidence and should be rejected by the Commission.

I. USPS CLAIMS DO NOT WITHSTAND SCRUTINY

The Postal Service’s assertion that the Pilot is not a new service is undone by its own communication. As the Commission notes in the FY2021 Annual Compliance Determination (“ACD”), the Postal Service is marketing its new service as “check cashing.” ACD at 103. The service being marketed is clearly check cashing from the perspective of the prospective consumer, Postal Service arguments to the contrary.

Numerous press reports regarding the Pilot described it as a new service. In fact, in a Washington Post article regarding the Pilot, a Postal Service spokesperson is quoted describing the pilot as “an example of how the Postal Service is leveraging its vast retail footprint and resources to innovate. Offering new products and services”¹

It is clear that the Postal Service is trying to have it both ways; cultivating an impression that a new service is available, while relying on a technicality to avoid necessary Commission oversight.

II. OTHER ISSUES

PostCom recognizes that the Commission seeks to determine whether the Pilot has changed the nature of the Competitive product at issue (Special Services – Greeting Cards and Stationery) to the degree that the Gift Cards price category (or an undefined sub-component) may be categorized as a non-postal product which must therefore be terminated. The question of

¹ See Jacob Bogage, “USPS is trying out a new business, which could transform now millions access cash and pay bill,” Washington Post (Oct. 4, 2021) *available at* <https://www.washingtonpost.com/business/2021/10/04/usps-banking-paycheck-cashing/> (last visited June 29, 2022).

whether the price category is a non-postal product is a threshold jurisdictional question that the Commission must determine. *See* 39 USC § 404(e)(2).

The salient feature of the Postal Service's gift card program that defines it as a postal service is that such cards are more likely to be mailed when purchased at a Post Office than at other locations. Arguably, adding a new method of payment need not alter that determination. However, as the Commission notes, there is scant evidence to support that claim. Order 6174 at 5. Further, because there have been so few transactions, it is impossible to determine whether customers using a check to buy a gift card would exhibit different mailing behavior than customers using other payment methods.

The scarcity of Pilot transactions is itself concerning. Given that during the four-month period cited in the ACD, the Pilot generated fewer than one transaction per location per month, it is difficult to believe that the Postal Service is gaining usable intelligence regarding customer behavior or its ability to provide a usable service to the intended market. Other aspects of the Pilot design may merit comment should the Commission initiate a further proceeding, but would be rendered moot should the Commission determine that the Pilot is a non-postal service that must be terminated.

III. SUMMARY AND RECOMMENDATION

PostCom believes strongly that the Postal Service should be encouraged to experiment. Innovation and ongoing improvement in the Postal Service's products is important to the future of the Postal Service and the mailing industry in general. If the Postal Service believes that check-cashing is a legally authorized product that would benefit its customers, then existing rules allow for the Postal Service to file a request for a Market Test with the Commission. In the case of the Pilot, the Postal Service appears to have attempted to circumvent that requirement. If the

Postal Service intends to continue its Pilot, the Commission must require the Postal Service to initiate a Market Test Docket to consider the merits of the proposed test.

Respectfully submitted,

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