

**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON DC 20268-0001**

**RECEIVED
MAY 8 4 22 PM '00
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY**

POSTAL RATE AND FEE CHANGES, 2000

)
)
)
)
Docket No. R2000-1

**OBJECTION OF
ADVO, INC.
ALLIANCE OF NONPROFIT MAILERS
AMERICAN BUSINESS PRESS
ASSOCIATION FOR POSTAL COMMERCE
COALITION OF RELIGIOUS PRESS ASSOCIATIONS
DIRECT MARKETING ASSOCIATION, INC.
DOW JONES & COMPANY, INC.
MAGAZINE PUBLISHERS OF AMERICA, INC.
MAIL ORDER ASSOCIATION OF AMERICA
NATIONAL NEWSPAPER ASSOCIATION
THE MCGRAW-HILL COMPANIES, INC.
PARCEL SHIPPERS ASSOCIATION
AND
TIME WARNER INC.
TO ADMISSION INTO EVIDENCE OF CERTAIN PORTIONS OF THE TESTIMONY
OF USPS WITNESSES BARON (USPS-T-12) AND RAYMOND (USPS-T-13)**

(May 8, 2000)

Pursuant to Section 21 of the Commission's Rules of Practice, Advo, Inc., the Alliance of Nonprofit Mailers, American Business Press, Association for Postal Commerce, Coalition of Religious Press Associations, Direct Marketing Association, Dow Jones & Company, Inc., Magazine Publishers of America, Inc., Mail Order Association of America, National Newspaper

Association, the McGraw-Hill Companies, Inc., Parcel Shippers Association, and Time Warner Inc. (collectively "Mailers") hereby object to the introduction into evidence of data collected for the Engineered Standards/Delivery Redesign (ES) project referenced in the testimony of United States Postal Service witness Raymond (USPS-T-13 at 3), as well as all testimony offered by witnesses Raymond and Baron (USPS-T-12) relating to the ES project. See Magazine Publishers of America, Inc. Notice of Intention to Object to the Introduction of Evidence (April 18, 2000). We ask that any ruling on this objection be deferred until responses to outstanding discovery requests are completed. To the extent a Motion to Strike may be required to perfect this objection, we will request waiver of Commission Rule 21(c) that provides that "(a)ll motions to strike testimony or exhibit materials are to be submitted in writing at least 14 days before the scheduled appearance of the witness, unless good cause is shown."

The testimony and exhibits of witnesses Raymond and Baron continue to be the subject of extensive, contentious, and incomplete discovery. And despite the efforts of the Commission,¹ today, just one day before witnesses Baron and Raymond are scheduled to testify, Mailers are still awaiting responses to literally scores of interrogatories, some of which were submitted to witness Raymond nearly two months ago. Witness Raymond's failure to respond to Mailers' interrogatories - coupled with the

¹ See, P.O. Ruling R200-1/35.

inadequacy, nonresponsiveness and at times misleading nature of the answers he has provided - have severely hampered the Mailers' ability to prepare for cross-examination of witnesses Raymond and Baron or to draft rebuttal testimony addressing their work and the conclusions purportedly based on it.² Indeed, Mailers' attempts to gather sufficient information with which to make sense of - let alone test - witnesses Baron and Raymond's conclusions have been about as fruitful as trying to nail jellyfish to the wall.

It is, of course, axiomatic that the accuracy of evidence introduced by the Postal Service in support of a rate increase "is a question of paramount importance to the Commission." PRC Order No. 933 (August 18, 1992) at 2. The Commission's mandate is "to conduct its proceedings with procedural fairness to the parties" § 39 U.S.C. 3624(b). To this end, all participants must have "an opportunity to evaluate existing data in a meaningful way." PRC Order No. 1002 (January 14, 1994) at 16.

To date, Mailers have not had this opportunity. We will not repeat the facts and arguments of our numerous motions to compel here. It is sufficient, we believe, to note that despite repeated requests for assistance in this matter to the Commission (and despite rulings by the

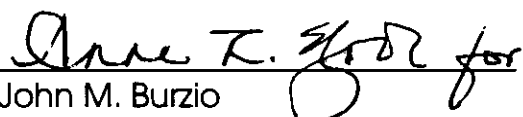
²/ Just last week, for example, Mailers discovered that the total number of routes examined by witness Raymond was NOT the number he claimed in his testimony and answers to interrogatories, but was instead far greater. Additionally, Mailers only learned of the existence of nearly 1000 videotapes of witness Raymond's ES observations because the Commission ordered a technical conference, and, since then have only been allowed three working days to examine them.

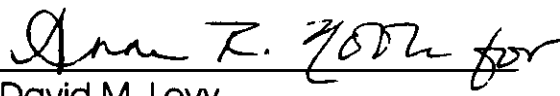
Commission granting those requests) Mailers are *still* incapable of testing witnesses Raymond and Baron's conclusions because they *still* have not received information fundamental to their ability to evaluate the ES study.

In conclusion, Mailers believe that information sought through outstanding and unanswered discovery requests relates directly to the reliability of data collected for the Engineered Standards/Delivery Redesign (ES) project referenced in the testimony of United States Postal Service witness Raymond (USPS-T-13 at 3), as well as all testimony offered by witnesses Raymond and Baron (USPS-T-12) relating to the ES project. Accordingly, Mailers must at this time object to the admission into evidence of data collected for the ES project and those portions of the testimony of witnesses Raymond and Baron related to that project.

This objection has been discussed with Postal Service counsel.

Respectfully submitted,


John M. Burzio
Thomas W. McLaughlin
Burzio and McLaughlin
Canal Square, Suite 540
1054 31st Street, NW
Washington DC 20007-4403
For Advo, Inc.


David M. Levy
Christopher T. Shenk
Sidley & Austin
1722 Eye Street, NW
Washington, DC 20006-3704
For the Alliance of
Nonprofit Mailers

Ann T. Storr for

David Straus
Thompson Coburn
Suite 900
700 14th Street, NW
Washington, DC 20005
For the American
Business Press

Ann T. Storr for

Ian D. Volner, Esq.
Venable, Baetjer, Howard &
Civiletti, LLP
1201 New York Avenue, NW
Suite 1000
Washington, DC 20005-3917
For the Association for Postal
Commerce

Ann T. Storr for

Stephen M. Feldman
1215 17th Street NW
Washington, DC 20036
For the Coalition of Religious Press
Associations

Ann T. Storr for

Dana T. Ackerly, Esq.
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
For the Direct Marketing
Association, Inc.

Ann T. Storr for

Michael F. McBride
Bruce W. Neely
Joseph H. Fagan
LeBoeuf, Lamb, Greene & McRae
LLP
1875 Connecticut Ave., NW
Suite 1200
Washington DC 20009-5728
For Dow Jones & Co., Inc.

Ann T. Storr

James R. Cregan
Anne R. Noble
1211 Connecticut Ave. NW
Suite 610
Washington, DC 20036
For the Magazine Publishers of
America, Inc.

Ann T. Storr for

David C. Todd, Esq.
Patton Boggs L.L.P.
2550 M Street, N W
Washington, DC 20037
For the Mail Order Ass'n
Of America

Ann T. Storr for

Tonda F. Rush
King & Ballou
PO Box 50301
Arlington VA 22205
For National Newspaper Ass'n.

Grant, Esq. for

Timothy W. Bergin
Squire, Sanders & Dempsey
1201 Pennsylvania Ave. NW
PO Box 407
Washington DC 20044-0407
For The McGraw-Hill
Companies, Inc.

Grant, Esq. for

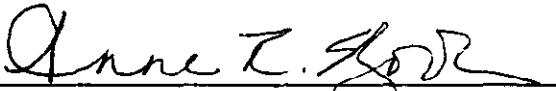
Timothy J. May, Esq.
Patton Boggs, LLP
2550 M Street, NW
Washington, DC 20037-1350
For the Parcel Shippers Ass'n

Grant, Esq. for

John M. Burzio
Timothy L. Keegan
Burzio and McLaughlin
Canal Square, Suite 540
1054 31st Street, NW
Washington DC 20007-4403
For Time Warner Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with the Commission's Rules of Practice.



Anne R. Noble

Washington DC
May 8, 2000