

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

CONFIRM

Docket No. MC2002-1

COMMENTS OF UNITED STATES POSTAL SERVICE
ON NOTICE OF INQUIRY No. 1
CONCERNING PROPOSED DMCS CHANGES
(June 7, 2002)

I. Procedural Setting

On May 16, 2002, the Postal Rate Commission issued Notice of Inquiry No. 1 Concerning Proposed DMCS Changes (NOI-1) seeking comments on its re-drafting of Domestic Mail Classification Schedule (DMCS) language for the proposed new Confirm service. Comments were requested by May 30, 2002; consideration of NOI-1 in the context of settlement discussions was also requested.

In light of the fact that settlement discussions appeared to be bearing fruit late on May 29, 2002 – without yet having considered issues related to NOI-1 – the Postal Service and Office of the Consumer Advocate (OCA) filed a joint motion for extension of time (until June 7) to file comments on NOI-1.¹ The motion was granted the following day.²

The focus of NOI-1 is the extent to which combinations of special services are expressly allowed or disallowed by the DMCS. In this regard, it appears quite similar to,

¹ Joint Motion of United States Postal Service and Office of the Consumer Advocate for Extension of Time to Respond to Notice of Inquiry No. 1, and Interim Report on Settlement Discussions (May 29, 2002).

² Presiding Officers Ruling Granting Extension of Time And Establishing Procedural Schedule, POR-1/MC2002-1, at 2 (May 30, 2002).

and is styled the same name as, Notice of Inquiry No. 1 Concerning Proposed DMCS Changes, issued on February 1, 2002, in the last omnibus rate case, Docket No. R2001-1: There, in the interests of settlement, the Postal Service withdrew its proposals to remove from the DMCS listings of special services that may be combined for a particular mailing.³

The current NOI-1 sharpens the focus upon how little Confirm resembles other special services and illustrates weaknesses in the DMCS language proposed for Confirm. The DMCS language attached to NOI-1 together with discovery and settlement discussions serve to illustrate a critical distinction between Confirm and other special services: Confirm is available as a subscription whose business model does not provide, and whose customers do not expect, that every piece bearing a Planet code will in fact be scanned. Rather, the expectation is that many or most Confirm pieces bearing Planet barcodes will indeed be scanned, with information thereafter provided or made available to subscribers.⁴ Confirm fees are not driven by pieces of mail, but by large-scale differences in the aggregate number of scans mailpieces receive. NOI-1 and its proposed DMCS language do not reflect this critical distinction.⁵ Examination of the Postal Service's proposed DMCS language in the same light, however, reveals that

³ Notice of the United States Postal Service Withdrawing Proposals And Submitting Revised Stipulation and Agreement (February 13, 2002).

⁴ In particular, since the automation of flats processing has not advanced as far as that for letters, the likelihood that a flat will actually be scanned is lower than that of a letter.

⁵ Indeed, the first sentence of NOI-1, at 1, misidentifies Confirm as a service that enables "mailers to track *individual* automation compatible [...] mail pieces," [emphasis added].

it also lacks clarity regarding the absence of piece-specific expectations. Furthermore, the DMCS language presented in NOI-1 has advantages over the Postal Service proposal, especially in its succinct description of the three subscription levels. NOI-1's language, however, includes unenforceable and inappropriate shape-based and other limitations on Confirm that should not be included in the DMCS.

In light of those observations, these Comments are organized as follows.

Section II presents a brief discussion of the differences between the Postal Service and NOI-1 approaches to the DMCS. Given the limited objectives of the instant docket, the Postal Service submits that a comprehensive revisit to DMCS structure and content should await a more appropriate opportunity. Accordingly, section III addresses the need for a new approach to DMCS language for Confirm that would integrate the strengths of the Postal Service and NOI-1 approaches. Specific new DMCS language and Fee Schedule 991 (from NOI-1) are referenced in section IV.

II. The DMCS Should Not Limit Special Service Combinations.

As expressed in the last two omnibus rate cases, the Postal Service believes that listings of special service combinations should be limited to those special services serving as a prerequisite for another special service.⁶ Other potential special services

⁶ The great number of possible combinations of special services seriously undermines any attempt to use DMCS language to limit permissible combinations. Given 24 current special services (see DMCS §§911-12, 921, 931-32, 93-36, 941-49, 951-52, 961-62, 971, and 981), it would appear there are 226 ($24 \times 23/2$) possible combinations of two services. All possible combinations of 6 services would amount to 134,596. The prevailing presentation in the DMCS is potentially misleading by implying that all entries on respective lists of special services can be combined together when this generally is not the case. Another layer of complexity arises from the fact that

combinations are unduly complicated to maintain in the DMCS, and need to be adjusted to meet customer needs without the resource demands and delay occasioned by preparing and litigating a Commission case. The Postal Service is not aware of any significant controversy concerning Postal Service changes to lists of special service combinations raised by customers or competitors. Furthermore, there appears to be no compelling need for changes in listings to serve as a trigger for Commission review.⁷ Indeed, given the number of special services, it would be impractical to try to incorporate and update complete listings.⁸

The Notice of Inquiry states that "greater precision [in the listing of combinations in the DMCS] would enable mailers to make more informed choices about available combination of services." NOI at 3. The Postal Service believes, however, that, customers should refer to the DMM or other postal sources for information about the available combinations of services, rather than the DMCS. In NOI-1 in the most recent omnibus case, the Commission stated: "The DMCS is a legal document that plays a

special service combinations (including Confirm subscriptions) may differentiate mail sent by and/or mail sent to subscribers. Prior to Docket No. R2000-1, DMCS language regarding Merchandise Return Service distinguished the special services available to purchasers of Merchandise Return Service from those available to mailers of those returning pieces. This level of complexity is best addressed by the DMM. See, e.g., DMM S923.4.0.

⁷ The Postal Service readily acknowledges the Commission's important role in reviewing and recommending classification changes. The Commission, however, has full authority to approve classification language underlying each rate and fee. In reviewing each Postal Service request, the Commission oversees each service's costs and revenues, looks for cross-subsidization, and considers issues of competitive impact.

⁸ The listings would be presented to the public in the Domestic Mail Manual.

major role in the relationship between the Postal Service and the Commission." Docket No. R2001-1, Notice of Inquiry No. 1 Concerning Proposed DMCS Changes, at 1.

Many years of experience dealing with its customers convinces the Postal Service that it is unlikely that customers refer to the DMCS when making choices about which products to purchase. Rather, they consult the DMM. Moreover, the DMM itself carries the force of law as a direct consequence of its incorporation into the Code of Federal Regulations. 39 C.F.R. 111.1.

The benefits of allowing the Postal Service flexibility to specify combinations of special services and the drawbacks of the approach embodied in NOI-1 are demonstrated by recent history.⁹ Two recent examples are illustrative.

In Docket No. R97-1, the Postal Service proposed and the Governors later implemented a popular service, Delivery Confirmation. The Commission's recommendation in that docket of Delivery Confirmation service without a special service combination listing in the DMCS avoided substantial litigation thereafter because, as Delivery Confirmation developed in its initial years, several unforeseen special service combinations were added. See DMM § S918.1.6.¹⁰

Merchandise Return Service provides an inverse example where restrictions in the DMCS required that customer requests first necessitated litigation before they could

⁹ This demonstration also responds to the Commission's observation in the Docket No. R2001-1 NOI (at 2) that examples supporting elimination from the DMCS of special service combinations have not been provided.

¹⁰ The limitations on flexibility inherent in filing even a limited classification case could well have operated instead to delay offering consumers these options until an omnibus case. As such, identification of allowable special service combinations in the DMCS can hurt consumers.

be accommodated. Prior to Docket No. R2000-1, customers returning mail using Merchandise Return Service were precluded from insuring the merchandise they chose to return. After proposing the change in that docket, the restriction was eventually removed.

Testimony in Docket No. R2001-1 specifically supported eliminating the DMCS restrictions on special service combinations, especially for more recent “electronic special service offerings,” USPS-T-36 at 88, because perfect foresight regarding all possible combinations was impractical. The same is true of Confirm, wherein both customers and the Postal Service continue discovering new business models that take advantage of this new technology.

III. Shape-Based, Special Service, and Other Restrictions For Confirm Do Not Belong in the DMCS.

The proposed DMCS language attached to NOI-1 contains three types of inclusions that the Postal Service believes should not be incorporated in the DMCS:

- 1) limitation to letters and flats;
- 2) specification of a finite and incomplete list of special services that can plausibly be used with Confirm; and
- 3) elevation of various descriptions of Confirm to what may operate as inappropriate words of limitation in the DMCS, including a) use of an Advanced Shipping Notice (ASN) for Destination Confirm, b) retention of scan information for a “minimum of 15 days”, and c) mandatory use of a Postnet Code. These are addressed serially, below.

The importation into the DMCS of identified shapes of mail for which Confirm is best suited, namely letters and flats,¹¹ creates a significant limitation and incompletely and incorrectly describes Confirm.¹² First, as witness Kiefer explains (USPS-T-5, at 12-13), if a mail piece contains a Planet barcode it may be scanned; this extends also to parcels, which in some circumstances can be processed on flat sorting machines despite their nominal qualification as parcels. The NOI-1 language would thus create an inconsistency between the Confirm service as offered and the DMCS language describing it.

This concern reaches even deeper. Mailers often work from integrated mailing lists into which they routinely incorporate Postnet barcodes. The same is likely becoming true of Planet barcodes as well since they rely upon the same technology that produces Postnet barcodes. A mailer might easily use its master mailing list for all shapes of mail, any piece of which, if scanned, would be reported to the Confirm Electronic Post Office (EPO) and thereby accrue to Confirm customer accounts.

NOI-1's proposed limitation of Confirm to First-Class Mail (including Priority Mail), Standard Mail and Periodicals in DMCS §991.21 is more restrictive than the Postal Service's proposed DMCS § 991.11, which simply indicates that Confirm can "be associated with" those same classification schedules. In light of the facts that Confirm

¹¹ The Postal Service proposed DMCS language clearly includes cards, as well as letters and flats, as shapes suited to Confirm.

¹² See NOI-1 DMCS §991.21, which omits reference to cards. Furthermore, the section incorrectly implies that Confirm extends to "mailpieces". Confirm is a subscription service that scans most Planet-coded pieces at a level that either does, or does not, make business sense to potential customers.

pieces can also be associated with Package Services and that mailers may include Planet barcodes on mail in any classification schedule, the prudent course appears to be avoiding any mention of classification schedules at all. This is what the attached DMCS language does. Use of NOI-1 or the original Postal Service language would also create an inconsistency between Confirm service, as offered, from its DMCS description.

The finite list of special services that may be combined with Confirm suffers from a similar infirmity. If a Planet coded mail piece that technically qualifies as a parcel is nonetheless sorted on a flat sorter, it would accrue a scan in circumstances that in no sense would preclude use of special services normally associated only with parcels. Hence the list proposed by NOI-1 is inherently incorrect. This is why, independent of the considerations addressed in section II, above, the language attached to these Comments avoids identifying shapes or related special services in a way that could be construed a limitation.

The Postal Service's preferred approach to the DMCS avoids this undue complexity while preserving flexibility that favors customer choice. Contrary to the NOI-1 assertion (at 3), "greater precision [by identifying related special services] would enable mailers to make more informed choices," the proposed language would have the effect of precluding choices and misinforming mailers as to what may be available. As witness Kiefer explains, "there is no reasonable means of identifying mail that should never have a PLANET barcode, nor is there a need to identify such pieces since there is no fee associated with individual pieces bearing a PLANET Code." USPS-T-5, at 12.

In actuality, Confirm more closely resembles a permit or mailing fee than a special service. Permits are covered in separate DMCS sections under classes of mail (e.g., DMCS 280) rather than as a special service; this approach avoids the need to identify combinations of special services.¹³

NOI-1 section 991.31 elevates the current requirement that Confirm customers use an Advance Shipping Notice (ASN). Incorporating this requirement in the DMCS, however, would limit flexibility exactly where it is likely to be needed. The requirement, which was made effective in the Fall of 2001, is part of a means by which a scan from the handheld delivery confirmation scanners “begins the clock” on Confirm mailpieces. Without that scan, the first scan could easily be at the parent plant of the delivery office. This would still provide useful information, but perhaps less useful. Use of an ASN is not necessarily a permanent requirement. Another tool for obtaining a starting scan, one that would not be unique to Confirm, is currently being explored and could easily be implemented before the next opportunity arises for changing DMCS language.

NOI-1 similarly elevates the projected retention time for scan data to “a minimum of 15 days.” NOI-1 DMCS §991.11. The 15-day limitation, which is designed into the structure of the EPO as a current maximum -- not a minimum -- is not a permanent commitment that warrants inclusion in the DMCS, and the Postal Service has never so

¹³ The analogy does not provide a perfect solution, for it also begs the question of what other existing special services can be likened to Confirm. Fees for Merchandise Return Receipt, for example, also apply on what amounts to a subscription rather than a per-piece basis. Mailing list, post office box, and money order services are comparable in a different way to Confirm because they also do not relate to specific pieces of mail. These complexities illustrate why comprehensive restructuring of the DMCS should not be undertaken in Docket No. MC2002-1.

represented it. That limit is reflected in the Service Level Agreement (USPS-LR-4/MC2002-1), but that does not mean it cannot change. Customers have already indicated that they do not need or want data to be retained that long.¹⁴ Of course, as Confirm matures, any change in the appropriate time limitation will be determined only in consultation with customers. It would be counterproductive to limit Postal Service flexibility by requiring a classification change for a change in the retention period.

Finally, NOI-1 incorporates a requirement for a Postnet code into DMCS language for Confirm; there is no such requirement. Postnet codes can play a variety of roles in different uses of Confirm and the requirement should be deleted.

IV. Alternative DMCS Language

NOI-1 (at 2-3) commends witness Kiefer's statement that "It seems more prudent to permit customers to choose the options they prefer, incidental to their participation in Confirm." The NOI-1 DMCS language, however, would limit customer choice. As an alternative the Postal Service suggests that the Commission consider recommending the alternative DMCS language attached. It would avoid the shortcomings of the language proposed by the Postal Service in its Request and by NOI-1 while

¹⁴ As customers mature in their use of Confirm, they typically select an FTP 'push' of the data to their own computer systems rather than looking back at the www.planetcodes.com website.

incorporating the strengths of each.¹⁵ The attached language is, moreover, what the participants, including the OCA, arrived at after discussion of alternatives.

Respectfully submitted,

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¹⁵ If comprehensive restructuring of the DMCS lies in near future, in lieu of new major heading 990, "Mailpiece Information", the Commission could also consider opening up unused numeration in the DMCS consisting of the 600s, 700s or 800s.

ALTERNATIVE DMCS LANGUAGE

- 990 MAILPIECE INFORMATION
- 991 CONFIRM
- 991.1 Definition
- 991.11 Confirm service permits subscribing customers to obtain information, electronically in near real time, regarding when and where mail pieces undergo barcode scans in mail processing operations. Scan information is not guaranteed for every piece of qualifying mail. Destination Confirm is for a subscriber's outgoing mail; Origin Confirm is for reply mail incoming to the subscriber.
- 991.12 Mailers may purchase Confirm service by subscribing to one or more of the following service levels: Silver, Gold, or Platinum.
- 991.121 Silver Subscription. The Silver subscription has a term of three months and includes the use of one identification (ID) code and up to 15 million scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first. Subscribers may license the use of additional scans in blocks of 2 million scans at any time prior to expiration of the subscription.
- 991.122 Gold Subscription, The Gold subscription has a term of twelve months and includes the use of one ID code and up to 50 million scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first. Subscribers may license the use of additional scans in blocks of 6 million scans at any time prior to expiration of the subscription.
- 991.123 Platinum Subscription, The Platinum subscription has a term of twelve months and includes the use of three ID codes and unlimited scans. Subscribers may license the use of additional ID codes for a term of three months or until expiration of the subscription, whichever occurs first.
- 991.2 Availability
- 991.21 Confirm is available to subscribers authorized by the Postal Service under 991.
- 991.3 Mailer Requirements

- 991.31 Mailers must become Confirm subscribers by applying to, and being authorized by the Postal Service. Authorization requires that a customer demonstrate the capabilities of producing mail pieces with Confirm-compatible barcodes and, for Destination Confirm, providing electronic notice of entering Confirm mail prior to or contemporaneous with mail entry, all as specified by the Postal Service.
- 991.4 Other Services
- 991.41 Confirm neither precludes nor requires any other special services.
- 991.5 Fees
- 991.51 The fees for Confirm are set forth in Fee Schedule 991.
- 991.52 A Gold subscription may be upgraded to a Platinum subscription at any time prior to the expiration of the Gold subscription by paying the difference in the respective Subscription Fees. Upgrading does not extend the term of the underlying subscription.

FEE SCHEDULE (FROM NOI-1)

FEE SCHEDULE 991

CONFIRM

Description	Fee
Silver Subscription	
Subscription Fee (3 months)	\$2,000.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00
Additional Scans (block of 2 million)	\$500.00
Gold Subscription	
Subscription Fee (12 months)	\$4,500.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00
Additional Scans (block of 6 million)	\$750.00
Platinum Subscription	
Subscription Fee (12 months)	\$10,000.00
Additional ID Codes (lesser of 3 months or end of subscription term)	\$500.00

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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