

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

**Complaint of Time
Warner Inc. et al.) Docket No. C2004-1
Concerning Periodicals Rates**

**MOTION OF AMERICAN BUSINESS MEDIA TO COMPEL RESPONSE TO
INTERROGATORY ABM/TW ET AL.-T1-91 TO WITNESS ROBERT MITCHELL
(June 8, 2004)**

Pursuant to Rule 26(d) of the Commission's rules of practice, American Business Media hereby moves for an order directing a response to interrogatory ABM/TW et al.-T1-91, directed to witness Robert Mitchell.

On June 7th, counsel for Time Warner, Inc. submitted an objection on grounds of relevance to this interrogatory, which asks:

ABM/TW et al.-T1-91. (a) Do you agree with the manner in which the Commission treats the Alaska air costs? (b) If so, why? (c) If not, why not?

Although the relevance of this inquiry may not have been apparent, it is real.

Witness Mitchell's testimony has been introduced for the primary purpose of contending that the Periodicals rate structure should be modified because it is not, or perhaps not sufficiently, cost based. He contends throughout his testimony that it is both appropriate and necessary that individual mailers pay all of the true costs of handling their mail, and he offers no compromise of this position.

For example, he argues (at page 12, line 17) that there must be "closer alignment with costs." Costs, he insists (page 17, lines 1-2), must "affect bank

accounts.” He repeats (at page 17, lines 16-17) that “[p]ostal rates must reflect the Postal Service’s costs.”

Mitchell concludes (at page 48, lines 33-34) that his proposed structure and rates pass a fairness test because “[I]t is fair for mailers to face in rates the costs of their own mail. . .” and (at page 48, lines 34-35) because “[I]t is fair for mailers to see in rates a reflection of the resources absorbed by their mail.”

Rigidly applying these self-proclaimed and immutable standards, Mitchell would impose on individual mailers and groups of mailers within the Regular Rate Periodicals subclass all of the costs that witness Stralberg has assumed and concluded are “caused” by those mailers. Therefore, even to the extent that, as witness Schick has himself recognized (at page 11, lines 16-19), there are situations in which certain printers and publishers cannot react to the price signals Mitchell would give, Mitchell insists that all Periodicals mailers “face in rates the costs of their own mail.”

Mitchell would impose these costs, which can raise rates for individual publications by more than 50% (and from our limited data by as much as 80%), without regard for, and without apparent investigation of, whether certain costs calculated by Stralberg and reflected in Mitchell’s rate design and rates are in the same sense as Alaska air costs assignable to certain mail pieces but should not be attributed to those pieces for ratemaking purposes.

For example, American Business Media intends to demonstrate that certain Periodicals mailers, such as publishers of small circulation weekly publications, are not on the “hot list” at postal facilities and are unable to obtain

reasonable and necessary service unless they air freight their publications in relatively small 5-digit sacks to entry points near the recipients. They could not palletize, even if they had the distribution density, because they cannot put pallets on airplanes, and even if they could ship pallets by air, the delays inherent in copalletizing or comailing render those processes unworkable for weeklies. If they increase their sack size in response to Mitchell's "signals," their 5-digit sacks will become, at best, 3-digit sacks that must be opened and the contents sorted before the DDU level. The crucial time lost would not permit the delivery requirements of these time value publications to be met.

Similarly, American Business Media hopes to demonstrate that some of the relatively high costs of processing certain types of Periodicals mail result in part from decisions made by the Postal Service to achieve maximum overall efficiency. For example, it is clear that the Postal Service prefers mail on pallets and that it has configured its plant and purchased its equipment in order to handle most efficiently the great majority of its flat mail, which is presented on pallets in vast quantities by very large mailers. Some of these choices, while no doubt proper from an overall efficiency standpoint, may impose unnecessary costs on the disfavored flat mail (presented in sacks by small mailers) in order to benefit the bulk of the mail and system as a whole.¹

American Business Media will contend that in these situations, and others, just like in the Alaska air situation, costs that are attributable to a particular

¹ Compare, for example, the Postal Service's quite appropriate investment at the induction point of its Small Parcel and Bundle sorters to ease the dumping of pallets with its removal of sack sorting equipment from many plants and its failure to develop a less costly alternative to sacks for small volumes.

segment of the mail should be “socialized” among a larger group of mailers. Just as with Alaska air, but contrary to Mitchell’s testimony, it is sometimes appropriate to depart from a system in which all mailers see in rates all of “the resources absorbed by their mail.” Under these circumstances, it is both fair and, more importantly, relevant to inquire of Mr. Mitchell whether and under what circumstances he would consider it appropriate to depart from completely “cost-based” rates. The challenged question does so in the context of the most visible example in postal rates—the treatment of the Alaska air costs.

Mr. Mitchell should be directed to respond.

Respectfully submitted,

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ATTACHMENT REQUIRED BY RULE 26(d)

ABM/TW et al.-T1-91. (a) Do you agree with the manner in which the Commission treats the Alaska air costs? (b) If so, why? (c) If not, why not?