POSTAL RATE COMMISSION

In the Matter of:

COMPLAINT OF TIME WARNER, INC., ET AL., CONCERNING PERIODICAL RATES

Docket No. C2004-1

Conference Room 300
Postal Rate Commission
1333 H Street, N.W.
Washington, D.C.

Volume 4
Tuesday, July 13, 2004

The above-entitled matter came on for hearing pursuant to notice, at 9:34 a.m.

BEFORE:

HON. GEORGE A. OMAS, CHAIRMAN
HON. TONY HAMMOND, VICE-CHAIRMAN
HON. RUTH Y. GOLDWAY, COMMISSIONER
HON. DANA B. COVINGTON, COMMISSIONER

APPEARANCES:

On behalf of the United States Postal Service:

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(202) 789-6837

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On behalf of the National Newspaper Association:

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King & Ballou
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Arlington, Virginia 22205
(703) 534-5750

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(202) 628-4888
WITNESSES APPEARING:
ROBERT W. MITCHELL

WITNESSES:

<table>
<thead>
<tr>
<th>WITNESSES:</th>
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DOCUMENTS TRANSCRIBED INTO THE RECORD

List of American Business
Media publications, ABM/TW-XE-1

Library reference materials re
advertising rates, ABM/TW-XE-2

Designation of written cross
examination of Time Warner et al.
TW et al.-

Designation of written cross
examination of TW, Conde Nast,
Newsweek, RDA, and TV Guide

Designation of written cross
examination: witness Stralberg

Responses of Time Warner Inc.
to POIR No. 1, Question 2

Institutional Response of Time
Warner Inc. et al. to
APWU/TW et al.-T1-5

Institutional Response of Time
Warner Inc. et al. to
APWU/TW et al.-T1-5

Response of Time Warner, Redirected
from Witness Gordon, ABM/TW et al.-T3-2

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## EXHIBITS

<table>
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<tr>
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PROCEEDINGS

(9:34 a.m.)

CHAIRMAN OMAS: Good morning. Today we are continuing the evidentiary hearing of Docket No. C2004-1 considering the complaint concerning periodical rates filed by Time Warner, et al.

We adjourned yesterday during the cross-examination of Witness Mitchell. The next participant scheduled to cross-examine is McGraw-Hill.

Does any participant have a procedural matter we should tend to before we begin?

MR. STRAUS: Yes, sir, I do.

CHAIRMAN OMAS: Mr. Straus?

MR. STRAUS: Yesterday during cross-examination of both Mr. Gordon -- I guess it was just Mr. Gordon, there were two documents that I probably should have put into the record, but failed to do so. One I thought was entered, and it wasn't.

I would like to try to get them in this morning as cross-examination exhibits. I've checked with counsel for Complainants, and at this moment they have no objection.

The first document was actually attached to an interrogatory request to Dr. Gordon, and we neglected to reattach it when we designated the

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answer. It was a list of American Business Media
publications. He was asked some questions both in
written cross and in oral cross about whether he had
looked at them and whether they had websites. You may
recall that.

In order to get this document into the
record, or at least into the transcript, so people
would know what we're talking about, I've marked it as
ABM/TW-XE-1.

(The document referred to was
marked for identification as
Exhibit No. ABM/TW-XE-1.)

MR. STRAUS: With your permission, I will
hand two copies to the reporter. I have copies for
the Commissioners if they really care to have one, but
it will be in the transcript if you allow it.

CHAIRMAN OMAS: Without objection. So
ordered.

(The document referred to,
previously identified as
Exhibit No. ABM/TW-XE-1, was
received in evidence.)

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<td>Affordable Housing Finance magazine</td>
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<td>Fulton County Daily Report</td>
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<td>IP Law &amp; Business</td>
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<td>Law Firm, Inc.</td>
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The National Law Journal
The Recorder
Western Massachusetts Law Tribune
C-10 Executive Journal
Executive Journal
Indian Gaming Business
International Gaming & Wagering Business
Lottery Business
National Gaming Summary
Presenting Communications
Slot Manager
BodyShop Business
Brake & Front End
Counterman
Engine Builder
ImportCar
NASCAR Performance
Tire Review
Tomorrow's Technician
Underhood Service
Green Profit
Grower Talks
Beverage Dynamics
Cheers
Stateways
Marine Marketing
Textile World
Textile World Blue Book
Bloomberg Markets
Bloomberg Wealth Manager
Rental News
Trim & Restyling News
Automotive Fleet
BusCon (trade show)
Business Driver
Business Fleet
Car Rental Show
Conference of Automotive Remarketing
F&I Management & Technology
Fleet Association Directory
Fleet Expo
Fleet Financials
LCT Leadership Summit (conference)
Limousine & Chauffeured Transportation
Limousine & Chauffeured Transportation Show
Metro
Mobile Electronics
Modern Tire Dealer
Nails
Police
School Bus Fleet
Security Sales & Integration
Trexpo (East & West) (trade shows)
Truck & SUV Performance
Vehicle Remarketing
Professional Jeweler
Contact Lens Spectrum
HC & Homecare Business
Hematology Management
Hemostatic Management
Garden Center Merchandising & Management
Garden Center Products & Supplies

Greenhouse Management & Production
Nursery Management & Production
Accessories
Modern Brewery Age
Modern Brewery Age/Blue Book
Modern Brewery Age/Tabletop Edition
MR
Compliance Engineering Magazine
Cosmetic/Personal Care Packaging
European Medical Device Manufacturer
Injection Molding Magazine
IVD Technology
Medical Device & Diagnostic Industry
Medical Device Register
Medical Electronics Manufacturing
Medical Product Manufacturing News
MICRO Magazine
Modern Plastics
MX: Business Strategies for Medical Technology Executives
Nutritional Outlook
Pharmaceutical & Medical Packaging News
Plastics Machinery & Auxiliaries
Abstracts in Hematology & Oncology
AIDS Reader
Bank Systems & Technology
BioMechanics Magazine
C/C++ User's Journal
CADDENCE
Call Center Magazine
Communication Systems Design-CSD
Communications Convergence
Consultant
Consultant for Pediatricians
CRN
DB2 Magazine
Diagnostic Imaging
Diagnostic Imaging SCAN
Dr. Dobb's Journal
Drug Benefit Trends
DV (Digital Video) Magazine
EE Times
Electronics Supply & Manufacturing
Embedded Computing Solutions
Embedded Systems Programming
Game Developer
Geriatric Times
Healthcare Enterprise
Infections in Medicine
Infections in Urology
InformationWeek
Insurance & Technology
Intelligent Enterprise
Journal of Critical Illness
Journal of Musculoskeletal Medicine
Journal of Respiratory Diseases
Manufacturing Solutions
MSDN Magazine
Network Computing
Network Magazine
Optimize
Oncology
Psychiatric Times
Software Development
Sys Admin
Technology & Learning
Transform Magazine
Windows Developer Network
Air Cargo World
Canadian Sailings
Directory of US Exporters
Directory of US Importers
Florida Shipper, The
Forwarder's List of Attorneys
Gulf Shipper
Journal of Commerce, The
Musical America International Directory of Performing Arts
Official Export Guide
Official Railway Equipment Register
Official Railway Guide
Pacific Shipper
Pacific Shipper's Transportation Services Directory (annual)
Pocket List of Railroad Officials, The
Shipping Digest
Traffic World
Transportation Telephone Ticker
US Custom House Guide
Warehouse Distribution Directory
Commercial Fisheries News
Fish Farming News
Sea Technology
Manufacturer, The
Ment Catalog
Journal
Milling Journal
Seed Today
Ad Age's Creativity
Advertising Age
American Coin-Op
American Drycleaner
American Laundry News
Automobilwoche
Automotive News
AutoWeek
BtoB
BtoB Media Business
Business Insurance
Crain's Chicago Business
Crain's Cleveland Business
Crain's Detroit Business
Crain's New York Business
Investment News
Modern Healthcare
Modern Physician
Pensions & Investments
Plastics News
RCR Wireless News
Rubber & Plastics News
Television Week
Tire Business
TV News
Force
Beverage Spectrum Magazine
CSP (Convenience Store/Petroleum) Magazine
CSP Daily News
Conformity
Appliance
Corporate Dealmaker
Deal, The
Display Devices
Electronics Buyers' Guide
Journal of the Electronics Industry
Office Equipment & Products
Alaska Fisherman's Journal
Kosher Today
National Fisherman
Natural Products
onlinemanner.com
Organic Products
SeaFood Business
SeaFood Handbook
WorkBoat
Ag Lender
Ag Retailer
Agri Marketing
Crop Decisions
American Painting Contractor
Compliance Magazine
Facility Care
Flooring
Human Capital
Lifting & Transportation International
Motion Control
Robotics World
Sales & Marketing Strategies and News
Association Meeting & Event Planners
Corporate Gift Buyers
Corporate Meeting & Event Planners
Exhibit & Trade Show Display Buyers
Gift, Housewares & Home Textile Buyers
Hospital Phone Book
Insurance Phone Book
Mass Merchandise & Off-Price Apparel Buyers
Medical Meeting Planners
Men's & Boys' Wear Buyers
Premium, Incentive & Travel Buyers
RN & WPL Encyclopedia
Safety Incentive Buyers
Sporting Goods & Activewear Buyers
Women's & Children's Wear Buyers
Contemporary Surgery
Current Psychiatry
Journal of Family Practice
Mayo Clinic Proceedings
OBG Management
Commercial Christmas Decor
Consumer Goods Technology
Greetings etc.
Hospitality Technology
Kiosk Business
Retail Info Systems News
Selling Christmas Decorations
Selling Halloween
Vertical Systems Reseller
Archery Business
Boating Industry
PowerSports Business
American Heart Journal
American Journal of Cardiology
American Journal of Gastroenterology
American Journal of Hypertension
American Journal of Obstetrics and Gynecology
American Journal of Ophthalmology
American Journal of Preventive Medicine
American Journal of Surgery
Annals of Emergency Medicine
Annals of Thoracic Surgery
Cancer Genetics and Cytogenetics
Clinical Biochemistry
Clinical Psychiatry News
Controlled Clinical Trials
Cornell Hotel & Restaurant Administration Quarterly
Ecological Complexity
Experimental Hematology
Family Practice News
Fertility & Sterility
FireRescue Magazine
Free Radical Biology & Medicine
Gastroenterology
Homeland First Response
Human Pathology
Internal Medicine News
International Journal of Radiation Oncology Biology Physics
JEMS (Journal of Emergency Medical Services)
Journal Midwifery and Women's Health
Journal of Adolescent Health
Journal of Allergy & Immunology
Journal of the American Academy of Dermatology
Journal of Cataract and Refractive Surgery
Journal of Clinical Anesthesia
Journal of Diabetes and its Complications
Journal of Emergency Medicine
Journal of Gastrointestinal Surgery
Journal of Heart and Lung Transplantation
Journal of Pain and Symptom Management
Journal of Pediatrics
Journal of the American College of Cardiology
Journal of the American College of Surgeons
Journal of the American Society for Mass Spectrometry
Journal of the Society of Gynecologic Investigation
Lancet, The
Life Sciences
Magnetic Resonance Imaging
Medical Dosimetry
Materials Characterization
Molecular Imaging & Biology
Neurotoxicology & Teratology
Nutrition Research
Nutrition
Ob Gyn News
Ophthalmology
Otolaryngology- Head & Neck Surgery
Pain
Pediatric Neurology
Pain News
Pharmaceutical News
Podiatry News
Seminar in Oncology
Skin & Allergy News
Surgery
Surgical Neurology
Survey of Ophthalmology
Transplantation Proceedings
Ultrasound in Medicine & Biology
Urology
Wildland Firefighter
Homes & Land Magazine
DNR
Executive Technology
Footwear News
HN (Home Furnishings News)
InFurniture
Supermarket News
Beef Today
Dairy Today
Farm Journal
Top Producer
Website that provides business information
Front Range Business
GCN Internet Seminar Series
Internet Publishing Insights Newsletter
Commercial Dealer
Construction & Demolition Recycling
Golf Course News
Interior Business
Irrigation Business & Technology
Lawn & Landscape
QA (Quality Assurance & Food Safety)
Pest Control Technology (PCT)
Recycling Today
Snow Business
PCT Commercial Pest Management Summit
Lawn & Landscape Weed & Insect Management Summit
Recycling Today Paper Recycling Conference & Trade Show
Foodservice Equipment Reports
myBusiness
Road King
Aquatics International
Big Builder
Builder
Building Products
Concrete & Masonry Construction Products
Concrete Construction
Concrete Producer, The
Custom Home
Custom House Outdoors
Journal of Light Construction, The
Masonry Construction
Multifamily Executive
Pool & Spa News
ProSales
Public Works
Remodeling
Replacement Contractor
Residential Architect
Tools of the Trade
Wired House, The
Diversion
EEM/Electronic Engineers Master
Electronic Products
Interior Decorators' Handbook
LDB Interior Textiles
Private Label
Private Label Directory
Tech
Emergency Planning & Management
Flow Control
MicroTec Magazine
1up.com
Baseline
BaselineMag.com
Business 4Site
ChannelZone (Web site)
CIO Insight
CioInsight.com
Computer Gaming World
Custom Conference Group
Electronic Gaming Monthly
eSeminar
eWEEK
eWeek.com
ExtremeTech.com
GameNow
Gaming Industry News
CHAIRMAN OMAS: Is there anything else?
(No response.)

CHAIRMAN OMAS: There being no additional matters --

MR. STRAUS: Your Honor, I have one more, a second exhibit.

During the cross-examination of Mr. Gordon -- no. I'm sorry. This was Mr. Mitchell. I'll get it straight. He was asked a lot of questions about advertising rates, including reference to material that was provided by the Complainants as a library reference, which was the advertising rates of some of the Complainants' publications.

I would like that library reference material also to be included in the record as Exhibit ABM/TW-XE-2.

(The document referred to was marked for identification as Exhibit No. ABM/TW-XE-2.)

CHAIRMAN OMAS: Without objection. So ordered. It is granted.

(The document referred to, previously identified as Exhibit No. ABM/TW-XE-2, was received in evidence.)

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### TIME National

**Rate Base:** 4,000,000

The world’s most influential, most authoritative and largest circulation newsmagazine. Available weekly.

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</tr>
<tr>
<td>1/2 Column</td>
<td>50,175</td>
<td>66,900</td>
</tr>
</tbody>
</table>

*Subject to availability.

### TIME Business

**Rate Base:** 1,800,000

TIME Business offers the largest U.S. all-business circulation and reaches only subscribers qualified individually by job title or qualified business household. All circulation verified by ABC. Provides in-depth reach of top, middle and technical management and professionals in all 50 states. Available 32 times in 2004.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$103,500</td>
<td>$138,000</td>
</tr>
<tr>
<td>2 Columns</td>
<td>87,975</td>
<td>117,300</td>
</tr>
<tr>
<td>1/2 Page Horizontal*</td>
<td>72,450</td>
<td>96,600</td>
</tr>
<tr>
<td>1/2 Page Horizontal Spread</td>
<td>144,900</td>
<td>193,200</td>
</tr>
<tr>
<td>1 Column</td>
<td>46,575</td>
<td>62,100</td>
</tr>
<tr>
<td>1/2 Column</td>
<td>31,050</td>
<td>41,400</td>
</tr>
</tbody>
</table>

*Subject to availability. Rates are based on subscription circulation only.

### Inside Business

**Rate Base:** 1,800,000

TIME's Inside Business section delivers supplemental business editorial exclusively to TIME Business subscribers. It provides advertisers with adjacencies to relevant business editors written by TIME editors. Inside Business examines major business events—the latest ideas in technology, management and workplace trends, along with financial forecasts, and small-business success strategies. Available monthly. For rates, see TIME Business above.

### TIME Global Business

**Rate Base:** 1,000,000

TIME Global Business is a self-contained magazine bound center-spread into TIME and is dedicated to showing U.S. companies of all sizes how to seize new opportunities in global business and e-commerce. TIME Global Business is delivered to a rate base of 1,000,000 subscribers with top management or technical job titles. Subscribers are qualified individually by job title or subscriber household. Provides advertisers with adjacencies to relevant business edit. Available monthly.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$78,750</td>
<td>$105,000</td>
</tr>
</tbody>
</table>

### TIME Top Management

**Rate Base:** 800,000

Nationwide circulation exclusively to CEOs, presidents, chairmen, other titled officers, owners, partners and department heads/managers/supervisors. Reaches only subscribers qualified individually by these job titles or subscriber households. Available 24 times in 2004.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$71,250</td>
<td>$95,000</td>
</tr>
<tr>
<td>2 Columns</td>
<td>60,500</td>
<td>80,800</td>
</tr>
<tr>
<td>1/2 Page Horizontal*</td>
<td>49,875</td>
<td>66,500</td>
</tr>
<tr>
<td>1/2 Page Horizontal Spread</td>
<td>99,750</td>
<td>133,000</td>
</tr>
<tr>
<td>1 Column</td>
<td>33,100</td>
<td>42,800</td>
</tr>
<tr>
<td>1/2 Column</td>
<td>23,375</td>
<td>28,500</td>
</tr>
</tbody>
</table>

*Subject to availability. Rates are based on subscription circulation only.

### TIME Gold

**Rate Base:** 1,000,000

TIME Gold is a targeted edition with edit of interest to upscale, mature adults. Subscribers with someone in the household aged 50+ and with the highest incomes are selected to create this audience of affluent, maturing baby boomers (median age 55). Monthly features written by TIME editors uniquely for this edition include travel, personal finance, health, new careers and celebrity profiles. Available 12 times a year.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$54,000</td>
<td>$72,000</td>
</tr>
<tr>
<td>2 Columns*</td>
<td>45,900</td>
<td>61,200</td>
</tr>
<tr>
<td>1/2 Page Horizontal*</td>
<td>37,800</td>
<td>50,400</td>
</tr>
<tr>
<td>1/2 Page Horizontal Spread*</td>
<td>75,500</td>
<td>100,800</td>
</tr>
<tr>
<td>1 Column*</td>
<td>24,300</td>
<td>32,400</td>
</tr>
</tbody>
</table>

*Subject to availability. Rates are based on subscription circulation only.

**TIME U.S. Editions**

### TIME Women

**Rate Base:** 1,300,000

A female-targeted edition that delivers a circulation of 1.3 million subscribers. Available 12 times a year.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$58,000</td>
<td>$78,000</td>
</tr>
</tbody>
</table>

### Connections

**Rate Base:** 1,300,000

This female-focused editorial appears in the pages of TIME Women and is written by TIME editors. Entitled “Connections,” it addresses the interests of smart, affluent mothers and managers who are readers of TIME. Available six times a year. For rates, see TIME Women above.

### TIME Luxury

**Rate Base:** 600,000

TIME Luxury is a targeted edition reaching TIME's most affluent and status-conscious readers—subscribers living in high-income households or ZIP codes, those likely to have an interest in fashion or those subscribing to InStyle. Available two times a year.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>$47,250</td>
<td>$67,000</td>
</tr>
</tbody>
</table>

### TIME Style & Design

**Rate Base:** 600,000

**Issue Dates:** Feb. 16, May 3 (U.S. only), Sept. 13 and Nov. 22 (U.S. only)

Four new issues from the editors of TIME will explore how the latest trends in design influence the way we dress and live. These oversized, glossy issues will be delivered with a polybag to the TIME Luxury rate base.

<table>
<thead>
<tr>
<th>Unit</th>
<th>B&amp;W</th>
<th>2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Page</td>
<td>N/A</td>
<td>$72,000*</td>
</tr>
</tbody>
</table>

*Regardless of bleed or coloration.

**Discount Schedule:** See page 11. Breed changes: Add 15% in rates.

---

### TIME For Kids

**Circulation:** 4,000,000

The leading weekly magazine for kids produced by a major news organization, drawing from worldwide news bureaus and award-winning journalists and photographers. Marketed directly to kindergarten through sixth-grade teachers for classroom use. TIME For Kids has three editions: The Big Picture (grades K-3), News Scoop (grades 2-3) and World Report (grades 4-6). Regular issues do not accept traditional advertising; however, custom-sponsored programs are available. For more information, contact Amy Dunkin at 212-522-6920 or amy_dunkin@timeinc.com.

### Special Advertising Sections

Special sections allow advertisers to reach TIME's audience in a customized environment that supports and reinforces marketing strategy or promotion efforts. TIME's special advertising sections have won numerous awards and consistently deliver high readership scores.

#### Ad Section

<table>
<thead>
<tr>
<th>Issue Date</th>
<th>On Sale</th>
<th>Ad Close</th>
<th>Edition</th>
</tr>
</thead>
<tbody>
<tr>
<td>CARDIO HEALTH</td>
<td>Feb. 26</td>
<td>Feb. 9</td>
<td>Dec. 22</td>
</tr>
<tr>
<td>WIRELESS ENTERPRISE</td>
<td>Mar. 22</td>
<td>Mar. 15</td>
<td>Jan. 16</td>
</tr>
<tr>
<td>DIABETES EPIDEMIC</td>
<td>Mar. 29</td>
<td>Mar. 22</td>
<td>Feb. 2</td>
</tr>
<tr>
<td>NATIONAL PARKS</td>
<td>Apr. 19</td>
<td>Apr. 12</td>
<td>Feb. 23</td>
</tr>
<tr>
<td>HEALTH BRIEF</td>
<td>May 3</td>
<td>Apr. 26</td>
<td>Mar. 15</td>
</tr>
<tr>
<td>SMALL BUSINESS</td>
<td>May 17</td>
<td>May 10</td>
<td>Mar. 15</td>
</tr>
<tr>
<td>BUSINESS TRAVEL</td>
<td>June 7</td>
<td>May 31</td>
<td>Apr. 5</td>
</tr>
<tr>
<td>FAMILY HEALTH</td>
<td>July 12</td>
<td>July 5</td>
<td>May 17</td>
</tr>
<tr>
<td>HEALTHY AGING</td>
<td>Sept. 13</td>
<td>Sept. 6</td>
<td>July 19</td>
</tr>
<tr>
<td>NADA</td>
<td>Nov. 8</td>
<td>Nov. 1</td>
<td>Sept. 13</td>
</tr>
<tr>
<td>LIFESTYLES/FINANCIAL PLANNING</td>
<td>Nov. 22</td>
<td>Nov. 15</td>
<td>Sept. 20</td>
</tr>
</tbody>
</table>

Issue dates subject to change.

**Calendar & Closings:** In front packet.
TIME U.S. Editions

Geographic Editions

SPOT MARKET EDITIONS
TIME Spot Market Editions are defined to coincide geographically with existing DMAs as closely as circulation distribution will allow. The following are single-edition rates only. See page 10 for multi-edition rate computation.

SPOT MARKET: GROUP I

<table>
<thead>
<tr>
<th>City</th>
<th>Rate Base* (000)</th>
<th>Page B&amp;W</th>
<th>Page 2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boston</td>
<td>135</td>
<td>$16,958</td>
<td>$22,611</td>
</tr>
<tr>
<td>Chicago</td>
<td>160</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Detroit</td>
<td>100</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Los Angeles</td>
<td>265</td>
<td>20,852</td>
<td>27,816</td>
</tr>
<tr>
<td>Miami</td>
<td>85</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Minneapolis/</td>
<td>St. Paul</td>
<td>73</td>
<td>16,958</td>
</tr>
<tr>
<td>New York</td>
<td>380</td>
<td>27,692</td>
<td>36,923</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>152</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>San Francisco</td>
<td>185</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Washington, D.C.</td>
<td>115</td>
<td>16,958</td>
<td>22,611</td>
</tr>
</tbody>
</table>

*Rate bases include newstand circulation.

STATE EDITIONS (including D.C.)
The following are single-edition rates only. Rates are based on subscription circulation only.

<table>
<thead>
<tr>
<th>State</th>
<th>Rate Base* (000)</th>
<th>Page B&amp;W</th>
<th>Page 2- or 4-Color</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>42</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Alaska</td>
<td>10</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Arizona</td>
<td>65</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Arkansas</td>
<td>27</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>California*</td>
<td>550</td>
<td>37,689</td>
<td>50,252</td>
</tr>
<tr>
<td>Colorado</td>
<td>65</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Connecticut</td>
<td>75</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Delaware</td>
<td>12</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Washington, D.C.</td>
<td>14</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Florida</td>
<td>220</td>
<td>18,459</td>
<td>24,312</td>
</tr>
<tr>
<td>Georgia</td>
<td>86</td>
<td>15,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Hawaii</td>
<td>22</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Idaho</td>
<td>14</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Illinois</td>
<td>185</td>
<td>16,958</td>
<td>22,611</td>
</tr>
<tr>
<td>Indiana</td>
<td>74</td>
<td>16,958</td>
<td>22,611</td>
</tr>
</tbody>
</table>

*Rate base includes newstand circulation.
2004 Multi-Edition Rate Computation

SPOT MARKET, REGIONAL AND STATE EDITIONS

The Multi-Edition Grid may only be used when an advertiser combines multiple spot market circulations or regional and state circulations for any single issue. Minimum cost is at the 200,000 circulation level. Same creative must be used in all editions, or a copy-sell charge applies.

Use the following sequence for rate computation:

1. Add circulation of all editions to be purchased in a single issue.
2. In the Combined Circulation column, locate the range in which your combined circulation falls.
3. Read over to the last column to find the corresponding Base $ Amount.
4. Multiply by the Marginal CPM, the difference between your combined circulation and the circulation at the Bottom of Range.
5. Add the resulting numbers from steps 3 and 4 to get the Page 4-Color open rate for your multi-edition buy.
6. Black & White rates are 75% of the 4-Color rate.

2004 Multi-Edition Rates

<table>
<thead>
<tr>
<th>Combined Circulation</th>
<th>3- or 4-Color</th>
<th>Marginal CPM</th>
<th>Base $ Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>199,999</td>
<td>$28,350</td>
<td></td>
</tr>
<tr>
<td>200,000</td>
<td>299,999</td>
<td>80.09</td>
<td>28,350</td>
</tr>
<tr>
<td>300,000</td>
<td>409,999</td>
<td>76.79</td>
<td>28,350</td>
</tr>
<tr>
<td>400,000</td>
<td>619,999</td>
<td>72.49</td>
<td>28,350</td>
</tr>
<tr>
<td>500,000</td>
<td>829,999</td>
<td>77.69</td>
<td>28,350</td>
</tr>
<tr>
<td>600,000</td>
<td>1,039,999</td>
<td>74.88</td>
<td>28,350</td>
</tr>
<tr>
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</tr>
<tr>
<td>800,000</td>
<td>1,459,999</td>
<td>70.98</td>
<td>28,350</td>
</tr>
<tr>
<td>900,000</td>
<td>1,669,999</td>
<td>69.67</td>
<td>28,350</td>
</tr>
<tr>
<td>1,000,000</td>
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<td>28,350</td>
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<td>1,100,000</td>
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<td>67.07</td>
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<td>1,200,000</td>
<td>2,309,999</td>
<td>65.77</td>
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<td>2,529,999</td>
<td>64.44</td>
<td>28,350</td>
</tr>
<tr>
<td>1,400,000</td>
<td>2,749,999</td>
<td>63.16</td>
<td>28,350</td>
</tr>
<tr>
<td>1,500,000</td>
<td>2,974,999</td>
<td>61.86</td>
<td>28,350</td>
</tr>
<tr>
<td>1,600,000</td>
<td>Up</td>
<td></td>
<td>28,350</td>
</tr>
</tbody>
</table>

Contact your sales representative for the 2004 International Discount Grid.

Dollar Volume Discount

To receive the following discount, the advertiser must request the discount on contract and/or insertion order.

For the purpose of calculating discounts, gross spending includes all spending for space in TIME unless otherwise specified; it does not include production premiums or other charges. This discount is based on an advertiser's total gross spending in TIME at the open rate during the advertiser's designated contract year.

An advertiser may establish any contract year of 52 consecutive issues. All space units and all editions may be combined for discounts except where otherwise specified. Should a contract year bracket two calendar years, the discount grid in effect at the beginning of an advertiser's contract year applies to the advertiser's entire contract year. Contact TIME for more information.

U.S. 2004 Discount Grid

<table>
<thead>
<tr>
<th>Gross Spending ($)</th>
<th>U.S. Discount (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>400,000</td>
<td>399,999</td>
</tr>
<tr>
<td>700,000</td>
<td>1,199,999</td>
</tr>
<tr>
<td>1,200,000</td>
<td>2,199,999</td>
</tr>
<tr>
<td>1,200,000</td>
<td>1,199,999</td>
</tr>
<tr>
<td>1,600,000</td>
<td>4,999,999</td>
</tr>
<tr>
<td>5,000,000</td>
<td>Up</td>
</tr>
</tbody>
</table>

Contact your sales representative for the 2004 International Discount Grid.

TIME Inquiry Program (TIP)

TIP is a direct-response service that helps generate top-quality sales leads from TIME's highly selective audience. Available to TIME National and demographic edition advertisers.

TIP Page with Card

<table>
<thead>
<tr>
<th>Issue Date</th>
<th>Ad Close</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 15</td>
<td>January 26</td>
</tr>
<tr>
<td>October 18</td>
<td>August 30</td>
</tr>
</tbody>
</table>

TIP Page

<table>
<thead>
<tr>
<th>Issue Date</th>
<th>Ad Close</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 10</td>
<td>April 12</td>
</tr>
<tr>
<td>December 6</td>
<td>October 18</td>
</tr>
</tbody>
</table>

Research

TIME Opinion Leaders Panel

TIME's Opinion Leaders online reader panel of 7,500+ readers is available to TIME advertisers for proprietary research. In addition to fast turnaround and targeted feedback, advertisers receive research expertise in developing their studies to be sure of meaningful and actionable results.
AWARD WINNING EDITORIAL

NATIONAL MAGAZINE AWARDS
- Finalist for General Excellence in 2002 and 1999
- PULITZER PRIZE NOMINEES
  - Contributing Editor Philip Caputo won for investigative reporting and was a finalist for the National Book Award for Horse of Africa
  - Contributing Editor Bob Marshall is the outdoors editor of the New Orleans Times-Picayune, where he won in 1996
- Contributing Shooting Editor, Bob Brister, has won many gun-writing awards and has been inducted into the sporting Clays Hall of Fame

2003 EXCELLENCE IN CRAFT AWARD WINNERS
- Big Game Hunting Contest Sponsored by Leupold & Stevens
  - First Place Radio Category
- Small Game Hunting Contest Co-Sponsored by National Rifle Association and NRA Foundation
  - Second Place Radio Category
- Technical Contest Sponsored by Outdoors Writers Association of America
  - Second and Third Place Radio Category
- President's Choice Awards
  - fieldstream.com Art/Photo Category

EDITOR ACCOLADES
- David E. Petrie, Deputy Editor of Field & Stream magazine, was awarded the 2002 Leupold Jack Stack Writer of the Year Award
- Phillip Beaumyally, Shooting Editor of Field & Stream magazine, was the recipient of Ducks Unlimited's 1997 Wetlands Conservation Achievement Award for his writing on the mid-continental snow goose population crisis.

NATIONAL ADVERTISING • $ RATES PER PAGE
Effective February 2004

<table>
<thead>
<tr>
<th>Size</th>
<th>Full Page</th>
<th>2/3 Page</th>
<th>1/2 Page</th>
<th>1/3 Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open</td>
<td>110.100</td>
<td>54.500</td>
<td>84.800</td>
<td>42.400</td>
</tr>
<tr>
<td>8X</td>
<td>96.100</td>
<td>42.500</td>
<td>62.700</td>
<td>31.700</td>
</tr>
<tr>
<td>6X</td>
<td>86.100</td>
<td>36.500</td>
<td>54.600</td>
<td>27.300</td>
</tr>
<tr>
<td>10X</td>
<td>92.100</td>
<td>46.000</td>
<td>68.000</td>
<td>34.000</td>
</tr>
<tr>
<td>12X</td>
<td>110.100</td>
<td>55.000</td>
<td>85.000</td>
<td>42.500</td>
</tr>
<tr>
<td>16X</td>
<td>104.100</td>
<td>47.000</td>
<td>68.000</td>
<td>34.000</td>
</tr>
<tr>
<td>18X</td>
<td>120.100</td>
<td>60.000</td>
<td>90.000</td>
<td>45.000</td>
</tr>
<tr>
<td>24X</td>
<td>132.100</td>
<td>66.000</td>
<td>108.000</td>
<td>54.000</td>
</tr>
<tr>
<td>36X</td>
<td>168.100</td>
<td>84.000</td>
<td>126.000</td>
<td>63.000</td>
</tr>
</tbody>
</table>

Second Place Radio Category 3rd Place Radio Category

<table>
<thead>
<tr>
<th>Size</th>
<th>Full Page</th>
<th>2/3 Page</th>
<th>1/2 Page</th>
<th>1/3 Page</th>
</tr>
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<tbody>
<tr>
<td>Open</td>
<td>88.100</td>
<td>44.500</td>
<td>66.000</td>
<td>33.000</td>
</tr>
<tr>
<td>8X</td>
<td>78.100</td>
<td>39.500</td>
<td>53.000</td>
<td>26.500</td>
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<tr>
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Billed:
Available on all ROG units one-third page or larger; add 10% to the gross rate.
No charge for gutter bleed on two facing pages.

Discounts:
Mail Order/Direct Response 20% ROG Space only
Concurrent 2.5% Space in Outdoor Life in the same issue

All rates gross. Rates subject to change.
**RATES**

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<td>Back</td>
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**DISCOUNTS**
- 15% agency discount
- 10% pre-pay discount

**MULTIPLE PAGE DISCOUNTS**
- (affects all pages that run in a single issue)
  - 5% spread discount
  - 3-4 pages: 7%
  - 5-6 pages: 9%
  - 7-8 pages: 11%
  - 9+ pages: 13%

TransWorld offers a discount to advertisers currently on a full schedule in other consumer titles within the TransWorld Network (TransWorld Skateboarding, TransWorld Snowboarding, Ride BMX, Transworld BMX, Freeze, Transworld Surf)
- First Title: 5%
- Each additional Title: 2%

**MOTO MALL**
TransWorld Motorcross offers our special Moto Mall selection for the companies on a tighter budget. This special advertising section allows your company to reach hundreds of thousands of potential customers at a very affordable rate. Moto Mall is a great tool for maintaining visibility and accessibility in the motocross community. Space is available in 1", 2", and 3" full sizes. All Moto Mall ads are 2-1/8" wide. Rates are for color ads.

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<td>$585</td>
<td>$560</td>
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<tr>
<td>2&quot;</td>
<td>$315</td>
<td>$315</td>
<td>$250</td>
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**2004 CIRCULATION PROJECTIONS**
- Newsstand Sales: 48,000
- Subscriptions: 48,000
- Total Circulation: 96,000

Each issue of TransWorld Motorcross is received by over 4,500 Motorcycle Shops.
### GENERAL ADVERTISING RATES

**FOR JANUARY–JUNE 2004 ISSUES**

**BASE 1.25 MM**

<table>
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<td>24,986</td>
<td>24,692</td>
<td>23,986</td>
<td>23,810</td>
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**COVERS**

| SECOND    | 100,355 | 97,344 | 95,337 | 92,327 | 89,316 | 87,305 | 85,302 | 84,298 | 83,295 | 84,288 |
| THIRD     | 87,815 | 85,811 | 83,812 | 80,720 | 78,555 | 76,399 | 74,643 | 73,765 | 72,886 | 71,190 |
| FOURTH    | 104,530 | 101,394 | 99,304 | 96,168 | 93,032 | 90,941 | 88,851 | 87,705 | 86,750 | 84,669 |

All Advertisers qualify for General Rate unless these Advertisers specifically qualify for one of the rate categories listed on magazine rate cards.

For bleed ads, add 15% to the above rates.

2/C rates apply for advertisements utilizing two process colors, or PMS colors converted to process colors. Any other combination will result in a surcharge, or an invoice at the 4/C rate or higher. For further information regarding corporate rates, please contact Leslie Picard, VP, Corporate Sales, at 212.288.4488.
## Reader's Digest - 2004 Rate Card (ALL RATES ARE GROSS)

### Full Circulation: 10,000,000

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<td>Full Page</td>
<td>$221,800</td>
<td>$198,230</td>
<td>$193,790</td>
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<tr>
<td>Spread</td>
<td>$443,200</td>
<td>$396,480</td>
<td>$387,560</td>
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<tr>
<td>3/4 Page</td>
<td>$199,600</td>
<td>$176,480</td>
<td>$174,470</td>
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<tr>
<td>1/2 Page</td>
<td>$133,000</td>
<td>$118,970</td>
<td>$116,310</td>
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### Half Circulation: 5,000,000

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<tbody>
<tr>
<td>Full Page</td>
<td>$133,000</td>
<td>$118,970</td>
<td>$116,310</td>
</tr>
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</table>

### Cover Rates
- Second Cover: $277,000
- Gatefold: Contact Your Sales Representative
- Third Cover: $265,900
- Gatefold: Contact Your Sales Representative

### Family Plus: 5,500,000

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<tr>
<td>Full Page</td>
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<td>$179,320</td>
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### Mature: 4,500,000

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<td>$185,500</td>
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### Regional Editions

- New England: 470,000
  - $27,830
  - $24,910
  - $24,220
- Metro New York: 280,000
  - $16,830
  - $14,820
  - $14,210
- Great Lakes: 1,280,000
  - $59,820
  - $53,260
  - $51,870
- Southern: 1,990,000
  - $88,040
  - $78,800
  - $78,600
- North Central: 1,430,000
  - $84,050
  - $75,730
  - $75,700
- Southwest: 920,000
  - $47,010
  - $42,980
  - $40,860
- Pacific: 1,200,000
  - $56,060
  - $50,170
  - $48,770
- Metro Los Angeles: 450,000
  - $28,820
  - $24,010
  - $23,340
- Mid-Atlantic: 950,000
  - $50,290
  - $45,010
  - $43,760
- Metro Chicago: 240,000
  - $11,500
  - $13,960
  - $13,570

### Total Circulation: 8,230,000

### Major Markets

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<td>Cleveland: 180,000</td>
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<tr>
<td>Detroit: 130,000</td>
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<td>$13,020</td>
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<tr>
<td>Atlanta: 140,000</td>
<td>$13,980</td>
<td>$12,520</td>
<td>$12,170</td>
</tr>
<tr>
<td>Tampa/St. Petersburg: 130,000</td>
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<td>$11,920</td>
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<td>Dallas/Ft. Worth: 170,000</td>
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<tr>
<td>Seattle/Tacoma: 150,000</td>
<td>$14,260</td>
<td>$12,770</td>
<td>$12,410</td>
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### Total Circulation: 1,420,000
CHAIRMAN OMAS: Is there any additional matters that we need to take up at this point before we begin oral cross-examination?

(No response.)

CHAIRMAN OMAS: There being none, Mr. Bergin, would you introduce yourself for the record, please?

MR. BERGIN: Good morning. Tim Bergin from McGraw-Hill Companies.

Whereupon,

ROBERT W. MITCHELL

having been previously duly sworn, was recalled as a witness herein and was examined and testified further as follows:

CHAIRMAN OMAS: I just want to make a statement. Mr. Mitchell, you know that you’re still under oath?

THE WITNESS: Yes, I do.

CHAIRMAN OMAS: Thank you.

CROSS-EXAMINATION

BY MR. BERGIN:

Q Mr. Mitchell, would you please refer to McGraw-Hill Interrogatory 42 that was directed to you?

A Okay. I have it.

Q Part B of McGraw-Hill Interrogatory No. 42 Heritage Reporting Corporation (202) 628-4888
asks you to confirm that $214.3 million represented the difference between the revenue generated by the flat editorial pound rate and the revenue that would be generated if there were no flat editorial pound rates and editorial pounds paid the zone charges that advertising currently pays, and you confirmed that that was so.

A That's right.

Q When we talk about this $214 million as the difference between the revenues generated by the flat editorial pound rate and the revenue that would be generated if the editorial pounds were zoned, are we really talking about the subsidy that advertising pounds pay for editorial matter under the pound charges?

A Okay. I think we have to make a distinction here. When you read Part B, you read it correctly; that is, the $214.3 million is the difference between paying the rates that editorial pays and having editorial pay the advertising date.

But, when you repeated the question a moment ago instead of reading it, you said it is the difference between the editorial rates and the rates that editorial would pay if there were no editorial benefits, and those are different.
Q No. I didn't mean to imply. I see what your point is. I'm talking about the difference between revenue generated by the flat editorial pound rate and the revenue that would be generated if instead of the flat editorial pound rate the zoned rates for advertising applied.

A That's the way I would define the benefit, and that's the figure that I know how to calculate. Now, if you want to develop a different scheme to calculate some kind of benefit you can, but this is the only one that was apparent to me, and when I calculated it I think I was very clear about what it was. You, with that clarification, have been clear about it also.

Q I just want to understand. This $214 million figure, this is basically the subsidy under the current rates that advertising pounds pay for editorial matter? Is that a fair statement?

A I don't think you can say that that is the subsidy that advertising pays for editorial matter because if advertising did not have to finance that $214 million, the advertising rates would be different.

Q Yes.

A But they would not be different by the
amount of $214 million divided by the advertising
pounds. They would be different by the difference of
$214 million over total pounds.

Q Understood, but right now advertising pounds
are financing that $214 million as you just said. Is
that correct?

A In a general sort of way, yes, but I think
I’ve explained in several responses that in some sense
editorial pays part of its own benefit because all of
the rates are increased so the editorial and
advertising are increased to make up the loss for the
benefit.

Q I understand your answers got into the issue
of how the flat editorial pound rate is derived, and
the higher the flat editorial pound rate is then the
lower the subsidy that advertising pays for editorial,
correct?

A Yes.

Q But nevertheless, that subsidy is paid by
advertising pounds, not by editorial pounds. Isn’t
that correct?

A Well, I’ve tried very hard to map this thing
out in response to each of the questions and be clear.

Q It’s a very simple question.

A Whether or not it’s right to say that
advertising all by itself is paying that entire amount, which I believe was your question, it's a little bit difficult because if it weren't paying that amount then the advertising rates would not go down by that amount to get the same cost coverage.

Q My question is whether advertising pounds are paying the amount.

A They're certainly helping.

Q Aren't they paying the full amount of the

$214 million?

A In the way I define things, I don't think it's quite correct to say that.

Q Please turn to your response to McGraw-Hill Interrogatory No. 43.

A Yes.

Q The question here is: "What additional amounts beyond the flat editorial pound charge is paid by editorial pounds to recover the revenue leakage associated with the flat editorial pound charge?"

A Yes, and that answer --

Q Now, you divided the $214 million by what you call weighted pounds, and you came up with a figure of 4.37 cents. Is that correct?

A 4.37? Yes.

Q Is 4.37 cents per pound an additional amount
that editorial pounds pay beyond the flat editorial
pound charge?

A  No. The editorial pound rate is elevated by
77.8 percent of the 4.37 cents.

Q  But the question asked you what additional
amount was paid beyond the flat editorial pound
charge, and you come back and tell me how the flat
editorial pound charge is derived.

My question is what additional amount is
paid by editorial beyond the flat editorial pound
charge? What additional amount, if any?

A  Okay. I mis-spoke. The 5.62 cents is the
amount that advertising is raised to --

Q  Can you please answer my question?

A  I'm trying very hard.

Q  What additional amount is paid by editorial
pounds beyond the flat editorial pound charge? I
understand you have some ideas you want to get across
about how the flat editorial pound charge is derived,
but my question is simply what additional amount is
paid?

A  I believe that the 4.37 cents is the
additional amount that editorial pays to help finance
the figure of -- what was it -- $214.3 million.

Q  Would you look at page 43 of your testimony,

Heritage Reporting Corporation
(202) 628-4888
Q Please?
A Yes.

Q Actually, I wanted to refer to the current rate schedule. Do you have that?
A Yes. Yes, I have it.

Q Now, the current rate schedule shows that on the pound side editorial pays 19.3 cents per pound.
A Yes.

Q Where on that rate schedule do you see reference to this 4.37 cents that in response to Interrogatory 43 you say editorial pounds pay in addition to the flat editorial pound charge?
A That is a figure which was implicitly built into the 19.3 cents when the rates were developed.

Q Right. It's a component of the flat editorial pound charge?
A Yes.

Q The question put to you in McGraw-Hill Interrogatory 43 was: "What additional amount beyond the flat editorial pound charge is paid by editorial pounds to recover revenue leakage associated with the flat editorial pound charge?"

The answer is that there's no additional amount. Isn't that straightforward?
A Well, it's definitional here. If you want...
to know how much you’ve paid beyond the final resultant rate, nothing is paid beyond that because it’s the final resultant rate.

If you want to know when the rates are built and the benefits for editorial is being arranged when you’re trying to cover it, it’s true at that point that the editorial rate is elevated in that process. That’s what I thought you were asking about.

Q   No. I had a very simple question. I just needed confirmation that the $214 million subsidy in order to make up for the revenue leakage in the flat editorial pound rate is financed by advertising pounds, not editorial pounds. That’s pretty straightforward. Is that correct?

A   I don’t believe you can say that.

Q   Why do you say that?

A   Because if the flat editorial benefit of $214.3 million was not given, the advertising rates would not go down by $214 million.

Q   My question is a little different. I understand you like to consider the economic ramifications of things, but my question is very simple.

The $214 million figure, that revenue, that shortfall, is obtained solely from the advertising
pound charges, correct? I mean, where else would that
revenue be recovered from?

A  I'm sorry. I missed a word somewhere. The
$214.3 million is somewhat of an unusual construction,
although I don’t know of any better construction for
it.

It is a difference between what editorial
pays and what it would pay if it paid the advertising
rates, but it’s not clear that having them pay the
advertising rates is a legitimate end result of rate
design, so it’s an alternative which is not connected
with a candidate’s final set of rates.

Q  Under the current rate structure, editorial
pounds pay less than advertising. Is that correct?
A  That’s true.
Q  There’s a shortfall in costs that need to be
recovered under the pound rates?
A  That’s right.
Q  And that shortfall is recovered from the
advertising rate?
A  The shortfall is calculated as what we
generally call a leakage --
Q  Right.
A  -- during the rate design process. When
that leakage is recovered, all of the rates are
adjusted upwards, not just advertising. That’s the problem that we’re having here.

Q You’re talking about development of the rates, the fact that you have a first cut rate and then you adjust upwards. I’m talking about the final flat editorial pound rate and the leakage associated with that.

That leakage is basically the difference between the editorial charge and the advertising charge.

MR. KEEGAN: Mr. Chairman, I believe the witness has already answered this question at least three times.

MR. BERGIN: I don’t believe he has answered it.

CHAIRMAN OMAS: Proceed, Mr. Bergin.

Try to address the questions that are being asked to you, Mr. Mitchell, please.

THE WITNESS: I’m trying very hard. I’m sorry if I’m not clear.

Conceptually, we could develop a set of rates with no editorial benefit, and we could look and see what those are, and then we could develop another set of rates with the editorial benefit, and we could compare the two. That’s not what the $214 million is.

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BY MR. BERGIN:

Q  What is the $214 million based on?

A  It is based on the additional revenue that would be obtained if the editorial, as it now stands, pays the advertising rates as they now stand.

Q  Is it fair to say that the $214 million represents an amount that, because it’s not being paid by the editorial pounds, must be paid up by the advertising charges? Isn’t that what a revenue leakage is all about?

A  No, I don’t think it’s fair because the leakage exists in the rate development process.

Q  No. I’m talking about the final rates.

A  Well, having the editorial pounds pay the advertising rate is not a legitimate final situation because you would have excess revenue then, and you’d be over your cost carriage for the subclass, and you’d have to adjust everything downward.

I’ve been clear about what this $214.3 million represents, but you can’t say that that is an amount currently paid by advertising.

Q  The $214 million, if I understand it, represents the difference between the advertising charge for a particular zone and the editorial pound
rate multiplied by the editorial pounds in the zone
and then summing the results for each zone?

A  Yes. Yes, it does.

Q  So it represents in a sense the degree to
which the advertising pound charges are higher?

A  No, it doesn’t. Higher than what?

Q  Higher than the editorial pound charge.

A  That is does.

Q  And that revenue, that subsidy if you will,
is financed obviously through the --

MR. KEEGAN:  Mr. Chairman, I renew my
objection. The witness has answered this question now
by my count five times.

MR. BERGIN:  I’ve asked it probably five
times, Mr. Chairman, but --

MR. KEEGAN:  And the witness has responded
in the negative five times.

CHAIRMAN OMAS:  Why don’t you proceed, Mr.
Bergin?

BY MR. BERGIN:

Q  Referring you to your response to McGraw-

Hill Interrogatory 42(C) --

A  42?

Q  Yes.

A  Okay.
Q  The question was whether the $214.3 million, which represents the revenue leakage associated with the flat editorial pound rate, is recovered, whether any portion of that is recovered from the flat editorial pound charge. In response, you point out initially that the flat editorial pound rate is elevated by 18.5 cents per pound.

This goes to the derivation of the pound rates, but not to the question of whether the pound rate is funding part of the $214 million. Is that correct?

A  When your question goes to the 23.8 cents, I answered it in terms of the 23.8, but part of that 23.8 is the leakage associated with the editorial benefit, and part of it relates to other things.

We can talk about one of two things. We can either talk about the whole 23.8, in which case you get the 18.5 elevation, or we can talk about a portion of the 23.8, which is the $214.3 million, and we can talk about where that goes.

Q  The question was in terms of the $214 million.

A  Well, my answer is a page and three-quarters long. I tried to trace through. I did the best job I knew how. I spent quite a bit of time on this. I
attempted to trace through what the figures mean and
what they include.

Q As I understand your answer, you went
to through the process of deriving the flat editorial
pound charge, and the process began with taking
transportation costs and arriving at so-called first
cut rates. Is that a fair statement?
A Yes. That's my choice of words. I've used
that for some time.

Q And you were working here with hypothetical
zones, and you developed first cut rates for those
zones and a first cut flat editorial pound charge? Is
that correct?
A I'm sorry. I don't understand what it means
to work with hypothetical zones.
Q You state on page 2 of your answer, "I
suppose there are only three zones, 1, 2 and 3."
A I was creating an example here --
Q Yes.
A -- to try to explain it.
Q So you arrive at first cut rates for those
three zones, as well as a first cut flat editorial
pound charge?
A Yes.
Q And your first cut flat editorial pound
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charge is 3.1 cents? 3.112 cents.

A Okay. I would have to read the full answer and get it back into my mind again here. It’s not incredibly short, but I think what you said is right.

Q And then you refer to a revenue so far figure. In other words, using those first cut rates you calculate what the revenue would be, and then you refer to a deficit.

A Yes.

Q Now, the deficit you refer to is simply the additional cost that must be recovered, additional weight related costs that must be recovered under the pound charges in order to meet the revenue requirement, the additional revenue beyond that given by the first cut rates?

A It’s from the portion of the revenue requirement that is to be obtained from the pound rates, yes.

Q That’s quite different from the revenue leakage associated with the final flat editorial pound rate, isn’t it?

A Yes, but when I divide by weighted pounds it recognizes that when I elevate the advertising rates that the flat editorial pound rate will be elevated as well and that the difference between the two then will
be different.

Q My question is simply this process that you referred to on page 2 of your answer to McGraw-Hill Interrogatory 42 is simply part of the process of deriving the flat editorial pound rate, and it's quite different from the $214 million, which is the revenue leakage associated with the flat editorial pound rate after it's been derived.

A I'm sorry. I don't see that it's different. I meant for the example to relate to the question and to what was going on.

Q Well, if you look at page 3 you end up deriving a final hypothetical flat editorial pound rate of about seven cents. Is that correct?

A Yes.

Q And the revenue deficiency associated with the flat editorial pound rate would be derived by subtracting that seven cents from the zone charges and multiplying by editorial pounds. Is that correct?

A Yes, and that relates to the $214.3 million. It's a similar kind of figure. I think we've been clear what that means.

Q It's a different figure though?

A Well, it's in my hypothetical, yes.

Q The $214 million figure is a different
figure from the deficit between the first cut rates and the final rates?

A  Oh, certainly.

Q  How are they different?

A  Well, in this particular example I calculated a flat editorial pound rate to go with the first cut zone rates. I’ve never done that before. It’s not done in any of the work papers, and I’ve never had occasion to calculate it, but I thought well, I can calculate one here for you, and it will be clear that such a thing can be presumed to exist.

Then when I made up the deficit associated with that flat editorial pound rate, as well as obtained the rest of the revenue needed from the pound rates, I pointed out how the --

Q  Isn’t that the first cut flat editorial pound rate?

A  Well, we’re getting 40 percent of the revenue here from pound rates, and only part of that is transportation. When we build the first cut set of rates on transportation, it doesn’t get 40 percent of the revenue from the pound rates. It gets somewhere around 15 percent of the revenue from the pound rates. There needs to be this 23 cent elevation that we’re talking about, which subsumes several

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different things. In this particular example I calculated a flat editorial pound rate that would be associated with the first cut, and then I showed how it was elevated.

Q And that deficit is very different from the concept of the $214.3 million revenue leakage associated with the final ultimate flat editorial pound charge?

A Yes, it is.

Q If I understand your answer correctly, you’re saying that the first cut flat editorial pound charge pays a portion of that deficit in cost, but my question was whether the flat editorial pound charge paid any portion of the $214 million revenue leakage associated with the flat editorial pound charge. Do you see my confusion?

A I don’t know how to say anything different from what I’ve already said. The $214 million is a special instruction that’s based on the final resulting rate.

We decided I believe to call that the only way we know how to calculate the level of benefits given to the editorial pounds in the end. It’s a level of benefit defined as the difference between the two, but it’s not an elevation that occurs to

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advertising in the rate design process, and it’s not
an elevation that occurs to advertising relative to
what advertising would pay if there’s no benefit for
editorial.

Q Now, there’s a revenue requirement for the
pound charges for periodical rates, correct?
A That’s right. You’re speaking of the cost
for the subclass kinds, the markup times the cost
coverage and then take 40 percent of that basically.

Q Now, if because of the flat editorial pound
charge the editorial pounds are paying less and
covering less of those costs, which I think you
referred to as the editorial benefit, then those costs
that are not recovered from editorial pounds must be
recovered elsewhere, correct, and that’s the
relatively higher advertising zone rates?
A I’m sorry. I couldn’t follow that clearly.
I’m trying very hard to do so. If you want to
rephrase the question, I’ll try to listen again.

Q The $214 million, is it fair to say,
represents the degree of subsidy or editorial benefit
in a sense that the editorial pound charge is lower
than the zoned advertising pound charges?
A You have described the construction of the
$214.3 million very accurately when you said it’s a
summation of some rate differences times some pounds.
That’s what it is.

Now, I told you that I didn’t know any other way to calculate the subsidy, but I agreed that a creative person that wanted to play around with this for a day or two or three and play with numbers might be able to construct another definition of what the subsidy is, and it would have different characteristics.

The one we’re talking about here has a certain set of characteristics, and you can’t say that that entire amount is paid by elevating advertising pound rates. I dealt with this over several pages. These aren’t short answers. I did it in several different interrogatories, and you had some follow-ups on it.

I have tried very clearly to map this out. You have the spreadsheets that have been used for several rate cases on this. I don’t know what else I can do to help you. I mean, I’m trying very hard.

Q Well, we established this morning that editorial pounds paid no charge other than the flat editorial pound charge.

A True by definition.

Q Right. So editorial pounds are not paying
for the difference between the advertising charges and
the flat editorial pound charge times --

A I mean, that's kind of true by construction.
That's an empty statement. It's true by definition
that the difference between somebody's final rate and
some advertising final rate isn't paid by the final
rate for editorial.

Q Sure. If there's a subsidized rate, the
subsidized rate doesn't cover the subsidy itself.

A But if there were no editorial benefit, the
advertising rates wouldn't be what are in the schedule
right now, so it's not that simple.

Q But that's not my question. My question is
simply the fact that editorial pounds do not pay for
the $214 million, which represents the difference
between advertising and the editorial charge.

A Well, I have argued many times that in
effect they do. That's what I've tried to explain.

Q But they don't pay any additional amounts.
I understand you have some points about the derivation
of the editorial rate charge, but editorial pounds pay
no more than the flat rate. Is that correct?

A I think it's true by definition that you
can't pay any more than your final rate.

Q So is it true by definition that editorial
pounds don't pay any portion of the $214.3 million that represents the subsidy?

A  No. I don't think that's a fair statement. Fairness. I'm not sure it's an issue of fairness. I don't think it makes sense logically. I don't think it has meaning.

Q  And again the $214 million is the difference between the advertising charge and the editorial rate?

A  Shown in the way that you have described, yes.

Q  And that is the deficiency between the pound charge and the --

MR. KEEGAN: Mr. Chairman, I want to object at this point. You instructed Mr. Bergin to move on. He has not moved on. He is still on the same question.

CHAIRMAN OMAS: Yes. Would you move on, Mr. Bergin, please?

BY MR. BERGIN:

Q  Referring you to your response to McGraw-Hill Interrogatory 43, in the second paragraph and following you go on to point out that if there were no flat editorial pound charge and there were no editorial benefits at all in the periodicals pound rates, then the resultant zone charges would be
reduced by I believe you calculate 4.92 cents.

A Yes.

Q And you arrive at that figure by dividing total periodical pounds for the test year before rates, 2001 I presume, by the $214.3 million?

A Actually it's the inverse of that. Yes. The $214 million is divided by the total pounds.

You see, there's a fundamental problem here. We have decided to get 101 percent coverage from periodicals. If you decided to let the editorial pounds pay the advertising rates, you would have too much revenue, and the coverage would be over 101.3 percent.

Then you have to reduce all of the rates to get the coverage back down to the designed coverage. That's what this does.

Q Now, under this hypothetical rate structure where there's no editorial benefit and you have reduced zone charges and those charges apply to the full weight of publications --

A Now, let's be very careful with the word hypothetical. I enjoy hypotheticals to no end, but this is in fact a rate structure which would occur if in fact we didn't have the editorial benefit, so it's not only hypothetical. It's practical and realistic.
and could exist.

Go ahead. I'm sorry. I'll listen to the rest of your question.

Q: You point out that under this -- it is a hypothetical rate structure that the zoned rates for ADC and SCF would be lower than the current flat editorial pound charge.

A: Yes.

Q: Now, this is an effect what occurs under your proposed --

A: No.

Q: -- rate structure as well, is it not?

A: No.

Q: Under your proposed rate structure, for example, the charge for SCF, if I'm correct, would be 16.6 cents per pound?

A: Yes, but then the editorial would get the 10.1 cent per editorial pound discount, resulting in a net figure which is different.

Q: That would reduce the 16.6 by --

A: 10.1.

Q: Referring you to your response to McGraw-Hill Interrogatory 44 --

A: Okay.

Q: -- that interrogatory refers to a 100
percent editorial publication entering its mail at the SCF. I believe you confirmed that under the current rate structure it would likely have a cost coverage less than 100 percent. Is that correct?

A Okay. I have to catch up with you here. You said 100 percent editorial? Did you say editorial or advertising? I thought you said advertising.

Q No. Editorial.

A One hundred percent editorial entered at the destination SCF. What's the question? Were you reading my answer or --

Q Yes. I just wanted to establish that you confirmed that that publication, 100 percent editorial, entering at the SCF would have the cost coverage of less than 100 percent.

A I think it probably would, yes.

Q Not covering its full cost?

A Well, I drew a number of schematics to try to map out what was going on in your question, and I found it difficult to make unequivocal statements all inclusive of the kind that you wanted.

I went through a reasoning process, and I think I concluded that what you said is probably true, certainly given the fact that there is a per piece editorial as well, which tends to lower the coverage.

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Q Also, entry at the SCF would receive discounts on the P side --
A Yes, it would.
Q -- as well as the pound side?
A Well, yes, but there's no difference between how editorial and advertising are treated in respect to those discounts that you have listed. If you're talking about the per piece DSCF discount -- is that's what you were talking about?
Q That is what I was referring to.
A That does not depend on the proportion of editorial content.
Q Understood. Referring back to McGraw-Hill Interrogatory 43 and your point that a 100 percent editorial publication entering at the SCF would be paying more under the current rates than it would under your hypothetical regime with no editorial benefits, it's true, is it not, that that publication is not subsidizing any other mail if it has a cost coverage likely below 100 percent?
A Using the traditional definitions of cross subsidy, I think what you said is true, but I think we need to be a little bit careful here. All of the discussion about the development of the zones and the payment of that editorial benefit were part of pound
At this point, when you shift to this other question and you're talking about the cost coverage of a publication entered somewhere, I'm thinking of the total cost coverage, not just -- you know, I'm considering both the per piece and the per pound editorial benefit. Before we were only creating the per pound.

The $214.3 million has nothing to do with the per piece editorial benefit. That's a whole separate issue, probably another dozen interrogatories.

Q Understood, but the point is, I mean -- well, I think you've answered the question. The 100 percent editorial publication entering an SCF with a cost coverage below 100 percent is not subsidizing any other mail.

A And I believe in part it's due to the per piece editorial benefit because basically that's like a Camp 1 publication.

We were talking about camps in a section of my testimony to which your interrogatory referred. Camp 1 would expect to be a reasonably high coverage because it's entered locally, so we've got to take it from that high coverage down below 100 percent.
In order to satisfy your question, the way we take it down there is by putting in the editorial benefit. There's not much per pound editorial benefit, but there's some piece editorial benefits, and I agreed that it would probably go below 100 percent, yes.

Q You referred to it as an adverse result. This is in your response to McGraw-Hill Interrogatory 43.

A Yes.

Q That a 100 percent editorial publication paying the flat editorial pound charge would be paying more than if there were no editorial benefits, assuming entry at the SCF. Is that correct?

A Yes, for a major portion of the volume. I think that's a very strange situation where you say you're special. You're editorial. We're going to design a benefit for you. However, your rates are going to be higher than they would have been otherwise. I just find that to be very awkward.

Q That fact that you refer to could be addressed by adding dropship discounts to the flat editorial pound rate such as the Postal Service proposed in 2001. Is that correct?

A My recollection is that the proposal in 2001...
was limited to either below the DSCF or below the ADC
or maybe below Zone 1 and 2. There was a small amount
added to those.

Q Yes.

A But I don’t understand the relationship
between. I mean, are you suggesting that if we took
the existing rate structure and we modified it in some
sense according to a Postal Service proposal which was
removed from the settlement, as I understand it, but
if we modified it that way and then we made up the
revenue from that that somehow the DSCF editorial
would not be paying higher rates with its benefit than
it would otherwise?

This is getting pretty much of a concoction
of layers here, and I’m losing my focus.

Q I’m asking if that would be a reasonable way
to address what you perceive to be a way to address
the concern you expressed with the fact that --

A Well, I don’t think it’s reasonable. You
said you’re suggesting it would be reasonable, and I
said no, I don’t agree with that.

Q In other words, it would be giving the 100
percent editorial publication that you referred to a
lower SCF rate than the flat editorial pound charge?

A I mean, it sounds like some sort of ad hoc
adjustment or quick fix, neither one of which often has much going for it.

Q It would address your concern, would it not?
A Well, I think there are probably a number of ways to arbitrarily jerry-rig the rate so that the concern goes away. I think our whole complaint suggests a reasonable way to do that.

Q Are there other ways?
A Well, I think if you take two or three creative people and get them in a room, we could probably think of a dozen ways.

You know, if somebody came in with a proposed rate design that was a lot better than mine I'd like to think that I'd look at it and salute it, but I haven't seen that, and I don't know how to do it any better than what I suggested.

Q The flow models reflecting Postal Service cost upon which the proposed rates are based, they were introduced by the Postal Service in the rate case R-2000. Is that correct?
A I think that's right, yes. Witness Stralberg did a lot of work on that model, but that was the basis. It's a very detailed piece of work in fact.

Q But the Postal Service didn't propose in
R-2000 the kind of deaveraging of regular periodicals
rates that you’re advocating here, correct?

A I think that’s correct.

Q Nor did the Postal Service do so in R-2001?

A I think that’s also correct.

Q Isn’t it fair to say that the Postal Service, in approaching the type of problem that you are concerned with, has taken a different approach in terms of experimental discounts for copalletization, pallet discounts, enhanced work share discounts?

A I think if you read the Postal Service’s response in the Copallet 2 case, they expressly say that they do not intend for either one of the copallet rates to be a substitute for any kind of fundamental reform.

I think it’s also well known in the postal community that some further steps in the way of fundamental reform have been worked on for several years, which I think is a little too long to work on it, but it’s been in process at a very, very slow pace.

Q And what’s the reason for the slow pace?

A Well, my personal opinion is that they’re trying to get everybody to agree, and you can’t make any interesting changes if you want everybody to agree
to them. You can’t make any worthwhile changes.

Q  Is it your understanding that the Postal Service is attempting to address the problems that would arise from a fundamental restructuring of periodicals rates in a measured way and see how they could be dealt with without imposing undue increases upon large numbers of periodicals mailers?

A  I would hope that they are working seriously on how to go about making meritorious changes. Whether or not all of us would agree on exactly how those changes should be made or not I’m not really sure. They have indicated that they are working in that direction.

Q  Are you suggesting then that Complainants lack confidence that that process which is underway at the Postal Service would come to fruition at some point in the near future, thus giving rise to the need for this complaint proceeding?

A  I personally didn’t make the decision about whether or not to proceed with this complaint proceeding. I personally didn’t select the timing. I think the Complainants’ case speaks for itself.

Q  My question is asking for your understanding of --

A  My understanding is that we believe it’s

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time to move forward, and this is an effective way to
do it.

    We also believe, of course, and I don’t mean
to venture into making legal rulings, but I think
there is also a general feeling that we’re so far from
being an appropriate set of rates that it borders on
being out of alignment with the Act or is in fact out
of alignment with the Act, but that’s a separate
question which the complaint itself deals with and not
necessarily my testimony.

    Q    I understand that’s your position. My
question was related to the fact that the Postal
Service with the same cross data has not made the type
of fundamental proposals that you have put forth here
and is in the process of considering what additional
measures might be necessary and what your
understanding is as to why Complainants felt it
necessary to preempt that process.

    A    Well, I take your question to be very
general. We think that the complaint proceeding
process is a suitable one for pursuing this interest.
We think that this arena over here at the Commission
is a suitable place for things to be aired in public,
for people to have an opportunity to comment, for
people to make their observations.

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We think there’s time to do it, so we are, you know, part of this process. That’s why we’re here today.

Q You don’t believe that in the near future the Postal Service would propose anything like the type of fundamental changes that Complainants are proposing here?

A Well, my opinion about what they’re likely to do doesn’t qualify as expert testimony.

MR. KEEGAN: Mr. Chairman, I object to the question. It asks for speculation on the witness’ part.

CHAIRMAN OMAS: Proceed, Mr. Bergin.

BY MR. BERGIN:

Q Mr. Mitchell, you propose in lieu of the flat editorial pound charge a 10.1 cent per pound discount for editorial pounds under the proposed rates.

A Yes.

Q And this discount is calculated so as to provide the same level of editorial benefit as generated by the flat editorial pound charge under the current rate structure?

A Yes.

Q Which is to say $214.3 million?
A Please?

Q Which is to say $214.3 million? Is that the quantification?

A I think the 10.1 is basically equal to the $214.3 million divided by the number of editorial pounds. It may be that there's a refinement or two that came about in the process, but basically that's what it is.

Q You give this in the form of a discount, so there is a revenue leakage associated with that discount that needs to be built into the rates that would result in higher rates, higher zoned rates than otherwise. Is that correct?

A Well, in effect you can leave the zone rates where they are, and you can say that editorial will pay those zone rates. Then you can give the 10.1 cents back, and then you are at the same coverage that you started with. No further adjustments are needed.

Q But those zone rates have a component built into them?

A I think --

Q Well, they have a component built into them to cover editorial benefit. Is that correct?

A Yes.

Q In fact, in response to McGraw-Hill Heritage Reporting Corporation

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Interrogatory 43 I believe you calculated that component of the zoned rate, which is designed to cover the editorial benefit, as 4.92 cents.

A I think the answer is yes, but, as we've learned here this morning, one has to be very careful with these statements so that if I saw it in writing I would trace it through very carefully and make sure it qualified properly.

Q If you need a moment to look at your answer, you're free to do that.

A My difficulty was getting all of your question to register in terms of the various numbers that you were putting together.

Q I'm referring actually to the second paragraph of your response to McGraw-Hill 43.

A The question is simply the 4.92 that you referred to is a figure which could be used to reduce all rates to give away the $214 million, and instead of doing that we have given a per pound editorial benefit, so --

Q Understood. My question was simply whether the 4.92 cents represents the component in the zoned advertising charges, the component that is added to the zoned advertising charges in order to fund the editorial benefit.
A Since the 4.92 is derived by dividing by
total pounds instead of by advertising pounds, I doubt
if you can say that.

Q The 4.92 is a component of the advertising
charge as well as the editorial pound charge, correct?

A I think it says the 4.92 cents is the $214.3
million divided by total pounds, not just advertising
pounds. This is on the fifth line of the answer in
the second paragraph.

Q Referring you to your answer to McGraw-Hill
Interrogatory 21.

A Okay.

Q You confirmed that under your proposed rates
with the editorial benefit given in the form of a 10.1
cents per pound discount, rather than a flat editorial
pound charge, that a relatively low cost mailers would
see a greater percentage benefit than relatively
mailers who pay a relatively high postage amount?

A Is that the end of the question? It says
please confirm that if a high zone mailer in current
total postage of 60 cents per piece prior to the
application in the proposed editorial pound discount,
while a low zone mailer incurred total postage of 25.

And each piece weighed one pound and was a
hundred percent editorial. The proposed editorial
pound discount would result in a greater than 40
percent reduction for the low zone piece, but less
than 17 percent in the high zone, and I confirmed
that.

And that has to do with the fact that
currently a Zone 8 piece is given a phenomenal benefit
in the flat editorial rate.

Q However, this phenomenon of giving a greater
percentage editorial benefit to low cost mailers
rather than high cost mailers would occur regardless
of the reason for the high cost of -- the high postage
cost for any particular mailer. Isn’t that correct?

A I think that there was anything in here
about giving a greater percentage to a high cost or a
low cost mailer. I think it had to do with the zone
that they mailed in, and it was only on their
advertising pounds.

I did not understand your question when you
talked about high and low cost mailer.

Q I mean, isn’t it -- McGraw-Hill
Interrogatory Number 21 doesn’t refer to a editorial
percentage. It simply refers to costs, and one mailer
having a total postage of 60 cents per piece, and the
other mailer having a total postage of 25 cents per
piece.
A I don’t think it refers to costs. I think it refers to postage. It assumes -- usually when you say costs, I mean postal service.

Q All right. Referring to postage.

A Okay.

Q And you have taken a one pound piece, and you say that given the rates, suppose a Zone 8 cost 60 cents, or a postage of 60, and Zone 1 and 2 are something close, page 25, and each one of them gets a 10.1 percent discount.

A Correct.

Q A 10.1 cent per pound reduction, and you are saying this is a different percentage reduction for each person?

A Yes. And I agreed with that, and I have explained in my testimony why that is a reasonable way to structure rates. In other words, I think if you wanted to charge a Zone 8 piece a lot more overhead, and if you are only charging a dollar instead of 60 cents, we would not be able to give them the same percentage reduction to each one.

If we have a construction where there is a system of designing rates and you are developing drop ship discounts in effect, we have a system here that does not accommodate the same percentage reduction in...
each cell very well.

And I have explained in my testimony why that is a bad alternative.

Q Basically, this would result in further lowering of cost coverage for low cost mailers?

A I don’t understand the low cost.

Q Well, referring to the 25 cent --

A Oh, for the low zone?

Q Yes.

A Well, I think that you just got through pointing out a few moments ago when you looked at the rate scales, you looked at the DSCF rate of 16.6 cents a pound, and if you take 10.1 off of that, we are down to 6.5.

So it looks to me like the low zone editorial is giving a substantially low pound rate under this proposal. I don’t know what pound rate they would give it if you developed some sort of a scheme involving a percentage reduction in each zone, and one could consider a percentage reduction in each zone.

I have considered -- 20 years ago I considered percentage reduction in each zone, and it has a whole strand of bad characteristics, and I have tried to explain those in my testimony. I don’t think...
it will work.

Q And under your proposal for the 10.1 cent per pound discount, there is a shifting in the distribution of the editorial benefit?

A Yes, there is.

Q Away from high cost mailers?

A Away from Zone A.

Q Well, high cost mailers in general. In other words, Zone 8 or otherwise, and towards low cost mailers?

A Well, I would say it is a shift to a more balanced and reasonable way to provide the benefit. I don’t view it as just shifting from one mailer to another. I didn’t focus on what different mailers -- what I wanted them to wind up paying.

I focused on the reasonable way to recognize costs, and a reasonable way to accommodate the mark-up, and a reasonable way to give drop ship discounts, and a reasonable way to give a benefit.

And so I think the -- as far as I am concerned, the meritorious reference point is what we proposed, and you are pointing out that relative to the old scheme that my scheme has some unusual characteristics.

Like under the old scheme, it is unusual.
Not my proposal. I am sorry if I am going to --

Q Please refer to your response to NNA Interrogatory Number 21, please.

A Let me see. Okay.

Q Now, as I understand it, in this interrogatory response, you are suggesting that if it is appropriate to give a subsidy at all, and if you were talking about a subsidy for an editorial matter, that the subsidy should be tailored to meet particular needs perceived, rather than providing a general subsidy for a broad group in order to solve the problems that only a few members of that group would have. Is that a fair statement?

A Well, as soon as you ask the word should --

Well, you introduced it with the use statement and the use statement is pretty important. If you decided to give a certain kind of benefit, then it is important to design the scheme so that the intended recipients get the benefit and you don’t give it to a wide range of others.

That is basically what you said, and I think you had the word if in your question. So I think that you are right. Well, I mean, this question, this NNA 21, refers to Footnote 16 in my testimony, which discusses particular issues. So that is the reason
that I responded with the example that I did.

Q And to the extent that the editorial benefit is designed to promote the widespread dissemination of periodicals mail, by assisting the PI Zone editorial publications, then that purpose is certainly served by the flat editorial pound charge, rather than the 10.1 cent discount that you proposed?

A I think you started out by saying to the extent that it is designed to cause this widespread dissemination to occur, I think the greater part of my testimony, and certainly my appendix raises a question about whether or not it does. and I don’t think it does.

So if it doesn’t, then it doesn’t make much sense to say, well, we have designed it to do this. I don’t think that it accomplishes any effect, and I think that the effect caused by program needs to be part of the justification for that program.

Q But certainly the 10.1 cent per pound discount that you propose does not address any issue of the widespread dissemination of editorial content.

A Well, we have certainly used a substantial benefit to editorial in a very balanced sort of way, and I think the current skewing arrangement does not have the effect of

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making information available on a more widespread
basis than it would be otherwise. So I don’t think
you can say that the 10.1 is in any sense defective.

CHAIRMAN OMAS: Excuse me, Mr. Bergin. Let
me interrupt. Are you at a point where we could sort
of break, and take our morning break now, and we will
come back about five minutes after 11:00?

MR. BERGIN: That will be fine, Mr. Chairman.

CHAIRMAN OMAS: Is that okay with you?

THE WITNESS: Yes.

CHAIRMAN OMAS: Thank you. We will take a
break until five minutes after 11:00. Thank you.

(Whereupon, at 10:53 a.m., the hearing was
recessed and resumed at 11:10 a.m.)

CHAIRMAN OMAS: All right. Mr. Bergin,
would you like to continue? I’m sorry that I am five
minutes late.

BY MR. BERGIN:

Q Thank you, Mr. Chairman. Mr. Mitchell, with
regard to your proposed 10.1 cent discount for
editorial pounds, is it fair to say that that discount
would favor heavier weight now?

A Well, I guess for piece discounts, you are
seeing the same -- under our proposal as they are now.
Q But 10.1 does not favor -- I don't understand how it favors heavier mail any more than the current -- it is the same amount of money, and it is given on the pounds. I don't understand how it favors heavier mail any more than the current discount does. What do you mean by the current discount?

A Well, with the current discount, we have a flat editorial rate, and obviously if you are heavy, then that benefit relative to advertising is larger. It seems to me that the current rates have a benefit for heavy pieces, too. I mean, if you conceive of a one pound or two pound pieces of editorial going to Zone 8, it seems to me that they get a miraculous benefit. I don't know if there are any 100 percent editorial pieces going to Zone 8 that are heavy.

It seems to me like they would have to have an incredibly substantial reason for mailing to create that much editorial.

Q Well, if we look at a four ounce piece of mail, a hundred percent editorial, then it would receive a 2.5 cent discount per piece under your proposal.

A Yes, which is also what we receive under the current rates in an average zone distribution.

Q Now, under your proposal the zoning rates
would be elevated by a component in order to fund the editorial benefit; is that correct?

A Yes.

Q And that component from the editorial benefit, I believe we calculated it at 4.9 cents? Is that correct?

A I am trying to remember. Was it 4.92 or something? I am trying to remember.

Q That was in your response to McGraw-Hill 43.

A The 4.92 was the possible reduction in all pound rates if you had no editorial benefit built in?

Q Yes.

A Okay. Ask your question again?

Q Under your proposed rates for the zone pound rates contain a component in the amount of 4.92 cents, or comparable to 4.92 cents, in order to fund the editorial benefit?

A I think, yes. They have the same component as now. In other words, except for the percentage of the revenue that comes from the pound rates in general, the advertising pound rates are constructed as now, and they cover the editorial benefit as now.

Q Mr. Mitchell, is it fair to say that for a four ounce piece of mail, assuming under your proposal...
a discount of 2.5 cents for editorial, that that editorial benefit would be outweighed by the extra amount that mailer pays in order to -- from the editorial benefit?

A I don't think so, because I think that the 4.92 would be subtracted from my pound rates, and I think it would be a choice of taking my pound rate minus 10, or taking my pound rate -- my pound rate, minus 10.1, which they would get under our proposal, and my pound rate, minus 4.92, which they would get under your suggestion.

So it seems to me like the pound rate, minus 10.1, is lower than the pound rate minus 4.92. Assuming that I understand it.

Q Well, I am talking about a lightweight piece that doesn't get -- that gets left with an editorial benefit because of its lower weight, instead of 10.1 cents per piece if it were --

A Well, it is not per piece. It is per pound.

Q It is per pound, but if the particular mail weighs a quarter of a pound, and it gets only 2.5 cents per piece discount.

A Well, yeah, and the 4.92 cents a pound, applied to a quarter of a pound, is just over a penny per pound.
Q But why would you reduce the 4.92 cents to the light weight piece? I mean, isn’t it fair to say that although the light weight piece will incur a lower zone charge, that that is because its transportation costs are less, and not because there is any less of a 4.92 cent component to a paper editorial?

A I’m sorry, I don’t follow you. I don’t know what you asked.

Q The four ounce piece of mail will pay a zone charge that includes the 4.92 cent component for editorial.

A And it is what, 10.1 less than that under our discount?

Q My point is that for the lower piece of mail, it gets a reduced editorial benefit that is more than offset by the added amount it pays in the zone charge in order to fund that benefit. It receives 2.5 cents.

A That is on a per piece basis.

Q Yes. And it pays 4.92 cents in order to fund editorial benefit.

A You mean, why don’t we say it pays 4.92 and it gets a discount of 10.1. Doesn’t that make it better off regardless of the weight?
Q Well, if it is a heavier piece, that would be the case.
A These are all on a per pound basis, and I don’t understand why the weight makes a difference.
Q The lower the weight, the lower the discount in dollars and cents terms.
A When you express it on a per piece basis?
Q Yes.
A And then you have to express both the 10.1 and the 4.92 on a per piece basis.
Q Well, that is my question. Certainly the zone charge that the piece pays is reduced if the piece is wider. But my question is, isn’t it fair to say that the reduction in the zone charge for the lighter weight piece reflects the lower transportation cost incurred by the lighter weight piece?
A I didn’t understand when you shifted to a discussion of transportation. These benefits for editorial are not cost based, and have no relation to transportation costs.
Q Well, let me refer you to your response in McGraw-Hill Interrogatory 41.

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A Okay.

Q This interrogatory asks you to explain how a 23.8 cent amount, and just basically a component of an amount added on to each zone charge, is recovered from the DADC, DSCF, and DDU rates?

A It was added on before the discounts were added on.

Q Right.

A And the discounts were negative.

Q You note in this interrogatory response that the 23.8 cents is identical to all zones, and the per pound portions of non-transportation cost avoidances are subtracted from the DADC, the DSCF and DDU level. Do you see that?

A Yes.

Q And then in the second to last sentence, you state that it would be appropriate to view the removal of non-transportation costs avoidances as you are moving a portion of the non-transportation costs. But not as you are moving any of the editorial benefits.

A Yes.

Q Is my understanding correct that you are stating here that the cost avoidances, which are deducted from the zone charge in order to arrive, for example, at a DSCF charge, offsets transportation
costs, but they don't offset the component of the zone
charge that fund editorial benefits?
A Yeah, except that it might be non-
transportation.
Q All right. And so my further question is
whether by the same token when you are talking about a
lighter weight piece paying a lower dollars and cents
zone charge because of its light weight, is it fair to
say give the light weight as offsetting non-
transportation costs, rather than the 4.92 cent
component of the zone charge that fund editorial
benefits.
A I didn't understand. We might be able to
develop some schematics that attempt to trace these
costs. I tried to do that in my interrogatory
responses in effect, but going back to your original
question, which is something to do with the 4.92 and
the 10.1, and the quarter-ounce piece, and I don't
understand why the weight of the piece makes any
difference when these are all expressed on a per pound
basis.
And I can't follow what costs you are really
trying to trace and the dollars that you are trying to
move around.
Q Well, I will try just once more to simplify

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it. It is not a question of tracing costs, because
the 4.92 cents doesn’t reflect transportation and non-
transportation costs. A That’s right. It is part of
the benefit.

Q That forms the benefit, and my question is a
lighter weight piece, assuming it is four ounces, that
piece would receive a 2.5 cent editorial discount
under your proposal, which would be more than offset
by the amount built into the zone charge, the 4.92
cents.

A The 4.92 cents on a quarter of a pound is
what, a one-and-a-quarter cents?

Q And my question is just as you suggested in
your response to McGraw-Hill Interrogatory Number 41,
it is not appropriate to consider the component
funding editorial benefits as reduced. It is more
appropriate to say that a reduction of the zone charge
for weight reflects transportation cost savings.

A There is a transportation or a non-
transportation built into the DSCF discount, but your
4.92 and your 10.1 are entirely associated with an
editorial benefit, there is no cross-over to
transportation or to anything else. And 4.92 cents
per quarter pound is approximately one-and-a-quarter
cents.
And the 10.1 you said is approximately 2-1/2. So if you say that their rates were elevated by 1.1-1/4 in order to develop the rates, and then you have a 2-1/2 cent discount, aren't they better off with the 2-1/2 cent discount?

Q  Let me refer you again to your response to McGraw-Hill Interrogatory 41. In the second to last sentence, you state that it would be appropriate to view the removal of, quote, "C" as removing a portion of the non-transportation costs, and "B", but matters removing any other editorial benefit in "B".

And my question is why do you state that it would not be appropriate for the removal of the costs that you refer to as removing any of the editorial benefits?

A  Well, I guess the answer is that the 23.8 cents includes some non-transportation costs, and when you purposely take out those through DSCF, then it must be the non-transportation portion of the 23.8 that you removed. I don't know anything else to say.

Q  You are suggesting in response to this interrogatory that the lower DSCF charge nevertheless pays the full 4.92 cent component for editorial benefits?

A  Yes.
Q And my question is it likewise fair to say that the lower cost lightweight fees would pay the full 4.92 cent component for editorial benefit?
A It is not 4.92 cents. It is 4.92 cents per pound, and for a quarter-pound piece that is not a whole lot.
Q Referring to McGraw Hill Interrogatory 35A, --
A Okay.
Q -- this interrogatory asks you to confirm that for a 100-percent editorial periodical published weekly, annual subscription for $20, and having a circulation net of $5, it would be profitable to drop a Zone 8 subscriber under the proposed rate structure if it resulted in an increase of 10.1 cents of per piece mail to Zone 8. Your response was "not confirmed."

It would, in fact, be profitable to drop a Zone 8 subscriber in the circumstance described. Is that correct?
A Well, I found this to be a very strange question. The context of my testimony and my model is would it be profitable to drop a Zone 8 and keep the others, and if that occurred, then there would be a change in the distribution of information, but you've

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created a situation where it’s profitable to drop all
zones and go out of business. So, of course, it’s
profitable to drop Zone 8, but I don’t see that as a
meaningful thing to say.

Q How do you conclude that it would be
profitable to drop subscribers in all zones under
the --

A Go through the math. It’s profitable to
drop Zone 8. It’s profitable to drop Zone 7. It’s
profitable to drop Zone 6. It’s profitable to drop
every zone. You specified a circ. net. Go back to
the equation and look at it.

Q Isn’t it true that periodicals receive
revenues in addition to subscription revenues?

A Yes, they do.

Q And we posited a 100-percent editorial, so
we’re not talking about advertising, but there are
newsstand revenues. There could be revenues from data
bases and so forth. Do you agree with that?

A I certainly agree that there are newsstand
revenues and other types of revenues that play into
this. I don’t see that they have much to do with the
zone distribution of your subscribers.

Q It is fact that under this scenario, and
this is just one example, a Zone 8 subscriber would be

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making a negative contribution financially to the revenues, assuming a rate increase under the proposed --

A You set up so that every zone is making a negative contribution. If you’re going to start pointing to extra revenues for trade shows and selling of mailing lists, it seems to me, if you drop these Zone 8 subscribers, you can’t sell them on your mailing list either, and you probably can’t invite them to a trade show. I mean, you could explore some of these things if you wanted to, but I don’t think that refinements like that are going to change the conclusion here.

Q Well, now this question assumed a 10.1 cent-per-piece postage increase if mailed from Zone 8. Presumably, that would contemplate lower increases to lower zones. A lower zone mailer would not pay 10.1 cents.

A Well, when I worked on Item A, I laid out the equation that it refers to in my text, and I looked at all of the components, and I drew in numbers for them. I went through a detailed review process. I’m looking at your question now, and the end of the question in Part A says, "if it resulted in an increase of 10.1 cents per piece," so are we talking...
about a one-pound, 100-percent editorial, presumably it weighs a pound? How could it result in an increase of 10.1. I remember putting in the circ. net of $5. I remember putting in the subscription rate. I remember putting in 100-percent editorial. At this point, I can’t tell you that I remember focusing on a sentence which talks about a result of an increase in 10.1 cents per piece. I’m not sure I understand where that came from.

Q Well, this is a hypothetical, but if you assumed that the increase was 10.1 cents per piece in Zone 8, then it would follow logically that the increases in lower zones would be less.

A The increase of 10.1 cents per piece -- this is not per pound.

Q No. It assumes a one-pound piece.

A So it’s an increase of 10.1 relative to what?

Q To the current rates.

A I don’t think that formula it refers to has -- I don’t know how to relate that to the framework of the formula. I’m lost.

Q Isn’t it true that for a 100-percent editorial publication, under your proposed rates, the rate increases would be higher in the higher zones?
than in the lower zones?

A Yes.

Q So regardless of where the 10.1 cents-per-piece savings in Zone 8 comes from, -- it could be an
arbitrary element of this hypothetical -- it would
follow that pieces mailed in lower zones could receive
a lesser increase under the proposed rate structure.

A The question refers to page 65, which
attempts to focus on a particular situation, and that
is --

Q Could you answer my question?

A No, I can’t. I’m having a very difficult
time focusing on it. I don’t understand it.

Q You do agree that under the proposed rate
structure, there would be greater increases in the
higher zones than in the lower zones.

A I think that’s true, yes, if there are
increases at all.

Q Would you please refer to your response to
ABM 57?

A Okay.

Q Now, this interrogatory referred to the fact
that pound rates play a lesser role in the current
rate structure than they did prior to reorganization
and then asks whether the contribution to inefficiency

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of a flat editorial rate has, therefore, declined substantially. And you respond -- I don’t know how responsive it is, but you state that there is no longer a need to subsidize higher-zone distribution. In support, you go on to note that the spread between Zone 1 and Zone 8 was 17 cents in 1970 and is currently 30 cents. Can you explain to me how those spreads that you refer to in your response to ABM 57 affect whether or not there is a need to subsidize higher-zone distribution?

A Well, the spread is used directly in calculating the additional postage for Zone 8, so it seems like it’s a relevant reference point for the distribution. I mean, the spreads are very important figures. They are the drop-ship discounts. They are the things that mailers respond to.

Q The spread today is 30 cents, --

A Yes.

Q -- and the spread in 1970 was 11.8 cents.

A Yes.

Q How do you conclude from that that there is no longer a need to subsidize higher-zone editorial matter?

A Well, the question wanted to reach a conclusion that contribution to inefficiency, whatever

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that actually is, that the contribution to inefficiency has declined, and I don’t quite understand clearly what contribution to inefficiency is, but it’s very clear to me that increases in efficiency have to do with mailers making efficient changes. The mailers are much more responsive to rate differences now than they were in 1870, and these responses are based on the differences.

Q So is it fair to say, then, that the spread between Zone 8 and Zone 1, which is higher now in terms of dollars and cents than it was in 1970, does not provide any support for your statement that there is no longer a need to subsidize higher-zone distribution?

A No. I don’t understand that statement.

Q Do these spreads support that statement that there is no longer a need to subsidize higher-zone distribution?

A I think I’ve shown with the spreads that exist that mailers wouldn’t respond by dropping higher zones, and I think the subsidy for the higher zone was for the purpose of keeping people from dropping them.

Q So this goes to the analysis in your Appendix A, the analysis of ad revenue and whether it’s profitable on that basis to drop a Zone 8
subscriber.

A I think so. The question refers to page 11, lines 19 to 22, and my recollection is that page 11 -- let me look back at page 11. The purpose of page 11, I think, was to discuss why it is that eliminating the flat editorial rate now would not cause the difficulty that it might have in 1917, and the reference was to the pound rates playing a substantially different role than they did then. The rates at that time were 100-percent pound rates, and now we have piece rates.

Q You’re talking about 1917?

A Yes.

Q Your answer to ABM 57 is comparing 1970 and 1990. Are you saying there has been some material change in that period relating to the spread between Zone 1 and Zone 8 that affects whether there is a need to subsidize widespread dissemination of editorial content?

A So your question has to do with the fact that the current spread is larger than in 1970; therefore, we need to be more concerned about whether or not mailers would drop Zone 8. I think, corrected for inflation, it’s probably not higher than it was in 1970.

Q Excuse me?
A I think, corrected for inflation, it's probably not higher than it was in 1970.

Q What do you mean, "not harder"? What's not harder?

A Not higher.

Q Not higher?

A In other words, I refer to the 30 cents currently and the 11.8 cents in 1970, and I think you said that because the 30 cents was larger than the 11.8, that you might have some reason to be concerned that Zone 8 needed a subsidy.

Q Or didn't need a subsidy.

A I thought your suggestion was maybe that they did.

Q Well, I'm asking you a question about your answer to ABM 57, and you begin in your first paragraph by stating, "There is no longer a need to subsidize higher-zone distribution." That's a flat assertion. And then in the next paragraph you go on to discussion, compared to spread between Zone 8 and Zone 1 today with the spread in 1970, and as you just pointed out, the difference between those spreads could be accounted for by inflation. I'm just asking you whether there is a connection between your response to ABM 57 that there is no longer, in your
view, a need to subsidize Zone 8 and your subsequent
discussion about the spreads between Zone 8 and Zone 1
in the zoned charges. Maybe there is not.

A    I’m sorry. I got lost again.

Q    Well, I’ll repeat the question. You state
in your response to ABM 57 that there is no longer a
need to subsidize higher-zone distribution. It
appears that as a reason for that assertion by you,
you’re referring to the difference in dollars and
cents between the spread among the zone rates in 1970
as compared with today. Is that correct?

A    I think that the second paragraph, which
goes to the spreads, is more a response to the
question of efficiency than to the question of whether
or not there is any longer a need to subsidize it, and
I’m pointing out that since the question asked about
contribution to inefficiency, I wanted to point out
that the efficiency issue is very much related to the
zone differences, and I’m saying that we still have
substantial zone differences, and I’m saying that
mailers are in a position to react to those even more
than they were in 1917, and so I think that whole
paragraph goes more to the efficiency notion than to
whether or not someone would drop a higher zone.

Q    Could you refer to your response, please, to

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ABM 13?

A That's the one with the attachments.

Q Yes, and I'm referring to Attachment B on page 3.

A Okay.

Q On page 3, paragraph 13, the final -- I guess it's the second-to-last sentence, the last two sentences: "In 1917, all of the editorial benefit was on the pound rates, and the benefit was highly skewed toward distance. Now, less than half the editorial benefit is given in the pound rates, and this limited portion is mildly skewed toward distance."

Doesn't that indicate that the degree of what you refer to as skewing in the flat editorial pound rate has declined over time to the point that there is only a mild skewing under the current rates?

A Well, the fact that less than half is given in the pound rates is due largely to the advent of the per-piece editorial discount. So it doesn't have necessarily to do with the fact that the role of the pound rates is any different; it's just that another layer has been added. But it's also true that in 1917 we were talking about a piece going to Zone 8 having a total postage bill which is five times as much as the total postage bill for something going to a closer
zone. That was a very, very, very big difference.

In the pound rates now, relative to that, we’re less skewed. I’m not saying the skewing that we have now is insignificant or not meaningful. I think it is significant, and I think it is meaningful, but relative to the situation that was being proposed in 1917, we’re dealing with an entirely different situation here.

Q Now, any skewing in the current rates is mild. Is that correct?
A It’s mild relative to what was proposed in 1917. Congress had been charging one cent per pound for stuff going to Zone 8, and a proposal was to charge something like eight or nine cents a pound. That means Zone 8 would have been -- I’ve calculated these ratios before, but I remember coming up with five to eight times as much to send a piece to Zone 8 as to Zone 1 and 2. We’re not talking about that kind of situation now.

Q The ratio today between Zone 8 and the flat editorial pound rate would be lower than the ratio in 1970. Is that a fair statement?
A You want a ratio between Zone 8 and the flat editorial rate. I think, in 1917 --

Q 1970.

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A Okay. 1970. You want a ratio between Zone 8 -- I haven't got the 1970 rates in front of me.

Q I believe, in the response to ABM 57, you indicated that the Zone 8 rate was 17 cents.

A I was talking about the total postage bill in the ones I just gave you.

Q I'm not talking about 1917; I'm talking about 1970.

A Okay.

Q The Zone 1 rate was 5.2 cents.

A Okay. And the Zone 8 was 17, so it was about three times.

Q A little over three times.

A Right. And that would have been total postage bill. That's right.

Q And currently?

A We're talking about 60 versus 20 right now, but that's only the pound portion of the total postage bill.

Q Well, in your response to ABM 57, you were working with the proposed zone charges, I take it, not the current zone charges because you've taken the position in this case that the current zone charges at the higher zones have been miscalculated and were unduly high. Is that correct?
A In the settlement, yes, but this response in 57 says "in the current rates."

Q Yes, but you end up with a difference, a spread, of 30 cents.

A Yes.

Q Now, the spread under the current rates is more like 39 cents, isn’t it?

A I’m sorry. In the current rates, the corresponding difference is 30 cents. That goes to the current rate schedule. Zone 1 and 2 is 24.8.

Q Zone 8 is 63.8

A Right. And if you take 63.8 minus 24.8, what do you get?

Q I get 39 cents.

A Thirty-nine instead of the 30 that I have here?

Q Well, if you look at the proposed rates, you have a Zone 8 charge of 49.8 and a Zone 1 of 19.1 cent. The difference there is 30.

A Okay. I don’t believe that I was looking at proposed. I may have made a typographical error. I’m not quite sure right now, but it wouldn’t have been appropriate to look at proposed. It would be 30.7 in the proposed pound rates. Is that what you got?

Q Right. In the proposed zone pound rates, I
was doing to say they are the same as the current but
for the 30 percent revenue recovery as opposed to 40
percent. Is that right?
   A  But for what revenue recovery?
   Q  In other words, you’re recovering only 30
percent of the total periodicals revenue from the
pound charges rather than 40 percent.
   A  Yeah, but that doesn’t affect the
differences. It affects the levels only.
   Q  That’s why I thought you might have been
using the proposed rates here rather than the current
rates and getting the spread. But in either event,
the percentage, the degree to which Zone 8 is higher
than Zone 1, it’s lower than 3-to-1 currently under
either the current rates or the proposed rates.
   A  Well, you’re looking at pound rates in this
paragraph only. In 1970, that’s all there was was
pound rates. There weren’t any piece rates, so in
1970 it was total postage bill.
   Q  Is it fair to say that the degree of
skewing, as you put it, has declined over time in
terms of the spread between --
   A  Yes, I think it has.
   Q  Is there any factor that’s occurred since
1970 that -- any changed factor that affects the issue

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of whether the flat editorial pound charge is an
appropriate device for promoting the broad
dissemination of periodicals?

A Well, I think the whole world has changed in
some sense. I mean, we’ve got a lot of testimony here
about the situation that we’re facing and the
alternatives that mailers have. I was tempted to say
that in 1984 we took the markup off the zone
differences. That made a difference then, but the
markup now isn’t very large. But I think that
mailers’ ability to respond to rates is much different
now from what it was in 1970.

Q Why would that be?

A Well, mailers are much more sophisticated.
Trucking systems are much more sophisticated. Mailer
options for arranging their mail are much different.
The ability to plan and coordinate is much different.
The drop-ship software is a routine piece of software
in printing facilities now. That didn’t used to be
the case. There’s trends going on, things like co-
mailing. Co-mailing is not just for big people.
Little people can do a very effective job of putting
together pieces and lowering Postal Service costs.

Q Excuse me. I would like to just focus you
on the question which related to --
CHAIRMAN OMAS: Excuse me. Could you give us an idea about how much longer you will need?

MR. BERGIN: I would hope to finish within an hour or so, Mr. Chairman. It’s hard to say. The length of the examination depends upon the kinds of answers one receives.

CHAIRMAN OMAS: All right. Well, why don’t we continue?

MR. BERGIN: Yes, Mr. Chairman.

CHAIRMAN OMAS: If you think you can in about an hour, and if not, we’ll break later on.

MR. BERGIN: Very good.

MR. KEEGAN: Mr. Chairman, the counsel for McGraw Hill had just interrupted the witness’s answer. I believe the witness was being entirely responsive to the question and would request that he be allowed to finish his answer.

CHAIRMAN OMAS: Mr. Mitchell.

THE WITNESS: I guess I was in the process of being concerned about whether I was going on at great length when I shouldn’t. Your question didn’t relate to a particular interrogatory or anything that I have focused specifically on. It seemed to be a very general question about whether or not anything is different now from what it was in 1970 that would
affect the advocacy of the flat editorial rate, and I
guess I stepped backwards a little bit and was
beginning to think that the whole world is different,
but I'm not sure that I had a lot more to say that was
specific.

I think the last line was something about
co-mailing being something very effective that mailers
can do. When mailers, you know, have a technological
option and are well positioned to perform some
functions that can save the Postal Service an awful
lot of money, it's kind of a shame if we don't have a
rate structure which allows this to be done.

BY MR. BERGIN:

Q As you know, there are substantial questions
whether a substantial number of high-zone, smaller-
circulation periodicals will be able to take advantage
of co-mailing certainly in the near future. There may
be many publications facing very large increases under
the proposed rates, notwithstanding that co-mailing
may be available to some. In the past, the Commission
has approved a flat editorial pound rate in order to
ensure that such high-zone mailers --

MR. KEEGAN: Mr. Chairman, Mr. Bergin is
testifying, it seems. Does he have a question?

MR. BERGIN: Yes, I do.
BY MR. BERGIN:

Q    In order to ensure that the widespread dissemination of editorial matter is not adversely impacted by high transportation costs, I take it that, in this regard, nothing has significantly changed since then that would affect that policy, in your view.

MR. KEEGAN: Mr. Chairman, I object. That is not a question.

BY MR. BERGIN:

Q    Is that correct?

A    I think we have been moving steadily on a large number of fronts in a direction which suggests that the flat editorial rate is not having any effect. It’s not resulting in information being anymore widespread than it would be otherwise, and there is a whole host of reasons why it’s bad rate design to have it the way it is. So I --

CHAIRMAN OMAS: Excuse me. May I ask both counsel and the witness to be a little more concise, succinct and precise, with the questions and the answers? The chair would certainly appreciate that. Thank you.

MR. BERGIN: I’ll certainly endeavor to do so, Mr. Chairman.
BY MR. BERGIN:

Q What changed factors give rise to your view that the editorial pound charge is no longer necessary?

A Well, I think my testimony discusses that at great length, and I think my Appendix A, in particular, points out the fact that no one would drop a Zone 8 subscriber. We’re talking about a marginal printing cost here. We’re talking about some additional distribution, maybe some account maintenance. That’s not really a big issue relative to the benefit of a subscriber.

Q A changed circumstance?

A I didn’t attempt to -- assess the situation 20 years ago. So in that particular regard, I’m not quite sure, but I think we’ve also listed a considerable number of other factors that are important. I think that things going on in the industry, things mailers are doing, the kind of technology that’s being used, the kind of options that people have, the ability to react to rates.

Q Referring to your answer to ABM Interrogatory No. 66, --

A Sixty-six?

Q Yes.
A Yes.

Q Now this refers to your testimony that even if zoning the editorial rate, eliminating the flat editorial pound rate, did lead to an adverse effect on Zone 8 subscribers if they were cut off, but, nevertheless, you believe there is insufficient justification for retaining the flat editorial pound rate. Your justification is that, in your view, the effect on cohesion of the nation would not be significant. Is that a fair statement?

A That’s what I said, yes.

Q You do not believe that periodicals today play a lesser role in promoting cohesion in the nation than they did before.

A Do I think they play a lesser role today? I think the cohesion of the nation is affected by a very wide range of factors, including radio, television, the Internet, air travel, telephone, a whole string of things. I think they have all moved in the direction of increasing the cohesion of the nation. So I guess if you look at dozens of cohesive forces, the magnitude of the role that mail plays right now is probably less, yes. I’m not saying it’s unimportant, and I’m not saying it’s not real. I’m not saying that when a publication is distributed, people don’t read
it, or it doesn’t have an effect, but your question was much broader than that.

Q Are you suggesting that the congressional policy in favor of promoting the widespread dissemination of periodicals is less important today than it was in the past?

A Do we have a congressional policy that talks about widespread dissemination of periodicals?

Q The mandate in the Postal Reorganization Act for bonding the nation together.

A I don’t think that we are binding the nation together any less under our proposal than we are with the flat editorial rate, and I think we may be binding it together more. We’ve certainly got a more effective set of rates.

Q The question in ABM Interrogatory 66 assumes that as a result of the proposed rates, Zone 8 subscribers would be dropped.

A Question 66 is introduced with an if statement which says, if, in fact, this occurred, and my testimony is that it will not. It says, if, in fact, this occurred, that I don’t think the cohesion of the nation would be affected significantly, but I don’t believe it will occur, period.

Q Are you saying that even if it did occur,
that high-zone publications would be forced out of
business as a result of rate increases, or Zone 8
subscribers were dropped, that the nation is already
cohesive enough, and it wouldn't matter?

MR. KEEGAN: Mr. Chairman, I believe the
witness has answered that question twice now.

CHAIRMAN OMAS: Please continue in another
direction.

BY MR. BERGIN:

Q Referring you to your testimony at page 55,
you state periodicals mail is prepared using computers
and commercially available software. In using such,
inputs and constraints must be selected like sack
weight, pallet weight, bundle weight, and so forth.
You’ve introduced a variety of new factors that a
mailer would need to consider under your proposed rate
structure in terms of containers, sacks and pallets,
and bundles, and new entry points. Is that correct?

A That’s correct.

Q Is my understanding correct that the lower
the container presort level under your rate structure,
the higher the bundle charge becomes?

A I think so. I would have to look back at my
rate schedule and compare some specific figures, but I
think that sounded right.
Q And yet while a lower presort level leads to a higher bundle charge, it also leads to a lower container charge.

A I think you’re pointing out to tradeoffs among the various rate elements. I’m willing to accept that you’ve summarized them properly without going through specific numbers.

Q And a higher bundle presort level leads to a higher bundle charge but a lower piece charge. Is that fair?

A A higher bundle presort level. I had higher bundle presort levels here within each container level. What was your specific comparison?

Q The higher bundle presort level leads to a higher bundle charge but a lower piece charge.

A Higher presort level being more presorted?

Q Yes.

A Yes.

Q And yet it leads to a lower piece charge?

A Yes.

Q Again, tradeoffs between bundle costs and piece costs?

A Yes. There’s a number of tradeoffs like that in this rate schedule.

Q Also service tradeoffs?
Well, if you were here for some of the previous cross-examination, previous interrogatories on this issue, you know that that’s an important, outstanding question. Mailers, in fact, do sometimes see a service difference. It’s not clear that it ought to exist, and it’s not even clear that it does exist as much as some people think that it does, but it is true that sometimes they see a difference. Certainly, in drop shipping they see a difference, but I thought you were maybe referring to the sack or the container level.

Q Is it fair to say that pallets generally provide faster delivery than sacks?

A I don’t have any specific basis for saying that. I can’t provide testimony on what those levels are.

Q If you accept that, if you accept my representation that there is some testimony to that effect, in your view, if two mailers are paying the same amount for different levels of service, are they, in effect, paying different rates? In other words, the mailer who pays the same amount in order to get less service is actually paying more than the mailer who pays the same amount in order to get more service?

MR. KEEGAN: Mr. Chairman, I object to that
question on the grounds that the witness is not an
expert in metaphysics.

MR. BERGIN: This is an economic question, Mr. Chairman.

CHAIRMAN OMAS: Would you be a little more specific? I asked you earlier to try to be a little more precise in your questioning and Mr. Mitchell to be a little more succinct in his answers. You tend to be rambling, and we lose sight of what direction you're going in.

BY MR. BERGIN:

Q Mr. Mitchell, one of the rate-making factors under the Postal Reorganization Act that the Commission considers in setting rates is the relative value of mail to the recipient, considering the service levels obtained. Is that correct?

MR. KEEGAN: Can counsel cite a specific section of the statute for that proposition?

MR. BERGIN: I'm referring to Section 3622 of the act.

MR. KEEGAN: What part of that?

BY MR. BERGIN:

Q Part (b)(2). It stated, as a factor in rate-making, "the value of mail service actually provided for each class or type of mail service to
both the sender and the recipient." Are you familiar
with that?

A I'm familiar with that section, and I
believe it is applied very generally at the subclass
level. I believe we have extreme difficulties
applying it at any level below the subclass because we
don't not know anything about the value that mailers
place on these things, and I think that this is one of
the reasons why our rate proposal is a substantial
improvement, is because we give a set of signals to
mailers and allow them to consider the value that they
receive as they choose among those alternatives.

Q My question is, how service generally is
treated in rate-making. In other words, if a certain
category of mail is more costly but receives less
service, how should that be accounted for in the
rates?

MR. KEEGAN: Mr. Chairman, I object. That's
beyond the scope of the witness's testimony.

MR. BERGIN: I think the witness has
tested as to the value of service, and I don’t
intend to prolong this avenue, but we do have
testimony regarding tradeoffs between service and
rates, and my question is how that should be reflected
in rate-making.
THE WITNESS: At the current time, the Postal Service's service standards and our operating standards don't differentiate between, let's say, one sack and another sack or between a sack and a pallet. So it's not clear that we even have some of these service differences. If there are some in some places, they ought to be fixed. I'm not prepared to say -- my testimony doesn't propose any changes in the way that's recognized except to give mailers some control. I don't think I'm prepared to say anything further on it.

(Pause.)

MR. BERGIN: Mr. Chairman, I believe I have nothing further at this point.

Thank you, Mr. Mitchell.

CHAIRMAN OMAS: Thank you, Mr. Bergin.

Are there any other people wishing to cross-examine Witness Mitchell?

MR. RUBIN: Yes. I have a brief question.

CHAIRMAN OMAS: Mr. Rubin.

CROSS-EXAMINATION

BY MR. RUBIN:

Q Mr. Mitchell, could you turn to your response to McGraw Hill Interrogatory 29?

A Okay.
Q In Part B of the question you're asked for the Zone 8 postage under current rates and proposed rates, and you give one number in your response. Is that for current rates or proposed rates?

A I have to tell you, in all honestly, I reviewed this question the night before last very late at night and reread it and thought about it, and there is a slight problem, and it's the one that you indicate. The 40.20 cents is under current rates, and I noticed that the question does use the word "proposed," but when I tried to figure out what the question really meant under "proposed," I couldn't figure it out. It can't be done. So that is a current figure.

Q And you think you are not able to come up with a number under the proposed rates.

A Well, if we started to do this for proposed, I would have to make a whole string of assumptions about pallet makeup and sack makeup and container and entry point and so forth, and also it's shifted to what, a one-pound piece? "Zone 8 postage under current rates, including flat and proposed, with the same relevant characteristics." It takes the New Republic, and it shifts it to 100-percent editorial, and it shifts it to one pound, and I thought, gee, the
comparisons here are going to be difficult, and I've
got to start making a whole string of assumptions that
I have no basis for. So I thought anybody that wants
to do that can do it themselves. They can put
together the assumptions and ask what the results are,
so I didn't really try to do anything under the
proposed rates.

MR. RUBIN: Okay. That's all I have.

CHAIRMAN OMAS: Thank you, Mr. Rubin. Is
there anyone else? Mr. Keegan, would you like some
time with your witness?

MR. KEEGAN: No, thank you, Mr. Chairman.

Time Warner, et al., has no follow-up.

CHAIRMAN OMAS: Okay. Mr. Mitchell, that
completes your testimony here today. We appreciate
your appearance and your contribution to the record.
You are excused.

THE WITNESS: Thank you.

(The witness was excused.)

CHAIRMAN OMAS: Before closing the record,
let us address additional designations. At this time,
I want to incorporate into our record additional
designated discovery responses. This includes both
designated institutional responses and designated
responses of witnesses who previously appeared.

Heritage Reporting Corporation
(202) 628-4888
I have handed the reporter two copies of previously designated responses. This includes both institutional responses of Time Warner, et al., and the responses of Witness Stralberg, designated by the American Postal Workers Union, AFL-CIO. I am also handing the reporter copies of the institutional responses to POIR No. 1, Question 2.

I direct that this material be admitted into the record and transcribed.

(The documents referred to, identified as Exhibit No. TW et al., TW et al.-T2-1, POIR No. 1, was received in evidence.)
Complaint of Time Warner Inc. et al. Concerning Periodicals Rates  
Docket No. C2004-1

DESIGNATION OF WRITTEN CROSS-EXAMINATION  
OF TIME WARNER et al.  
(TW et al.-)

Party  
McGraw-Hill Companies, Inc., The

Interrogatory  
MH/TVG-1 redirected to TW et al.

Respectfully submitted,

Steven W. Williams  
Secretary
**INTERROGATORY RESPONSES OF**
**TIME WARNER INC, et al.**
**DESIGNATED AS WRITTEN CROSS-EXAMINATION**

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<th>Designating Parties</th>
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MH/TVG-1: Referring to your response to Presiding Officer’s Information Request No. 1, Question 2, that 98.79% of TV Guide copies are presently distributed on pallets, and that “[o]ver the past few months we have aggressively reduced our sacked mail, which has provided … very little financial benefit to us,” please explain fully (a) the reasons why less than 2% of TV Guide is sacked presently, (b) the reasons why TV Guide has “aggressively reduced … sacked mail” in recent months, (c) how the usage of sacks by TV Guide has evolved over the past 10 years.

RESPONSE

(a) TV Guide’s penetration within the marketplace allows us to utilize direct 3-digit and ADC pallets, which gives over 98% palletization to over 300 SCF’s. On average, we have fewer than 15,000 copies that are past zone 2.

(b) We developed additional ADC pallets, which reduced labor at print sites and USPS facilities.

(c) TV Guide continues to stay proactive in identifying mail that is costly to both TV Guide and the USPS, which has allowed us to reduce sacks when possible. When we do utilize sacks, we try to maximize copies within those sacks to keep the number of sacks to a minimum. We do not maintain a sack and pallet report that reflects sack counts on a monthly basis, because sacks are such a small percentage of our delivery.
DESIGNATION BY THE McGRAW-HILL COMPANIES OF INSTITUTIONAL INTERROGATORY RESPONSE FOR INCLUSION IN THE RECORD

The McGraw-Hill Companies, Inc., through its undersigned counsel, hereby designates the following institutional interrogatory response for inclusion in the record:

MH/TVG-1.
MH/TVG-1: Referring to your response to Presiding Officer's Information Request No. 1, Question 2, that 98.79% of TV Guide copies are presently distributed on pallets, and that "over the past few months we have aggressively reduced our sacked mail, which has provided very little financial benefit to us," please explain fully (a) the reasons why less than 2% of TV Guide is sacked presently, (b) the reasons why TV Guide has "aggressively reduced sacked mail" in recent months, (c) how the usage of sacks by TV Guide has evolved over the past 10 years.

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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Complaint of Time Warner Inc. et al. Concerning Periodicals Rates

Docket No. C2004-1

DESIGNATION OF WRITTEN CROSS-EXAMINATION
OF TW, CONDE NAST, NEWSWEEK, RDA, AND TV GUIDE

Party
United States Postal Service

Interrogatories
ABM/TW et al.-T3-2 redirected to TW et al.
MH/NW-1 redirected to TW et al.
MH/RDA-1 redirected to TW et al.
MH/TW-1 redirected to TW et al.

Respectfully submitted,

Steven W. Williams
Secretary
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ABM/TW et al.-T3-2  In light of your testimony concerning changes in the communications media and elsewhere since 1917, and your conclusion that zoning the editorial pound rate will not "cause the country to be divided by these zones," please provide a statement by each of the complainants (that is, individual statements by each of the five complainants) setting forth (a) whether that complainant believes that Periodicals should continue to be granted a postal rate preference to reflect the educational, cultural, scientific, and informational value of Periodicals' editorial content and (b) if so, setting forth all of the reasons why. Each statement should include the names and titles of the person or persons whose input it reflects, including the original drafter and any others that provided input.

RESPONSE OF TIME WARNER, CONDE NAST, NEWSWEEK, READER'S DIGEST, AND TV GUIDE

There is a clear distinction between Congress' establishment of an unzoned editorial rate and its later provision for considering the educational, cultural, scientific, and informational ("ECSI") value of Periodicals class mail. The unzoned editorial rate was enacted in 1917 when, after an intensive lobbying campaign led by big-city newspapers and magazines with national readerships, warning that zoned rates for periodicals might foster "sectionalizing tendencies," bring into being "a sectionalized press," divide the country into "sectional publishing zones in the East, Midwest and West" and, ultimately, transform it into "three distinct zones of thought and feeling,"¹


No candid account of the legislative history of periodicals rates in the 19th and the first half of the 20th centuries would deny that publishing industry lobbying, congressional fear of the power of the press to influence opinion, and the desire to use the Post Office "as a means of communication and of the dissemination of knowledge for a widely scattered population in a new country" all played important roles, or that the exact nature and relative importance of those roles is not entirely clear. With respect to the third of these factors, a careful and judicious postal historian has written:

This reason for low postage on all types of mail, but especially on newspapers and magazines, has been expressed countless times in postal documents. While one can conjecture that this may have been a very real purpose in an era of poor communications facilities, the exact form it took as an influence on postal rates is unknown.

[footnote continues]
Congress chose to introduce zoning in the rate for advertising in periodicals but to retain the existing unzoned rate for editorial matter.

Witness Gordon has explained that the world is a different place from what it was when that law was written. Today, periodical publications are but one of many avenues to disseminate information, and the unzoned editorial rate has far less significance than it did in 1917. As a result, our proposed rates include zoning of the entire weight of the publication and, if implemented, will facilitate reductions in Periodicals class costs.

The recognition of ECSI value in Periodicals Class mail is an entirely different matter. This provision, § 3622(b)(8), was added to the law in 1976 as one of the ratemaking factors that the Postal Rate Commission must consider when making a recommended decision:

(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees . . . in accordance with the policies of this title and the following factors . . .

(8) the educational, cultural, scientific, and informational value to the recipient of mail matter . . .

Neither the legislative history nor the ECSI provision itself suggests or hints that "educational, cultural, scientific, and informational value to the recipient of mail matter" describes a value that depends upon the distance such matter is transported by the Postal Service. Nor does any other provision of the law under which the Commission recommends rates state that an unzoned editorial rate is required or

Jane Kennedy, United States Postal Rates, 1845-1951 (doctoral dissertation, Columbia University, 1955), at 34 (preceding quotation is from the same source).
should receive favorable consideration, although elsewhere in the same legislation Congress required that rates for other categories of mail not vary with distance.2

The absence of any necessary connection between the ECSI provision and the unzoned editorial rate is strongly reinforced by the conclusion of the court in Mail Order Ass'n. of America v. United States Postal Service, 2 F.3d 408, 436 (D.C. Cir. 1993) that § 3622(b)(8) provides no legal or policy justification for an unzoned editorial rate.

The educational, cultural, scientific, and informational value that periodical publications provide today is no less than when § 3622(b)(8) was enacted in 1976. That provision is still in effect, and ECSI remains a factor that the Commission must consider in the exercise of its ratemaking authority. The sentiment of Congress regarding this policy has not changed and is reiterated in the postal reform legislation that is currently moving through both houses (S 2468 and HR 4341). It is obvious that Congress does not intend to alter the policy of recognizing the ECSI value of Periodicals class mail when setting postal rates.

We agree with the past and present judgment of Congress that Periodicals class mail should receive a rate preference in recognition of its educational, cultural, scientific, and informational value. The rates and the classification structure we propose would not diminish the recognition that the Commission has accorded to the ECSI value of Periodicals and, in fact, recognizes ECSI through both a per-piece and a per-pound discount for editorial content. Clearly, our proposal reflects a belief that ECSI remains an appropriate factor to be considered in the establishment of Periodicals class rates.

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2 E.g., 39 U.S.C § 3683 ("Uniform rate for books; films; other materials"); and § 3623(d) (requiring "one or more classes of mail for the transmission of letters sealed against inspection," and that "the rate for each such class shall be uniform throughout the United States").
Response of Time Warner, Condé Nast, Newsweek, Reader's Digest, and TV Guide to ABM/TW et al.-T3-2, Redirected from Witness Gordon

This statement was drafted by James O’Brien, Director of Distribution & Postal Affairs, Time Incorporated, assisted by and in consultation with:

Michael J. Clayton, Senior Vice President, Operations, T.V. Guide Magazine Group, Inc.

Timothy L. Keegan, Burzio & McLaughlin, Counsel for Time Warner Inc.

Alice Kijak, Vice President, Global Operations Shared Services, The Readers Digest Association, Inc.

Howard Schwartz, Executive Director of Distribution Sourcing & Postal Affairs, Advance Magazine Publishers Inc.

Jack Widener, Director of Distribution, Newsweek, Inc.
Response of Time Warner Inc. to MH/TW-1

MH/TW-1: Referring to Table TW-1 of the response of witness Stralberg to ABM/TW et al. – T1 – 3 (redirected), (a) please explain fully the factors that give rise to the projected increase in postage for *Time for Kids* under the proposed rate structure, and (b) please specify what changes, if any, would be made by Time Warner to alleviate such increase if the proposed rate structure were adopted.

RESPONSE

(a) *Time for Kids* is mailed to teachers and their students. As a result, each individual classroom shipment is prepared as a firm bundle. The bundle charges contained in the proposed rate structure cause the majority of the increase. The balance of the rate increase is the result of limited drop shipping.

(b) If the proposed rate structure were adopted, *Time for Kids* would attempt to improve its palletization levels and increase drop shipping. To improve palletization, we would attempt to co-palletize with other publications. This could result in a potential schedule change, depending upon the co-palletization schedule. In addition, we might need to change the printing location because our current printer does not offer co-palletization in the location that produces *Time for Kids*. Following co-palletization, *Time For Kids* would expand its drop shipping through pool shipping. It is our assumption that a schedule change would be required to make these improvements.
Response of The Reader's Digest Association, Inc. to MH/RD-1

MH/RD-1: Referring to your response to Presiding Officer’s Information Request No. 1, Question 2:

(a) Please explain fully what you mean by “improving system capabilities at the fulfillment house to reduce the number of mailstreams;”

(b) Please explain fully what you mean by “expanding mail-line functionality to reduce postal sacks while simultaneously expanding advertising options,” and explain the nature and extent of the capital investments that you contemplate pursuing with printers in order to achieve those ends;

(c) Please explain fully what you mean by “modifying multiple periodical closing schedules ... in order to optimize distribution objectives;”

(d) Please explain fully what you mean by “analyzing paper basis weight purchasing options to favorably impact dropship incentives.”

RESPONSE

(a) Improving system capabilities refers to the investigation, evaluation, and implementation of software enhancements to merge mail streams.

(b) Expanding mail-line functionality refers to the investigation, evaluation, and implementation of upgrading: adding a controller, imaging heads, hoppers, and conveyors to the mail-line. Capital investments are dependent on the degree of projected cost-based benefits versus equipment costs and depreciation.

(c) Modifying multiple periodical closing schedules refers to the adjustment and alignment of multiple periodicals’ milestones and due dates (i.e. ad/edit close dates, name selection, newsstand on-sale dates, etc.) such that co-mailing and co-palletization opportunities are optimized.

(d) Analyzing paper basis weight purchasing options refers to evaluating the impact of increasing or decreasing the current basis weight, depending on
Response of The Reader’s Digest Association, Inc. to MH/RD-1

the projected cost-based benefits, freight charges, and subscriber/customer impact.
Response of Newsweek to MH/NW-1

MH/NW-1: Referring to your statement on page 2 of your response to Presiding Officer's Information Request No. 1, Question 2, that there is little incentive under the current rate structure to switch from sacks to pallets, please explain fully the reasons why less than 1% of Newsweek is sacked presently, and how the usage of sacks by Newsweek has evolved over the past 10 years.

RESPONSE

Newsweek has made a conscious effort to minimize the number of sacks that we produce in an effort to streamline the manufacturing operation. Over the past 10 years there has been a slight decrease in the number of sacks.
BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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

DESIGNATION OF WRITTEN CROSS-EXAMINATION
OF TW, CONDE NAST, NEWSWEEK, RDA, AND TV GUIDE
WITNESS HALSTEIN STRALBERG
(TW et al.-T-2)

Party
American Postal Workers Union, AFL-CIO

Interrogatories
APWU/TW et al.-T2-1

Respectfully submitted,

Steven W. Williams
Secretary
INTERROGATORY RESPONSES OF
TW, CONDE NAST, NEWSWEEK, RDA, AND TV GUIDE
WITNESS HALSTEIN STRALBERG (T-2)
DESIGNATED AS WRITTEN CROSS-EXAMINATION

<table>
<thead>
<tr>
<th>Interrogatory</th>
<th>Designating Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>APWU/TW et al.-T2-1</td>
<td>APWU</td>
</tr>
</tbody>
</table>
Response of Witness Stralberg to APWU/TW et al.-T2-1

APWU/TW et al.-T2-1

On pages 17 and 18 of your testimony, you discuss the reasons for the development of LR-I-332 and your participation in that process. The PRC’s rules for complaints (§3001.83 (c)) require that all complaints include copies of all correspondence or written communications between the complainant or his/her agent and the Postal Service which relate to the subject matter of the complaint. Please provide all written correspondence between the parties of this complaint and the Postal Service related to Periodicals cost and rate issues of which you are aware.

RESPONSE

I am neither a complainant nor a representative of any complainant. Nor am I aware of any written communications between the complainants and the Postal Service which relate to the subject matter of the complaint.
POIR 1, QUESTION 2

TW et al.-T-1, at page 17, in discussing various mailing-related practices states: “It is not reasonable to expect publishers, or printers, or anyone else to consider costs that do not affect their bank accounts.” Please describe, and quantify to the extent possible, how the proposed rate schedule might alter the mailing profiles of (a) Sports Illustrated for Kids; (b) Reader’s Digest (the magazine); (c) Vogue; (d) TV Guide; and (e) Newsweek. Please fully explain any assumptions underlying your descriptions.

RESPONSE OF TIME WARNER INC.

A) Sports Illustrated for Kids (SIFK) would most likely alter its mailing profile as follows if the proposed rate schedule were implemented:

1) Today’s rate structure does not provide an incentive for mailers to maximize drop shipping, since only a portion of the magazine’s pound rate is zone based. If the pound rate were zoned for the entire weight of the magazine, SIFK would expand its number of entry points. Today, its main file is distributed through the Quad Graphics pool to 194 entry points. If the proposed rates were implemented, Time Inc. and Quad Graphics would perform an entry point analysis to determine if additional entry points could be opened. This analysis would focus on the differential between the rate reduction that could be achieved by going to any additional entry points and the increased transportation costs that would be incurred in doing so. If the analysis yields a net savings, additional entries will be opened.

2) In Docket No. R2000-1, James O’Brien submitted testimony on behalf of the Alliance of Nonprofit Mailers, American Business Media, Coalition of
Response of Time Warner Inc. to POIR No. 1, Question 2

Religious Press Associations, Dow Jones & Company, Inc; The McGraw-Hill Companies, Inc; the National Newspaper Association, and Time Warner Inc. In this testimony he described the conclusions of a Mailing Industry Task Force (MITF). Two of the MITF’s conclusions relate to presort parameters and the way that mailers prepare their products, namely Issue 2: Optimization of containerization can help reduce costs, and Issue 15: The Periodicals rate structure should be reviewed to ensure that it is consistent with the overall Periodicals processing strategy and induces appropriate mailer behavior.\footnote{Docket No. R2000-1, Direct Testimony of James O’Brien On Behalf Of Alliance of Nonprofit Mailers, American Business Media, Coalition of Religious Press Associations, Dow Jones & Company, Inc., Magazine Publishers of America, Inc., The McGraw-Hill Companies, Inc., National Newspaper Association and Time Warner Inc. (TW-T-2), Tr. 24/11173-74 (pp. 5-6), 11189 (p. 21).} SIFK would reconfigure its presort parameters to increase the number of pallets and reduce the number of sacks it deposits into the mail system. These parameters reside within the postal sortation system at Time Customer Service. The exact changes in the parameters would be determined by a computer analysis of the comparative effects of the universe of possible individual changes to minimum bundle sizes and pallet weights.

3) Under the existing rate structure, SIFK does not participate in co-mailing and drop shipping of its supplemental mailings, because it is not cost effective. If the proposed rates were implemented, SIFK would co-mail its
supplemental mailings to reduce sacks, improve presort, and shift as many of these copies as possible from a plant entry to a remote entry closer to the destination.

4) For the reasons cited in item #2 above, SIFK would also investigate the potential to co-mail its main file run to reduce sacks, improve presort, and increase drop shipping.
Response of Condé Nast to POIR No. 1, Question 2

POIR 1, QUESTION 2

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RESPONSE OF CONDE NAST

It is our belief that the proposed rate schedule would allow us to initiate comailing of Vogue’s supplemental copy mailings. These mailings are currently mailed by themselves (no comailing currently performed as we do for Vogue’s mainfile copies) and are all entered at the printers mailing facility in Flora II.

Our supplemental mailings are our least sophisticated mail as they are not drop shipped, not carrier routed and much of the mail is prepared in sacks.

The rate incentives offered by the proposed rates would allow us to convert these smaller mailings into something more comparable to the characteristics of our large monthly mailing of Vogue’s mainfile copies.

This would result in more pallets, fewer sacks, mail entered much closer to destination at lower cost. This would also result in better service to our newest subscribers.

Though the question asked pertained to only Vogue the same response could be given for almost all of our consumer magazine titles.
POIR 1, QUESTION 2

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RESPONSE OF NEWSWEEK, INC.

Newsweek would look at several areas to alter our mailing profiles:

Point of Entry

Though impossible to estimate the quantity at this time, additional entry points would be opened for several reasons.

First, as a result of the total weight of the magazine being based on zoned rates, additional reductions in cost would be realized the deeper the magazines are entered into the postal delivery network.

Secondly, the per pallet and sack costs are reduced when they are entered into the facility that processes that pallet or sack. An example would be a SCF pallet entered into its DSCF.

Together these reductions in cost would be used to offset the additional truck cost to deliver the magazines to the new entries which allows us to then claim the destination entry pallet and SCF piece discounts.
Response of Newsweek, Inc. to POIR No. 1, Question 2

**Number and Type of Containers**

We believe we would realize a reduction in the number of sacks and pallets and more mail being delivered directly to the postal facility that processes it.

Since each sack or pallet used would have a cost assigned to it, our goal would be to reduce as many sacks and pallets as possible and make the lowest cost sacks and pallets possible. The current rate structure offers little incentive to do this.

As an example, we can now can drop an SCF pallet into an ADC with little negative cost impact. Under the proposed rates we would pay more for that SCF pallet to be dropped at that ADC. As a result we would examine the possibilities of either trucking that SCF pallet to the DSCF or eliminating the SCF pallet, and making an DADC pallet and continuing to drop at that ADC. These rates give the publisher incentive to make up and deposit magazines according to how and where the Postal Service processes it.

Even though less than 1% of Newsweek is sacked we would try to find ways to eliminate those remaining sacks. As stated above there is presently little incentive to do this but under the proposed rates the cost to use sacks will be expensive when compared to pallets.

**Additional Zip Plus Four Coded Addresses**

As a result of the reduction in the carrier route rate we would try to increase the number of copies that qualify for this rate. Since very few addresses can be carrier route coded without a zip plus four code, our first step would be to improve the quality of the address so that a zip plus four code can be appended. This would
also have a positive effect on first class and standard as these addresses are used to send out invoices, promotions and renewals.

**Number of Mail Streams**

There are times when we segment our mail list to meet the needs of our circulation group or advertisers. These are usually small quantities that will pay more postage under the proposed rates. Our goal would be to minimize any segmentation of the mail stream by reviewing those programs, and using manufacturing technology to maintain a single mail stream as much as possible.

In conclusion, this new rate structure gives publishers incentives to examine their mail preparation in great detail. The result being more magazines will be prepared in the most efficient manner for the Postal Service to handle, and more will be delivered directly to the facility where they should be processed.
POIR 1, QUESTION 2

TW et al.-T-1, at page 17, in discussing various mailing-related practices states: “It is not reasonable to expect publishers, or printers, or anyone else to consider costs that do not affect their bank accounts.” Please describe, and quantify to the extent possible, how the proposed rate schedule might alter the mailing profiles of (a) Sports Illustrated for Kids; (b) Reader’s Digest (the magazine); (c) Vogue; (d) TV Guide; and (e) Newsweek. Please fully explain any assumptions underlying your descriptions.

RESPONSE OF READER’S DIGEST ASSOCIATION, INC.

Any modification in rates would cause a prudent business to review every aspect of its operational business model in order to optimize results. This is particularly so with respect to the proposed rate schedule, where postal processes have a direct correlation to postal rates charged. The following action plans would be instituted not only for Reader’s Digest magazine but also for all of the 17 other Periodicals titles currently published by RDA:

- **Optimize drop-ship program.** Coordinate activities between the fulfillment house, printer, and third-party logistics provider to enhance the drop-ship program, recognizing zoned editorial incentives. Open additional SCF entry points where appropriate. Depending on size of incentives, DDU delivery may be possible.

- Improve system capabilities at the fulfillment house to reduce the number of mail streams, thereby improving sortation levels, increasing palletization, and reducing postal sacks.
Response of Reader's Digest Association, Inc. to POIR No. 1, Question 2

- Accelerate a co-palletization program to encompass all Periodicals titles in an effort to further eliminate postal sacks and maximize drop-ship opportunities.

- Partner with printers to develop capital investment strategies to expand mail-line functionality to reduce postal sacks while simultaneously expanding advertising options.

- Expand co-mailing operations. Modify multiple periodical closing schedules where appropriate in order to optimize distribution objectives.

- Analyze paper basis weight purchasing options to favorably impact drop-ship incentives.
Response of TV Guide Magazine Group, Inc. to POIR No. 1, Question 2

POIR 1, QUESTION 2

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RESPONSE OF TV GUIDE MAGAZINE GROUP, INC.

1) In the current environment it is not cost effective for TV Guide to go directly to the DDUs. DDU delivery would reduce our current average rate of .1583 cents per copy by only an estimated .022 cents. Our cost for this additional DDU delivery would far outweigh the benefits. Currently, we distribute 98.79% of our 6,601,000 copies on pallets, of which 5,853,000 go directly to 228 SCFs. In the new proposed environment we would get a deeper discount for DDU delivery, which would allow us to deliver the pallets directly to the DDU.

2) Over the past few months we have aggressively reduced our sacked mail, which has provided a substantial benefit to the Postal Service but very little financial benefit to us in return. The current rate structure provides little incentive to reduce sacks, even though it would give relief to USPS. In the new proposed changes we would see an incentive to reduce sacks.
CHAIRMAN OMAS: Are there any additional designations of institutional responses?

MR. KEEGAN: Mr. Chairman, this is not an additional designation, but we do have one correction.

CHAIRMAN OMAS: Would you introduce yourself for the record, please?

MR. TABBITA: Phillip Tabbita for the American Postal Workers Union. I want to make sure, Mr. Chairman, that APWU-TW-ET AL.-T1-4 and 5 are designated. They were received yesterday.

CHAIRMAN OMAS: Okay.

MR. TABBITA: And it prompted a follow-up conversation with Mr. Keegan that I would like to get on the record as well, and I think we can do that through a stipulation or a confirmation orally. On page 5 of T1-4, there is a statement concerning Mr. Potter and later a statement concerning Ms. Bizota, indicating that the Postal Service does not view complaints favorably. And I questioned Mr. Keegan about that because it wasn’t my observation of the Postal Service as hostile to complaints; in fact, they prefer to get complaints and resolve them. So I wanted a clarification that this refers only to the formal filing of a complaint here before the Postal Rate Commission, and Mr. Keegan confirmed that.
CHAIRMAN OMAS: Thank you.

MR. KEEGAN: Mr. Chairman, I do so confirm, and we will so stipulate.

CHAIRMAN OMAS: All right. Thank you, Mr. Keegan. Thank you, sir. Would you hand those to the reporter?

Mr. Keegan, do you still have something you want to --

MR. KEEGAN: Yes, Mr. Chairman. In the institutional response to ABM/2W-ET AL.-T3-2 redirected from Witness Gordon, on page 3 there was a typographical error. Four lines from the bottom, the word "through" is missing its opening T, and I have with me two corrected pages which I would ask be incorporated into the transcript.

CHAIRMAN OMAS: Without objection. That material is received into evidence and is to be transcribed into the record.

(The documents referred to, identified as Exhibit No. APWU/TW et al.-T1-4, APWU/TW et al.-T1-5, ABM/TW et al.-T3-2, was received in evidence.)
Institutional Response of Time Warner Inc. et al. to APWU/TW et al.-T1-4

APWU/TW et al.-T1-4. To the extent that you cannot answer any part of this inquiry, please refer it to someone who can. Please refer to your response to APWU/TW et al.-T1-2.

a). Can we assume that none of the complainants in this case had any written communications from or to Postal Service officials concerning subjects raised in this complaint, whether or not the correspondence was in the form of a formal complaint? If not, please provide copies of the correspondence.

b) You provide a general description of the type of forums in which various complainants have participated and where discussions of issues raised in this complaint may have been raised. You suggest that these forums are a matter of public record. Other than Commission proceedings, please provide a list of all forums in the last five years at which any of the complainants have raised the subjects of this complaint. For each, provide copies of any agendas, minutes, presentations, etc. or provide citations to such documents and provide the names of complainants and postal officials in attendance.

c) Please provide a list of any private meetings any complainant may have had with postal officials in the last five years during which issues raised in this complaint were discussed – even if the issues were not raised as a formal complaint, but perhaps raised as a matter of rate design or product redesign. For each meeting, provide the date, people in attendance, the issues discussed relevant to this complaint, any agreements or understandings reached – including agreements to study issues or continue to discuss issues. If the meetings generated written documents relevant to the issues in this complaint, provide copies of the documents.

RESPONSE

a) Your question asks about "any written communications from or to Postal Service officials concerning subjects raised in this complaint" (emphasis supplied). That formulation could be construed so broadly as to take in virtually every aspect of Periodicals rates and classifications, costing methodology, and rate design, and as to extend indefinitely into the past. So construed, it might encompass, for example, nearly every communication between Time Inc. management and Postal Service management since the passage of Reorganization in 1970.
Institutional Response of Time Warner Inc. et al. to APWU/TW et al.-T1-4

For the purposes of this response, we will construe your question as seeking information about "correspondence or written communications between the complainant[s] . . . and the Postal Service . . . which relate to the subject matter of the complaint" within the meaning of section 83(c) of the rules of practice, and we will assume that the term "subject matter of the complaint" in rule 83(c) includes both the jurisdictional basis for this proceeding--i.e., the failures of the current rates, adopted in R2001-1, to adequately conform to the policies of the Act, such that Commission jurisdiction over this complaint lies under § 3662 of the Act-- and the substantive gravaman of the complaint--i.e., the position that what has been variously described as "cost-based rates," "bottom-up pricing," a "rate grid," or "cost-based rate incentives for more efficient mailer practices" are necessary to the achievement of the fundamental objectives and policies of the Act.

So construed, the answer to subpart a) is that none of the complainants has had any such written communications or correspondence.

b) Your question asks about "forums in the last five years at which any of the complainants have raised the subjects of this complaint." For purposes of this answer, we will construe the words "the subjects of this complaint" as synonymous with the words "subjects raised in this complaint" in subpart a).

Yet that limitation by itself is insufficient to bring subpart b) within a manageable compass. For example, Time Warner's testimony and briefs in every omnibus postal rate case since at least Docket No. R87-1 have expressed essentially the same general views as are expressed in the complaint concerning the need for cost-based rates to provide mailers with incentives for more efficient mailing practices. Mr. O'Brien is the Director of
Institutional Response of Time Warner Inc. et al. to APWU/TW et al. -T1-4

Distribution and Postal Affairs for Time Incorporated. His advocacy of "cost-based rates," "bottom-up pricing," a "rate grid," "rate incentives for more efficient mailing practices," etc., is probably what he is most identified with in the mailing community. He has espoused that position on Time Warner's behalf in formal written and oral testimony to this Commission and to the President's Commission on the Postal Service. But he has also espoused it informally many times and in various settings over the past several years, during which time he has served as a member of the joint USPS/Industry Periodicals Operations Review Team and the MTAC (Mailers Technical Advisory Committee) Package Integrity Task Force, as Chairman of the Postal Committee for the Magazine Publishers of America, and as Chairman of the Postal Policy Committee and a member of the Executive Committee and Board of Directors of PostCom, and has "visited numerous printing plants, lettershops, freight forwarders and consolidators, U.S. Postal Service facilities, foreign posts, and Postal Service competitors, such as Federal Express."2

We have therefore construed subpart b) as requesting information regarding either formal or substantial statements by complainants in forums where Postal Service personnel were present rather than as extending to all casual or impromptu comments or discussions that may have occurred in public forums where Postal Service personnel may have been present.


Institutional Response of Time Warner Inc. et al. to APWU/TW et al.-T1-4

The following statements come within the terms of subpart b), so construed and limited:

- Meeting at USPS Headquarters, "Product Redesign--Cost Based Rates," June 25, 2003. James R. O'Brien gave one of several presentations on "Examples of How Cost Based Rates Might Work" and was on a discussion panel on "Periodicals Class Issues." Also present were Nick Baranca, Don O'Hara, and Cheryl Beller of the U.S. Postal Service. The agenda for the meeting is Attachment A to this response.


c) Your question asks about meetings "during which issues raised in this complaint were discussed." For the purpose of this response, we construe the words "issues raised in this complaint" as synonymous with the words "subjects raised in this complaint" in subpart a). So construed, the following meetings come within the terms of subpart c):

- James R. O'Brien of Time Warner had two meetings with Postmaster General Potter, on December 3 and 17, 2003. At both meetings, Mr. O'Brien and Mr. Potter were the only people in attendance.

On December 3, Mr. O'Brien informed Mr. Potter that Time Warner Inc. (Time Warner) was considering filing a complaint case concerning Periodicals rates, briefly outlined the logic behind the case, and
Institutional Response of Time Warner Inc. et al. to APWU/TW et al.-T1-4

indicated that Time Warner had not yet made a final decision on whether to file the complaint. The meeting was intended as a professional courtesy to the Postal Service.

On December 17, Mr. O’Brien informed Mr. Potter that Time Warner et al. had decided to file a complaint case regarding the Periodicals class rate structure. He indicated that the complaint was not intended as hostile toward the Postal Service but was being undertaken in the hope of controlling Periodicals class costs and providing the incentive for mailers to change their behavior. Mr. Potter replied that he appreciated being informed of the complainants’ intentions and that, while the Postal Service generally does not view complaints favorably, there was nothing that the Postal Service could do to stop the complainants from filing the complaint.

On December 17, 2003, Mr. O’Brien also had a meeting with Postal Service Chief Marketing Officer Anita Bizzotto. They were the only two people in attendance. Mr. O’Brien informed Ms. Bizzotto of the complainants’ intention to file a complaint case. Ms. Bizzotto reiterated Mr. Potter’s sentiments regarding the Postal Service’s general dislike for complaint cases and appreciation for being informed of the complainants’ intentions.

On December 16, 1998, James R. O’Brien met with Ashley Lyons, Douglas Madison, Donald O’Hara, and Altaf Tafique of the Postal Service. Mr. O’Brien presented the initial draft of an experimental Periodicals class rate structure that he referred to as a "rate grid" (Attachment B to this response). He expressed the view that such a
rate structure was necessary because the existing rates in many cases lacked a strong correlation to Postal Service costs. He gave as an example a carrier route bundle on a 5-digit pallet versus the same bundle on an SCF pallet, with both pallets being entered at the destination SCF. Although the two bundles would receive vastly different mail processing with significantly different associated costs, they both paid the same postage under the existing rate structure. Mr. O’Brien stated that the proposed rate grid would recognize these cost differences in the rate structure and provide the incentive for mailers to prepare more efficient mail. At the end of the meeting, the Postal Service representatives indicated that they would review the structure.
Meeting Agenda

10:30-10:45
USPS Vision: Nick Barranca

10:45-11:00
Meeting Goals and Ground Rules: Bob O'Brien

11:00-2:00 (Working Lunch)
Presentations/Examples of How Cost Based Rates Might Work:

Presenters: Jim O'Brien, Don O'Hara, Val Scansaroli, Joe Lubenow, Peter Moore
Discussion: All

10:30-10:45
initiatives/concepts that enable Cost Based Rate

• Co-palletization: Brad Nathan

• Co-mailing: Joe Schick

• Merging of Standard and Periodical flats: Joe Lubenow

2:30-3:00
Discussion of Standard Mail Issues:
  Leader: Anita Pursley

  Standard Mail Representatives: Martin Bernstein, Jerry Cerasale, Gene Del Polito, Nancy Fischman, Vince Giuliano, Brad Nathan, Joe Schick

• The State of the Class as seen by the Industry representatives

3:00-3:30
Discussion of Periodical Class Issues
  Leader: Val Scansaroli

  Periodicals Representatives: Rita Cohen, Joyce McGarvey, Jim O'Brien, David Schaefer, Howard Schwartz, David Straus

• The State of the Class as seen by the Industry representatives

3:30-4:00
Wrap-up and Next Steps
<table>
<thead>
<tr>
<th>PIECE</th>
<th>BUNDLE TYPE</th>
<th>CONTAINER</th>
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**NOTE:** All piece rates are subject to the existing editorial piece discount format for advertising and editorial weight remains the same as today.
Institutional Response of Time Warner Inc. et al. to APWU/TW et al.-T1-5

APWU/TW et al.-T1-5. Please refer to your answer to APWU/TW et al.-T1-1. §3001.82 states that only complaints which raise an issue concerning whether or not rates or services contravene the policies of the Act shall be entertained in a complaint docket. Is it your testimony that current rates contravene the policies of the Act? Does your testimony fully describe all the ways in which the complainants believe the current rates contravene the policies of the Act? If, as the complainants' rate design witness, you are unable to fully speak to this issue please refer the question to the person(s) who can.

RESPONSE

The ways in which complainants believe the current rates contravene the policies of the Act are stated in Docket No. C2004-1, Complaint Of Time Warner Inc., Condé Nast Publications, A Division Of Advance Magazine Publishers Inc., Newsweek, Inc., The Reader's Digest Association, Inc. and TV Guide Magazine Group, Inc., Concerning Periodicals Rates, filed January 12, 2004. The jurisdictional sufficiency of complainants' statement of issues was addressed in Commission Order No. 1399, Order on Periodicals Rate Complaint, March 26, 2004, at 11: "In the Commission's view, they have provided, throughout their extensive filing, a full and complete statement of their grounds, including specific reference to the postal rates involved and the policies to which it is claimed they do not conform."
should receive favorable consideration, although elsewhere in the same legislation Congress required that rates for other categories of mail not vary with distance.2

The absence of any necessary connection between the ECSI provision and the unzoned editorial rate is strongly reinforced by the conclusion of the court in Mail Order Ass'n. of America v. United States Postal Service, 2 F.3d 408, 436 (D.C. Cir. 1993) that § 3622(b)(8) provides no legal or policy justification for an unzoned editorial rate.

The educational, cultural, scientific, and informational value that periodical publications provide today is no less than when § 3622(b)(8) was enacted in 1976. That provision is still in effect, and ECSI remains a factor that the Commission must consider in the exercise of its ratemaking authority. The sentiment of Congress regarding this policy has not changed and is reiterated in the postal reform legislation that is currently moving through both houses (S 2468 and HR 4341). It is obvious that Congress does not intend to alter the policy of recognizing the ECSI value of Periodicals class mail when setting postal rates.

We agree with the past and present judgment of Congress that Periodicals class mail should receive a rate preference in recognition of its educational, cultural, scientific, and informational value. The rates and the classification structure we propose would not diminish the recognition that the Commission has accorded to the ECSI value of Periodicals and, in fact, recognizes ECSI through both a per-piece and a per-pound discount for editorial content. Clearly, our proposal reflects a belief that ECSI remains an appropriate factor to be considered in the establishment of Periodicals class rates.

2 E.g., 39 U.S.C § 3683 ("Uniform rate for books; films; other materials"); and § 3623(d) (requiring "one or more classes of mail for the transmission of letters sealed against inspection," and that "the rate for each such class shall be uniform throughout the United States").
CHAIRMAN OMAS: There being no further business today, this hearing is adjourned. Thank you for your consideration.

(Whereupon, at 12:32 p.m., the hearing was adjourned.)
REPORTER'S CERTIFICATE

DOCKET NO.: C2004-1
CASE TITLE: Complaint of Time Warner, Inc., et al.
HEARING DATE: July 13, 2004
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Postal Rate Commission.

Date: July 13, 2004

Mason Edwards
Official Reporter
Heritage Reporting Corporation
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Washington, D.C. 20005-4018