

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Rate and Service Changes To Implement)
Functionally Equivalent Negotiated Service) Docket No. MC2004-3
Agreement With Bank One Corporation)

**AMERICAN BANKERS ASSOCIATION REPLY COMMENTS
ON LIMITATION OF ISSUES AND RESPONSE TO
REQUESTS FOR HEARING
(August 5, 2004)**

In accordance with Presiding Officer's Ruling No. MC2004-3/1, American Bankers Association ("ABA") submits these reply comments on the limitation of issues and requests for a hearing in this proceeding. These comments respond to comments submitted on July 29, 2004, by Bank One Corporation ("Bank One"), Valpak Direct Marketing Systems, Inc., Valpak Dealers Association, Inc. (collectively "Valpak"), Office of Consumer Advocate ("OCA"), and the Postal Service.

1. ABA supports the procedural mechanism established by the Commission for functionally equivalent NSAs, and supports the specific NSAs proposed in this case and Docket No. MC2004-4. Functionally equivalent NSAs are crucial to allowing smaller mailers to share in the benefits of NSAs. For NSAs to become a practical option for smaller mailers, however, the NSA approval process must be expeditious and economical. ABA thus concurs in the comments of the Postal Service and Bank One of the dangers of unnecessary hearings in functionally equivalent NSA cases. Unnecessary hearings, by

increasing the out-of-pocket and opportunity costs of obtaining an NSA, would make it more difficult for competitors of the mailer involved in the baseline NSA to obtain an NSA of their own. In the banking industry, NSAs may become out of reach for all but the largest firms. Accordingly, the Commission should exercise caution in evaluating the requests for a hearing in this proceeding.

2. OCA and Valpak have expressed concern about the recent merger between Bank One and J.P. Morgan Chase. Mergers, however, are a fact of life in the financial services industry and will be for the foreseeable future. For example, Bank One and J.P. Morgan Chase each has its own history of successful mergers. When the Postal Service and Bank One were negotiating the terms of this NSA, they were aware of the possibility of a merger, and specifically addressed the issue in the agreement that they have submitted to the Commission. The merger provisions of the agreement were designed to prevent merger-driven volume growth from qualifying for additional discounts, and are adequate to ensure that the merger will not cause adverse financial effects to the Postal Service.

3. OCA and Valpak have also expressed concern about the absence of a cap on the total discounts that Bank One may earn under the NSA. The submissions of Bank One and the Postal Service have clearly established that such a cap is unnecessary in this case, and that the terms of the proposal will not result in financial harm to the Postal Service. The Commission has not ruled, and should not rule, that a discount cap—particularly one based savings in mail return costs—is a required part of any NSA. The greatest benefit offered by

NSAs to the Postal Service is the opportunity to encourage mailers to make dramatic increases in their volumes of high-contribution First-Class Mail. For mailers that currently rely primarily on Standard Mail (which the Postal Service is not required to forward if undeliverable), the potential savings from electronic forwarding are, by definition, limited or nonexistent. A rule that limited overall NSA discounts to the aggregate of such cost savings—or any other requirement that discouraged large increases in First-Class Mail volume—would kill the goose that could lay the golden egg.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I have this date served the foregoing document in accordance with the rules of practice.

Irving D. Warden

August 5, 2004