

NNA-T-1

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20266-0001

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

Docket No.C2004-1

TESTIMONY OF MAX HEATH, VICE PRESIDENT
LANDMARK COMMUNITY NEWSPAPERS, INC.
(NNA T-1)

Respectfully Submitted,



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1 **AUTOBIOGRAPHICAL SKETCH**

2 My name is Max Heath. I am vice president for Landmark Community
3 Newspapers, Inc. (LCNI), Shelbyville, KY, a division of Landmark
4 Communications, Norfolk, VA. I am responsible for circulation development and
5 postal issues. I am also involved with acquisitions, public relations and press
6 association activities. LCNI has 53 weekly and daily newspapers in 13 states
7 with 329,000 paid circulation, 478,000 free newspaper and shopper circulation,
8 and 384,000 free special publication circulation. We also have eight college
9 sports publications with 65,000 circulation in Periodicals mail.

10 I also am chairman of the National Newspaper Association (NNA) Postal
11 Committee, and have served in that capacity for 18 years. I am its representative
12 on the Mailers Technical Advisory Committee (MTAC), and, in that role, have
13 served on a variety of service improvement and cost reduction teams within
14 MTAC, focusing upon the Postal Service's ongoing problems in meeting the
15 needs of Periodicals mailers. I also represent newspapers on the Periodicals
16 Operations Advisory Committee (POAC), which closely examines problems with
17 flats processing and other issues directly affecting newspapers in the mail. I have
18 served on a variety of work groups on flats automation, package integrity,
19 Product Redesign, and ePubwatch.

20 I am the community newspaper industry's principal trainer on the use of
21 postal services and understanding mail preparation and requirements. I conduct
22 6-8 seminars and workshops each year within the industry and serve informally
23 as a consultant to NNA members and newspaper groups with postal problems.

24 I appeared before this commission in the omnibus rate cases of R97-1
25 and R2000-1.

26 The primary purpose of my testimony today is to enlighten the
27 Commission's record on why newspapers use sacks, how and why they prepare
28 Periodicals mail as they do, and how the rates proposed in this docket would
29 affect small newspapers. My focus is principally upon the newspaper practices
30 with which I am familiar through my NNA work, as well as with my own
31 company's newspapers.

1 **Direct Testimony of Max Heath**

2
3 **I. Newspapers Use Sacks Because They Must.**

4 **A. The Postal Service formally provides no alternative to the sack for small**
5 **volume mailers.**

6
7 The Postal Service requires newspapers to be prepared under the standards set
8 out in the Domestic Mail Manual Section M210. That section states:

9
10 Packages of nonletter-sized pieces must be sacked or palletized under one of
11 the following:

- 12
13 (1) Sacked under 4.0, except that a Presorted rate mailing that is a
14 part of a mailing job that also contains an automation flats
15 mailing must be sacked under M910 or M920 as described in
16 1.2.
17 (2) Palletized under M041 and M045, M920, M930 or M940.

18
19 Section M041.5.3 requires pallets to contain at least 250 pounds of mail unless it
20 is mail entered for delivery at a destination delivery unit, or unless an SCF
21 manager gives permission for pallets with less than the minimum load, and the
22 pallet contains mail for that SCF service area.

23
24 Section M920, M930 and M940 permit Periodicals to co-palletize mail if a
25 periodicals mail can be merged with the mail of another publication to achieve
26 the Postal Service's requirements.

27
28 If a Periodical is unable to palletize under any of the foregoing sections, sacks
29 are the only container officially permitted.

30

1 Newspaper mail is typically centered upon a county or a portion of an SCF zone
2 where the newspaper's retail trade zone is located. In a typical community
3 newspaper like that represented by NNA, 70 to 80 percent of the mail is destined
4 for these two close-in mailing zones. The remainder will be destined for readers
5 outside the retail trade zone, to people who have moved away, are temporarily
6 away or have ties to the local area for some reason. A description of those out of
7 town readers is contained in the testimony of R. Douglas Crews, NNA T-2.

8
9 There are ongoing discussions within USPS, to which I refer later in my
10 testimony, as well as some informal experimental programs of which I am aware,
11 that permit alternatives to sacks. And I believe further alternatives are possible.
12 However, the rules require sacks today, so that is what publishers generally use.

13
14 Sacks may not be the most desirable of containers, either from the Postal
15 Service's viewpoint or the mailers. The plastic sacks in use today draw some
16 criticism from mail handlers within our industry. They have a tendency to produce
17 plastic splinters, which can be painful to the mailhandler. Brown sacks are
18 difficult to obtain, and the good canvas ones are becoming rare as USPS moves
19 into the cheap plastic sacks. These cheap sacks are hard to stack, because they
20 are slick. The sack tag holders break and separate and are missing when the
21 sacks are shipped. So sacks are not very popular with publishers. Publishers do
22 not use these containers because they wish to, but rather because they must.

23
24 **B. Small volume sacks have become essential for decent service.**

25
26 I testified before the Commission in R97-1 and R2000-1 about severe problems
27 with periodicals service, particularly in outlying zones.

28
29 In R97-1, I addressed changes in sortation requirements from the reclassification
30 case MC96-1 that had created serious deterioration in service for newspapers
31 when newspapers were first forced into the ADC and mixed ADC sorting

1 scheme. That new requirement changed sacking requirements to the SCF that
2 removed the SCF package, and instituted other new procedures that, I believe,
3 led to a chronic problem with poor delivery. The changes caused my postal-
4 consultancy telephone to ring off the hook with complaints about lost subscribers
5 and ineffective Postal Service response to complaints.

6
7 In R2000-1, the situation had not markedly improved and I reiterated the
8 objections to such poor service. I took issue with the Postal Service's witnesses'
9 claims that new publisher expectations for service were leading to rising costs for
10 periodicals.

11
12 I said in that case:

13
14 I have worked with newspapers in the mailstream since 1985.
15 During that time, our expectations for the Postal Service to achieve
16 service standards have been unchanged. We are not asking for
17 miraculous delivery, or heroic efforts, or for facilities to be disrupted
18 if we miss our entry times. All we have ever asked for is the
19 meeting of the service standards. No reader should receive the
20 paper a week late. No reader should receive two or three issues in
21 a clump. No reader should have to forego the opportunity to keep
22 up with the hometown news just because she goes to Florida to
23 escape the snow in Indiana. But all of that has happened
24 repeatedly during my years of NNA and MTAC. Service
25 Direct Testimony of Max Heath, NNA T-1, Docket R97-1, at p. 21.

26
27 Of course, the Postal Service has consistently said it does not ascribe to an
28 official service standard for Periodicals mail. But Service Standards for FY 2004
29 Q1 from USPS on CD-Rom show expectations for mail processing that assume
30 delivery of newspapers to any point in the country should take no longer than
31 seven days, and delivery time should be one day in a paper's market area.

1 Periodicals mailers have been pressing for some time for published standards
2 and regular measurements, like the system USPS uses for EXFC (First –Class
3 letter box mail) which applies to fewer and fewer mailers or recipients as the mail
4 mix shifts. USPS has resisted doing so. But it does cite at least an expectation
5 when pressed for a “standard.” Regardless of whether the “standard” is three
6 days, four days or seven days, USPS has seemed unable to consistently meet
7 an expectation, and often still delivers newspapers in clumps as processing
8 plants fail to deal efficiently with sacked mail. One reason may be that sack
9 sorting machines are being taken out of most plants, forcing sack handling into
10 costly manual handling.

11
12 Since those two rate cases in which I have testified, the problems with service
13 outside the county have not improved very much, if at all. Rather, it continues to
14 be poor. I get fewer complaint calls, but when I speak directly with publishers
15 during my seminars and workshops, I learn that is because many of them have
16 given up on improving the situation, and continue to lose subscribers as they give
17 up as well.

18
19 However, some publishers have achieved the service promised by the Postal
20 Service by carefully packaging and sacking their mail to try to move these copies
21 as directly to their destination as possible. Often it is the local postmaster who
22 has been working with them on improving service who suggests the changes
23 they need to make.

24
25 Sacks for Periodicals require 24 pieces when sorted to the 5-digit, 3-digit, SCF or
26 ADC level. Bundles require six pieces, and sacks are allowed with one 6-piece
27 bundle.

28
29 However, an NNA-requested exception is allowed under DMM Section M210.1.5
30 when a publisher determines that preparation of smaller bundles or sacks from
31 one to six pieces improves service, provided the smaller bundles are placed in 5-

1 digit, 3-digit or SCF sacks. Newspapers like to use 5-digit sacks when at all
2 possible for their longer distance mail because of this exception. This has led to
3 the use of containers that have become known as “skin sacks.” Newspapers are
4 often told by postmasters to use these low-volume sacks after other efforts to
5 improve service have failed.

6
7 “Skin sacks” have turned out to be a big help in getting, not better service, but
8 minimum service at the service expectation set out by the Postal Service. When
9 mail is forced out of the skin sacks and into larger volume sacks, sortations are
10 then forced upstream to 3-digit or ADC levels, and service suffers. Newspapers
11 would be happy to prepare larger, fewer sacks, if the Postal Service could
12 achieve the delivery it promises with those larger sacks.

13 14 **C. Pallets are not available for newspapers**

15
16 Pallets may be preferred by the Postal Service and by the complainants in this
17 case. But there are numerous problems for newspapers in using them.

18
19 First, as I noted above, DMM M041.5.3 requires a minimum of 250 pounds per
20 destination, except to the DDU or SCF service area (the latter only with written
21 permission). Most newspapers do not have 250 pounds of SCF mail.

22
23 The typical NNA member newspaper is a weekly with about 3,500 circulation. If
24 it is safe to assume that only about a fourth of that mail, at the maximum, goes
25 outside the trade zone, the outside county mail might be around 750 pieces. In
26 order to meet a single pallet’s minimum weight, each copy would need to be
27 between 5 and 6 ounces. But that would be an extremely rare and unique
28 community newspaper. Particularly because most save postage by not including
29 their inserts in copies going outside the retail trade zone, a typical mailed
30 community paper probably is closer to 3 to 4 ounces.

31

1 Second, pallets require machinery. Human beings don't haul pallets around.
2 Forklifts are required to move them. Many community newspapers do not own
3 forklifts. And more importantly, many small post offices do not own forklifts
4 either—and do not have the room to stack pallets even if they did have the
5 equipment. Most rural post offices cannot accept mail on pallets, plain and
6 simple.

7
8 Finally, newspapers typically use different mail processing software than the
9 large Periodicals publishers use. Some use off-the-shelf software. Some use
10 Interlink CM2, a low cost PAVE-certified provider popular in the industry. Others
11 use software essentially created for bulk mailers, because it is inexpensive. But
12 none of these programs contain modules for calculating pallets. Palletization
13 software can be extremely costly to purchase, and may not be available at all in
14 modules that work with a newspaper's current software. Since newspapers are
15 generally ineligible to use pallets, few publishers have been concerned about this
16 problem. But if a requirement for pallets were ever instituted, USPS would need
17 to create an exception that would permit software approved for sack sortation to
18 be used, if it hoped to achieve any amount of compliance by small newspapers.
19 Since packages are the same, this is very feasible.

20

21

22 **II. Newspapers Would Prefer an Alternative**

23

24 As noted above, sacks are not very popular with publishers, and as the plastic
25 sacks gain greater usage, they become even less popular.

26

27 I have worked for several years to persuade USPS to permit alternatives to sacks
28 or pallets. It is clear to me that the former are becoming a *bête noire* in the
29 system, and the latter will not be usable for small volume mailers.

30

1 There have been numerous experiments with plastic tubs for newspaper mail.
2 One such experiment is noted in the testimony of NNA Witness Crews. I am also
3 aware of an experiment that resulted in Jackson, MS, SCF from a visit by this
4 Commission to Oxford, MS, when complaints about poor service were so
5 numerous and vociferous that the USPS plant manager in that area decided to
6 try to do something about the problem.

7
8 In these experiments, newspapers may place small bundles or even unbundled
9 loose newspapers prepared in proper sortation in the white, two-handled tubs
10 that are so ubiquitous within the system that I suspect every office has several.

11
12 These tubs do not seem to present the same problems with opening and
13 emptying that sacks have sometimes created. They are cheap, easy to handle
14 and easy to stack. They go right to FSM1000 flat-sorting machines.

15
16 There are other alternatives as well. I have had conversations with USPS Senior
17 Vice President for Operations John Rapp, in which he indicated that all
18 newspaper mail for delivery beyond the local area could be entered unsacked in
19 bundles at DDUs, and then placed into All Purpose Containers (APCs) with First-
20 class mail destined to the next SCF/ADC up the mailstream. I know of some
21 small newspapers and their post offices that already use these APCs in this
22 manner, simply dropping bundles of newspapers on a loading dock after hours
23 when the press run is complete, but the Destination Delivery Unit is not yet open.
24 Other newspapers are placed in canvas or plastic hampers, another type of
25 rolling stock used to transport mail between postal facilities.

26
27 Also, with the new APPS (Automated Package Processing System) bundle
28 sorting machines scheduled for deployment in 2005-2006, USPS will be even
29 better prepared to handle bundles, without either sacks or pallets. In that
30 situation, a bundle could arrive at an ADC in an APC, be rolled directly to the

1 APPS machine and sent on to its next destination in whatever container that
2 ADC is using for its next shipments.

3
4 Thus, there is light at the end of this tunnel. But we are not there yet, and once
5 we find the optimal solution, it may take 12 to 18 months for an industry like ours,
6 with its small companies and constant publications deadlines, to make the shift.
7 But I do believe we are looking at some promising alternatives.

8
9 **III. The relief requested in this case would be devastating to small**
10 **newspapers over the short term.**

11
12 While I do believe better containers than sacks will come into use if USPS
13 decides to put some momentum behind forcing a change, it is clear that today,
14 newspapers are stuck with sacks until USPS has the will to liberalize its rules.

15
16 Witness Crews has looked at one newspaper's predicament.

17
18 I looked at several aspects of this proposal, and I find that its impact would be
19 severe. I want to be clear that the analytical tool provided by the complainants is
20 not a simple one to use. Because it is originally designed for use with mail.dat
21 files, I had to request an easier version from the Time Warner expert in order to
22 do any analysis. It was graciously supplied. I made a wholehearted effort over
23 two weekends to test the Landmark periodicals mail against the Time Warner
24 tool, and I must say I found the exercise frustrating and time-consuming. I am
25 considerably more deft at using postal rates and sortation schemes than the
26 average publisher, and I had a lot of trouble coming up with even a rough guess
27 for purposes of this testimony. So I did not ask any other NNA publishers to try
28 it. I think if periodicals rates get this complicated, we may see a considerable
29 exile from the mailstream.

30

1 That said, I did take a close look at some of the proposed rates advantages and
2 disadvantages. They do not cover within county rates, of course, and I have
3 some concern that these rates—which NNA considers essential to the survival of
4 community newspapers—are inevitably going to be affected if the proposed rates
5 are accepted. I looked only at outside county rates.

6
7 My "model" weekly with 573 copies and 564 addressed pieces outside the
8 county, *Cynthiana Democrat* (KY) would experience an increase on those pieces
9 under T-W proposal from \$209 to \$363, +\$154 or 74%, but only if automation
10 rates are retained. (As proposed, they couldn't be since most newspapers are not
11 AFSM100 compatible.) Under that scenario, with no auto, costs go up to \$389,
12 +\$180, or 86%. That's the impact of the proposal, to the best of my ability to
13 calculate it right, which I believe I did. Weight was .5425 lbs. at 45% paid
14 advertising. The weekly has 1,898 addressed pieces in-county, 1989 total in-
15 county.

16
17 Some NNA newspapers might benefit to some degree, if they have only within
18 county and carrier-routed, DDU-entered outside county mail. But newspapers
19 that would see the most harm would be:

- 20
- 21 • Newspapers that have significant snow-bird or seasonal
22 readership, and must hang onto readers as they come and go from
23 the community;
 - 24
 - 25 • Newspapers that depend upon long-distance readers, such as
26 those in aging communities where residents may have moved
27 away, but maintain ties to the community; college students, and
28
 - 29 • Newspapers that publish niche products in order to generate the
30 revenue that keeps the company alive. My own company publishes
31 eight college sports fan publications, in addition to community

1 newspapers, but NNA has members who publish antique traders,
2 hobby newsletters, children's magazines, Civil War buffs' journals
3 and other niche newspapers that may serve a regional or national
4 audience. While these may not be community newspapers by the
5 strictest definition, they serve a community of topical interest, and
6 the economics of community newspapering these days are
7 sufficiently challenging that I believe many companies are being
8 forced to stretch outside their traditions to survive with such
9 specialty publications. Clearly any of these publications would be
10 small, low-density periodicals whose mailing characteristics would
11 be like those of community newspapers out-of-town readership—
12 and hit hard by the proposed rates.

13
14 **IV. NNA is concerned about the precedent this case would set.**

15
16 Although my testimony is directed primarily toward the impact of the sack
17 charges proposed in this case, I have considerable concern about the posture of
18 this case. As NNA's Postal Committee chairman, its most frequent witness, and
19 advisor to the NNA directors, I must testify on the impact of this case, as
20 opposed to the rates proposed in this case.

21
22 Even if I believed the rates proposed here would be beneficial, I would have
23 concern about the manner in which they are being suggested. As a postal policy
24 expert with nearly 30 years of experience, it would worry me a great deal if a
25 group of large mailers could petition this Commission for a better deal any time it
26 decided it was unhappy.

27
28 NNA has noted numerous times for this Commission the extreme challenge a
29 small organization faces in appearing before it in cases like the one here. Since I
30 have been NNA's postal committee chairman, I have seen smaller publishers
31 and publishers' groups gradually fall off the edge of the platform of postal litigants

1 before this commission. I can remember, for example, when the Red Tag
2 Publishers' Association, the Small Business Legislative Council and the
3 Association of Paid Circulation Publications were all regular parties. One by one,
4 they have disappeared from these cases, and the Commission has consequently
5 been deprived of their input.

6
7 It is no small matter for an organization to participate in matters before this
8 Commission. Unlike the 1970s, when NNA first appeared, the cases have
9 become increasingly complex and time consuming. Matters of policy have given
10 way to sophisticated economic theory. The need to constantly monitor the
11 Commission's website, alone, generates quite a bit of expense—but litigation can
12 tie up an association's budget for a year or more.

13
14 Thus, the notion that the equivalent of a rate case could be established whenever
15 a well-resourced party decided to complain is chilling, to say the least. While I
16 would not wish to deny any party its due process, I also believe that this
17 Commission must be careful not to open the complaint docket to competing
18 theories of rate setting that should be instead proposed during the regular
19 intervenors' testimony in omnibus rate cases. The Commission's consideration
20 of this case must include, in my view, deliberation over the terms in which it will
21 allow a rate schedule to be hauled before the Commission by aggrieved mailers.
22 Rate stability is at issue, here, but from the perspective of a small mailer
23 association, also at issue is the possibility of litigating the smaller mailers into
24 silence.

25 26 **V. Conclusion**

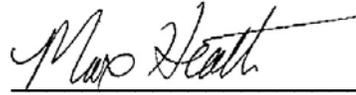
27
28 My testimony focuses primarily upon sacks because that proposed rate charge
29 probably hits our members the hardest of all the changes suggested by the
30 complainants. Other aspects may be of concern, as well, including bundle
31 charges, and the very question about reviewing rates in a complaint case.

1

2 The most critical aspect of this case for community newspapers, however, is
3 about the sacks. And I agree that eliminating sacks from the mailstream would be
4 a positive step for mailers and for the Postal Service. Today though, sacks are
5 indispensable because the alternatives are unworkable or unavailable. If this
6 case were brought in 2006 or 2007 when USPS presumably will have the APPS
7 machine in operation, and possibly will have developed the use of tubs or APCs,
8 complainants might have a legitimate concern that mailers had alternatives
9 available and simply were not using them. Today, that is clearly not the case.

DECLARATION

I, Max Heath, declare under penalty of perjury that the foregoing testimony is true and accurate to the best of my knowledge, information, and belief.

A handwritten signature in cursive script that reads "Max Heath". The signature is written in black ink and is positioned above a horizontal line.

Max Heath

September 9, 2004

Certificate of Service

I hereby certify that I have filed the foregoing document online in accordance with the Commission's Rules of Practice.



Tonda F. Rush
Counsel for National Newspaper
Association

September 9, 2004