

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-00001

POSTAL RATE AND FEE CHANGES

Docket No. R2005-1

**REPLY BRIEF
OF AMERICAN BUSINESS MEDIA AND
THE McGRAW-HILL COMPANIES, INC.
TO INITIAL BRIEF OF TIME WARNER INC.
(October 3, 2005)**

American Business Media (“ABM”) and The McGraw-Hill Companies, Inc. (“McGraw-Hill”) submit this brief reply to the Initial Brief of Time Warner Inc. (“Time Warner”) to the extent that Time Warner has chosen to address in this proceeding issues pending in Docket No. C2004-1, where Time Warner has proposed what its own witness characterized as “radical changes,” as opposed to “measured changes,” in the rate structure for outside-county Periodicals mail.¹

Time Warner acknowledges in its brief (at 9) that “[i]n this docket [R2005-1], the Postal Service has espoused a different [non-radical] approach to reducing Periodicals costs” -- one which should significantly help “reverse the long-term trend towards ever higher Periodicals costs.” Time Warner Br. at 2. Indeed, Time Warner recognizes that “[w]ith all of these changes” instituted by the Postal Service for Periodicals in this docket, including among other things imposition of a 24-piece sack minimum, allowing mixed-ADC pallets, allowing 100-pound pallets to be entered at destinating post offices,

¹ We note that notwithstanding our disagreements with Time Warner in that docket, which for some reason have now been carried over into this one, ABM, McGraw-Hill and Time Warner have each signed the settlement agreement in this proceeding and have joined in the two briefs filed by the Periodicals Coalition supporting the proposed settlement rates.

and providing mailers with other new ways to enter small volumes of Periodicals mail outside of sacks,

it is reasonable to expect that most Periodicals sacks, and the large costs caused by them, will soon disappear from postal facilities.

Id. at 5. The relatively high cost of sacks was a principal focus of Time Warner's proposal in Docket No. C2004-1 for radical de-averaging of outside-county Periodicals rates.

Time Warner nevertheless seizes an occasion in this rate case to proclaim that its proposal in Docket No. C2004-1 is somehow "more pressing than ever" because in Time Warner's view "there remain inefficiencies that can only be addressed by cost-based rates." Time Warner Br. at 2. Time Warner asserts in this regard (at 10) that due to "inefficiencies" such as a publication's weight or trim size, some Periodicals should incur a non-machinability surcharge. Time Warner also asserts on the one hand (at 9-10) that smaller Periodicals should incur higher rates to the extent they do not enter 5-digit pallets, even if they lack enough bundles for a given 5-digit zone to make up a large 5-digit pallet, and asserts on the other hand (at 10) that smaller Periodicals should incur higher rates to the extent they do not enter large pallets, even if they could not do so except (if at all) by entering less finely presorted (e.g., mixed-ADC) pallets.

However, in the absence widespread co-mailing and co-palletization opportunities for smaller Periodicals, only high-circulation/high-density Periodicals of the type published by Time Warner could avoid rate penalties under Time Warner's proposed rate structure by entering pallets that are *both* large *and* finely presorted.²

²Time Warner and other complainants in Docket No. C2004-1 have already been entering their Periodicals mail mostly on pallets for many years in order to save non-postal costs and improve

Accordingly, in previous mail classification proceedings involving Periodicals, the Commission has emphatically rejected unduly cost-based rates advocated by Time Warner. In Docket No. MC91-3, the Commission declared that “we cannot allow the policy of cost tracking – valuable and necessary as it is – to endanger the diversity of news, information and opinion which [the Periodicals class] helps promote,” and that it is therefore “necessary to balance carefully ... the apparently conflicting demands of cost tracking and editorial and informational diversity.” *Id.* ¶¶ 1017, 1024. In Docket No. MC95-1, the Commission observed that de-averaging of Periodicals rates could “make the formation of new periodicals more difficult by withholding the most favorable rates from publications which have not attained significant levels of market penetration,” and rejected “heavy emphasis on ‘changing mailers’ behavior’ and ‘driving costs from the system’ without full appreciation of the impact this may have” on the vast majority of Periodicals mailers. *Id.* ¶¶ 5132, 5134.

Further, the Commission expressed concern in MC95-1 that de-averaged bottom-up-cost-based rates – as opposed to the Commission’s longstanding approach of providing cost-based worksharing discounts from average-cost rates – would make it more difficult to assign a roughly equal contribution per piece to institutional costs and would tend over time to shift institutional costs unfairly to relatively smaller, higher-cost

service. Adoption of the proposed rate structure would therefore result in a windfall to complainants amounting to nearly \$60 million per year -- with no change in complainants’ mailing practices or savings to the Postal Service -- at the expense of smaller mailers who already pay much higher postage per piece and are unable to make major changes in their mailing practices. See Docket No. C2004-1, Tr. 6/1789-90 (McGarvey Ex. JM-1). The windfall would not result from superior “efficiency” of complainant mailers, but rather from the large size and high density of their mailings. Thus, when complainants make supplemental mailings, which are identical to their main file mailings except for the much smaller size of the supplemental mailing, their per piece postage typically more than doubles. See *id.*, Tr. 6/1693 (Bradford).

mailers, thereby sending *inefficient* price signals to larger, lower-cost mailers.³ This potential future effect was a factor in the Commission's rejection of rate de-averaging in MC95-1 notwithstanding that the specific de-averaged rates proposed in that proceeding may not have materially altered per piece contributions to institutional costs.⁴ The analysis by the Commission in MC95-1 is fully applicable in Docket No. C2004-1.

For the foregoing reasons and others presented by ABM and McGraw-Hill in Docket No. C2004-1, and particularly in view of the initiatives undertaken by the Postal Service in this Docket No. R2005-1 to foster conversion from sacks to pallets and otherwise reduce Periodicals costs, the Commission should reject the "radical changes" proposed by Time Warner in Docket No. C2004-1 and instead encourage continued studies of "measured changes" such as enhanced worksharing discounts from average-cost rates.

³ See Joint Initial Brief of American Business Media and The McGraw-Hill Companies, Inc., filed Dec. 23, 2004 in Docket No. C2004-1, at 16-21.

⁴ See *id.* at 20-21; Docket MC95-1, ¶2101. As the Commission noted, Postal Service witnesses had nevertheless indicated that more "efficient" mail would likely pay a lower percentage of institutional costs in the future. See *id.* ¶ 2129. Time Warner argued for that result in MC95-1 (see *id.* ¶ 5197), but denies that its witness Mitchell advocated a similar result in Docket No. C2004-1 even as an objective for the future (when the Periodicals class as a whole may pay more than its presently minimal share of institutional costs). See Reply Brief of Time Warner Inc., et al., filed January 10, 2005 in Docket No. C2004-1, at 4. However, in direct testimony ignored by Time Warner, witness Mitchell testified in C2004-1 (as Time Warner argued in MC95-1) that: "If the cost coverages on particular mailpieces were found to be substantially higher than the coverage for the subclass as a whole, or even if substantially lower, ... a case could be made for inquiry into whether the pieces are appropriately classified and rated." Tr. 3/848 (lines 17-21).

Respectfully submitted,

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