

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

STAMPED STATIONERY AND STAMPED CARDS
CLASSIFICATIONS

Docket No. MC2006-7

**REPLY BRIEF OF THE
UNITED STATES POSTAL SERVICE**

UNITED STATES POSTAL SERVICE

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INTRODUCTION

Initial Briefs were filed in this docket on May 4, 2007, by Douglas F. Carlson, David B. Popkin, and the Office of the Consumer Advocate, as well as by the Postal Service. For the reasons given below, the arguments raised by the other participants do not provide any record basis for the Commission to recommend their alternative proposals in place of the Postal Service's proposal.

I. THE PROPOSED CLASSIFICATIONS ARE APPROPRIATE AND SHOULD BE RECOMMENDED BY THE COMMISSION

Although Mr. Popkin makes no clear statement about it, he seems to take some exception to the appropriateness of the proposed classifications. Because the Postal Service issued decorated postal cards in the 1970s and sold international aerogrammes (for many years, but ending at 12:01 a.m. this morning) without an additional fee above the face value of the postage, Mr. Popkin apparently feels that the Postal Service should not now seek fees for PSS and PSCs.¹ This argument is without legal or factual merit.

Having found PSS to be a "postal service," the Commission established this docket to establish a classification for it. If the Commission had reason to believe that the Postal Service should not be providing this product at all, it presumably would have indicated that previously. Mr. Popkin's musings about how the Postal Service could do things differently—whether giving away cards and stationery for free, including separate stamps rather than imprinted postage, or selling PSS as single sheets rather than in

¹ Popkin Brief at 3-4. His argument ignores the fact that a fee has since been established for plain stamped postal cards.

packets²—do not in any way detract from the appropriateness of establishing a classification for this product, as it currently exists. The merits of doing so are fully supported on the record. Both the OCA and Mr. Carlson agree that classifications for PSS and PSC should be established as proposed by the Postal Service.³

II. THE PROPOSED FEES ARE APPROPRIATE AND SHOULD BE RECOMMENDED BY THE COMMISSION

All of the participants support the concept of a range of fees.⁴ They do not, however, support the mechanism proposed by the Postal Service for establishing the ranges based on multiples of the imprinted postage. Mr. Popkin argues that the range should be based on attributable costs.⁵ Mr. Carlson argues that the range should be calculated based on cost coverages from 150 to 250 percent.⁶ The OCA believes the ranges should be from 104.1 to 211.6 percent for PSS and from 134.2 to 211.6 percent for PSC.⁷

A. The Participants' Alternative Proposals Are Devoid of Record Support and Should Therefore Be Rejected Out of Hand

There is absolutely no record support for the participants' proposals. All participants had the opportunity to file testimony making alternative proposals, yet they chose to forgo that opportunity. By choosing to wait to make their proposals until the

² Popkin Brief at 3-5.

³ Carlson Brief at 3; OCA Brief at 5.

⁴ Popkin Brief at 2; Carlson Brief at 3-4, 6; OCA Brief at 1.

⁵ Popkin Brief at 5. He also argues at page 2 that the costs should be "known," but fails to acknowledge that not all the costs are indeed known and the difficulty of applying a markup in such a situation.

⁶ Carlson Brief at 6.

⁷ OCA Brief at 26. The breathtaking precision of these numbers is illusory, as discussed below.

briefing stage, they have effectively denied the Postal Service due process. The Postal Service has had no opportunity to conduct discovery on these proposals, to explore on the record their factual bases or lack thereof, their practical consequences, their financial effect, or their compliance with the applicable statutory criteria. The Postal Service had no opportunity to submit rebuttal testimony to the alternative proposals. They should therefore be rejected out of hand, and the Commission should base its recommendations on the Postal Service's proposal.⁸

B. The Participants' Alternative Proposals Lack Merit

The proposals not only lack record support, but the arguments attempting to support them lack merit on their face. There are several common flaws in their arguments. First and foremost is the failure to identify an appropriate cost base to which their cost coverages would be applied. Although his statements on the matter are unclear, Mr. Popkin seems to want the cost coverage applied to the costs of each issuance.⁹ Mr. Carlson is equally unclear, saying only that his recommended range of cost coverages should be applied to the "unit cost of the product." The OCA's proposal in this regard is clear, which also makes clear its flaws. The OCA's proposal uses past costs, averaging the costs of the two past PSS issuances to use as the cost base for future PSS issuances, and using *only one* of many PSC issuances as the cost base for all future PSC issuances. The OCA makes no attempt to roll these costs forward to the

⁸ The Postal Service considered filing a motion to strike portions of the participants' brief on this basis, but did not do so, given the short time frame for filing reply briefs, the desire to avoid unduly complicating this simple docket, and the confidence that the Commission will give these arguments appropriate weight: zero.

⁹ See Popkin Brief at 5.

future time period when future issuances will be priced. The OCA provides no explanation of why it is suddenly appropriate to design future prices based on a markup of past costs. The OCA takes no account of the differences in costs among past issuances or the reasons for them. The OCA's proposal fails to discuss the appropriate means to design fees that give proper pricing signals in light of the these types of variations in cost, which are often due to externalities unrelated to the product, such as printer workload. The OCA fails to explain why it rejected the Commission's suggested approach of using a flexible index, whether cost coverage or multiples of postage, and is instead asking the Commission to impose a range of fixed fees for these products.

A second major flaw in the participants' proposals is that they give undue weight to the limited cost data available for these products and ignore the record evidence explaining the inadequacy of the information for pricing purposes.¹⁰ Their proposals all are based on a presumption that the calculated cost coverages based on the available information are inappropriate simply because they are high in comparison to historical levels for traditional postal services. In addition to ignoring the idiosyncrasies of the available cost information,¹¹ their proposals ignore the countervailing presumption that a much larger than usual percentage of the total costs of PSS and PSC are institutional, relating to the research and design of these products, the need for negotiation with

¹⁰ See Postal Service Initial Brief at 7.

¹¹ Mr. Carlson notes at page 2 of his brief that the available "costs vary widely," but still proposes to price these products based directly on those costs, without any consideration from the perspective of the consumer of the resulting divergence in prices among apparently similarly products.

licensees for use of artwork, administration of the program, and other costs which are not tracked or attributed specifically to these products.¹²

This leads to the third flaw, which is the notion that the Commission ought to be constrained in its recommendation regarding these unique products by the levels of cost coverages underlying rates it has recommended in the past for traditional postal services. It would be arbitrary and contrary to the workings of the statutory pricing criteria to limit the cost coverage for PSS and PSC to those previously applied to Priority Mail, First-Class Mail letters, Nonprofit Enhanced Carrier Route Standard Mail, or any other subclass. Doing so would require the Commission to ignore or dismiss unrebutted evidence on the record concerning the important considerations that the Postal Service took into account in developing its proposal, as discussed in the Postal Service's Initial Brief. The participants' proposals ignore the significant differences between traditional postal services and the sale of a physical stationery *product*. They ignore the fact that PSS and PSC have near substitutes in the private market, and, from the point of view of the customer, are premium products, use of which is completely discretionary.

Despite the participants' attempts to color the use of a multiple of postage as an "arbitrary" pricing mechanism, this argument ignores the undisputed fact that the underlying reference point for these multiples are the prices that consumers willingly pay for comparable, discretionary, premium items in the private market. Nothing could be less arbitrary. In addition, the participants' proposals could result in prices for postal

¹² Mr. Carlson's argument that SFS selling costs (small as they might be) ought to be treated as institutional as well merely fortifies the Postal Service's argument in this regard, at least qualitatively. Quantitatively, given the small magnitude of selling costs, whether they are included or excluded from direct costs has almost no measurable effect on the calculated cost coverages. See OCA-T1-20-22.

products that undercut the prices for similar products in the private market, a sample of which is record evidence in this case.¹³ It is difficult to know whether the Postal Service is able to produce stationery products more cheaply than card or stationery firms in the private market. Given their expertise and the size of their operations, one would think that such firms would have a cost advantage. In that case, to the extent that the Postal Service has higher costs, but proposes to set its prices at levels similar to those in the private market, consumers of PSS and PSC are better off, so long as the Postal Service's costs are covered. On the other hand, assuming hypothetically that the Postal Service is able to take advantage of its monopoly position as stamp seller to obtain lower stationery production costs from its security printers, or because distribution or selling costs are subsumed into the costs of other services or the other costs of the Postal Service, care needs to be taken not to create a situation where private firms engaged in the production and sale of stationery and cards are disadvantaged by the Postal Service's status or market power in this regard. In either case, the recent cost coverages for First-Class Mail or Stamped Envelopes or any other suggested reference points do not provide a more appropriate guide for pricing PSS/PSC than the actual market prices for comparable products, which is the touchstone of the Postal Service's pricing structure.

The slavish application of past cost coverages applicable to other services is simply arbitrary. OCA argues that the appropriate cost coverage maximum for PSS and PSC is "the highest cost coverage permitted in Docket No. R2006-1 of 211.6 percent." No logic is put forth to support this choice, except that it was the highest cost coverage

¹³ USPS-T-1, Attachment A, PSSPSC-WP5; OCA/USPS-T1-1.

underlying rates that the Commission recommended in the last omnibus rate case, even though it had recommended higher cost coverages for other services in the past. The OCA cites no record support for this cost coverage and provides no specific discussion of why it believes this arbitrary assignment is consistent with the applicable statutory criteria for the products at issue.

Similarly, Mr. Carlson argues that his proposed maximum cost coverage is appropriate based on a comparison to Priority Mail.¹⁴ This is a competitive product which has no relation to Premium Stamped Stationery and Cards. There is no record evidence and no logical legal argument supporting this approach.

As Mr. Carlson concedes, the Act makes no mention of “cost coverage.”¹⁵ Indeed, it leaves it to the Commission to recommend prices which it believes make a reasonable assignment beyond attributable costs, in accordance with eight other criteria. Given the nature of this product, it is perfectly appropriate for, indeed it is incumbent upon, the Commission to make a determination in this regard that is specifically tailored to this unique product.

C. Philately Is Not a Pricing Criterion

“The elephant in the room is philately,” says Mr. Carlson.¹⁶ If there is an elephant in the room, it must be pink.

Mr. Carlson argues:

The Postal Service clearly sells stamped stationery and cards to provide a product for stamp collectors to buy. Without stamp collectors, the Postal Service would not make these stamped stationery products.¹⁷

¹⁴ Carlson Brief at 6.

¹⁵ Carlson Brief at 4.

¹⁶ Carlson Brief at 5.

He later refers to philatelists as the “primary target audience” for the Postal Service’s issuance of PSS and PSC.¹⁸ No record support is cited for any of these propositions; indeed, the record and Mr. Carlson’s own argument in Docket No. C2004-3 contradict his assertion. There he argued, and the Commission agreed, that “stamped stationery is intended to be mailed.”¹⁹ This finding was pivotal to the Commission’s conclusion that stamped stationery is a postal service, because it is “incidental to the receipt, transmission, and delivery by the Postal Service of correspondence...”²⁰

Mr. Carlson’s argument here apparently is that the Commission should take account of the fact that philatelists have no alternatives for buying stamps. This argument is irrelevant. Mr. Carlson’s logic would mean that the price of all postal services for which the Postal Service issues stamps should be moderated because people might wish to collect the stamps. There is no record or statutory basis for this argument.

D. “Blank Good, Decorated Bad”?

In an Orwellian effort to support its suppression of the fee for PSC, the OCA asserts that Premium Stamped Cards have less value than utilitarian Stamped Cards because there is less space for writing due to the decoration.²¹ This argument fails to account for the obvious fact—on display at the chain drugstore at any given corner—that consumers routinely pay many times more for decorated stationery, envelopes, and

¹⁷ *Id.*

¹⁸ Carlson Brief at 6.

¹⁹ See Order No. 1475 at 4.

²⁰ *Id.*

²¹ OCA Brief at 23-24.

cards, than they do for plain paper products, without regard to relative writing real estate.²²

In a similar vein, the OCA also argues that a utilitarian stamped envelope has more value than PSS because it consists of essentially the same “amount of paper” and is sealed on all four sides and doesn’t need to be folded by the consumer.²³ The OCA acknowledges the fact that PSS, unlike the utilitarian envelopes, includes writing paper, but, in a quick turnaround from its analysis of cards’ territorial expanse, inexplicably dismisses the value that PSS’s writing real estate provides. OCA’s argument also seems to take little heed of the value of the artwork. The anaesthetic view that the value of the art to the customer is not entitled to any special consideration in pricing the product²⁴ is inconsistent with the products’ *raison d’être*.

²² So rare is the person who decorates their own writing paper and envelopes that it is newsworthy. *This Mom Pushes The Envelope: With a Flourish, She Keeps Those Cards and Letters Coming*, By Chloe Kaplan, Special to The Washington Post, Monday, May 7, 2007, Page C08 (<http://www.washingtonpost.com/wpdyn/content/article/2007/05/06/AR2007050600962.html>).

²³ See OCA Brief at 16-17.

²⁴ “The cost of the production of the stationery and the printing of the artistic image are accounted for in the production costs which are then marked up.” OCA Brief at 16.

CONCLUSION

The participants' inapt and untimely proposals have no record support and are inconsistent with the nature of the Premium Stamped Stationery and Cards products. The Commission should recommend the Postal Service's proposal. Under this proposal, each product will have an easily calculated range of fees, which will adjust automatically with future increases in the postage rates applicable to the products. The Postal Service's proposed price ranges reflect the value that consumers actually place on comparable products. The proposed fee ranges cover the known costs of PSS and PSC, and legitimately make a very high contribution to the other costs of the Postal Service, which include the unidentifiable direct costs of the PSS/PSC product.

Respectfully submitted,

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