

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

SERVICE STANDARDS AND)
PERFORMANCE MEASUREMENT FOR)
MARKET DOMINANT PRODUCTS)
)

Docket No. PI2007-1

**REPLY COMMENTS OF THE MCGRAW-HILL COMPANIES, INC.
PURSUANT TO ORDER NO. 21**

The McGraw-Hill Companies, Inc. ("McGraw-Hill") hereby replies to comments filed by other parties on July 16, 2007 in response to the Commission's Notice of Request for Comments on Modern Service Standards and Performance Measurement for Market Dominant Products (Order No. 21) (filed June 13, 2007).

McGraw-Hill publishes some 80 diverse Periodicals in fields such as business, finance, aviation, and construction. The wide range of McGraw-Hill's publications in terms of frequency of publication and mailed circulation, which determines the feasibility of presorting, palletizing, and drop-shipping a publication, in many ways reflects the characteristics of the Periodicals class as a whole. McGraw-Hill's largest-circulation publication, *BusinessWeek*, has nearly one million subscribers, and accordingly is more than 98% palletized and mostly presorted to the carrier route level and drop-shipped to the destination-SCF. McGraw-Hill smallest-circulation publications have only a handful

of subscribers, and thus are not highly presorted, palletized, or drop-shipped. McGraw-Hill is therefore sensitive to the needs of both larger-circulation and smaller-circulation publications.¹

As a publisher of 10 weekly magazines and over 50 daily bulletins, McGraw-Hill has a vested interest in maintaining and improving service standards and performance for Periodicals mail. McGraw-Hill has participated with other Periodicals mailers and their associations, in collaboration with the Postal Service, in the Periodicals subgroup of the Mailers Technical Advisory Committee (MTAC) Workgroup 114, which is undertaking to address service standards and performance measurement for Periodicals mail in accordance with the Postal Accountability and Enhancement Act (PAEA). This is a valuable ongoing collaboration, and McGraw-Hill reserves any final positions until that process has run its course. McGraw-Hill does, however, offer some reactions below to comments filed by other parties in this proceeding.

McGraw-Hill agrees in general with the comments submitted in this docket by the Magazine Publishers of America (MPA) and the National Newspaper Association (NNA). The existing service standards for Periodicals mail appear to be acceptable. The Postal Service should not be able, under PAEA, to unilaterally reduce general service standards (as opposed to aligning standards for specific 3-digit zip code pairs with postal network changes), whether by advancing “critical entry times” or otherwise. Measurement of service performance should be undertaken by the Postal Service itself, at least to the extent that the Intelligent Mail Barcode is eventually used, provided that

¹ McGraw-Hill is a member of both of the Magazine Publishers of America and American Business Media.

“end-to-end” service is adequately measured. However, any such “internal” measurement should be subject to regular audits by qualified external entities,² and will likely need to be preceded and/or supplemented by external “seeding”-based measurement services such as that provided by the Red Tag News Publications Association (of which McGraw-Hill is a member).³

McGraw-Hill further agrees with MPA and NNA that comprehensive and accurate measurement – along with frequent and transparent reporting – of service performance, both on an aggregate and disaggregated basis, may be at least as important as the service standards themselves.⁴ In this regard, McGraw-Hill joins other parties in calling for an internet-based real-time reporting system that provides access to both aggregate and disaggregated service performance data.⁵ As all of these parties point out, comprehensive measurement and transparent reporting of such service performance data may be at least as important as the service standards themselves because ready access to such data would allow mailers to adjust, both to avoid service problems and to take advantage of service opportunities. “If anything,” comprehensive measurement and transparent reporting are “more important” than service standards because “mailers

² See, e.g., comments filed by the Association for Postal Commerce (“Postcom”), at 4; comments filed by Bank of America, at 3; comments filed by DFS Service LLC, at 4 (suggesting audit by the Commission’s new Office of the Inspector General); comments filed by National Association of Presort Mailers, at 6.

³ McGraw-Hill agrees with NNA (see NNA comments at 15) that to the extent statistically rigorous data on service performance is not available for relatively small-volume mailstreams, the Commission can and should give appropriate weight to whatever evidence is available. See Postcom comments at 4; comments of Direct Marketing Association Nonprofit Federation, at 3-5. See also Docket No. R97-1, Op. & Rec. Dec., ¶¶ 5809-5810, 5819.

⁴ See MPA comments at 5-7; NNA comments at 7.

⁵ See Postcom comments at 4-5; Bank of America comments at 3.

rationally base their mail entry times and points on actual service, not on nominal service standards.”⁶

McGraw-Hill disagrees with Time Warner’s position that current service standards for Periodicals mail are inadequate, and should be based instead on the Time Warner-sponsored rate structure for Outside-County Periodicals, with an array of separate new service standards based on the containerization of a mailing (pallets vs. sacks), its entry point (drop-shipping), and the presort level of both containers and bundles.⁷ Rather, McGraw-Hill agrees with other parties that while a “new *measurement* system must account for these crucial differences,”⁸ the Commission should not embrace “*myriad sets of standards* within the class,” with an “ever-deepening basement for less finely prepared, rural, low density or small business mail.”⁹

Measurement and reporting of service performance that takes into account factors such as containerization, destination-entry, and presort levels may provide mailers with important information concerning the effect of such factors on service performance. Periodicals mailers could then weigh the service effects, as well as the rate effects (and mail preparation cost effects), of using pallets rather than sacks for

⁶ Comments of the National Postal Policy Council and American Bankers Association, at 3. See also comments of DFS Services LLC, at 2-3 (“a viable system of measurement is a prerequisite for establishing standards”).

⁷ Time Warner comments at 1-3.

⁸ Initial Comments of Major Mailers Association, at 1-2 (emphasis added). See also comments of the National Postal Policy Council and American Bankers Association, at 2 (“existing service standards ... would serve as an appropriate starting point, although greater recognition needs to be given to the effect of presorting, destination entry and containerization *on service performance*”) (emphasis added).

⁹ NNA comments at 4.

their mailings, and of undertaking deeper presortation and/or drop-shipping of their mailings, etc. To the extent that Periodicals mailers have feasible options in this regard (many smaller-circulation publications do not), such information could lead them to adjust their mailing practices accordingly.

However, there is no apparent need to establish myriad separate service standards for Periodicals mail based on presort levels, entry points, and containerization, and it would appear counter-productive to do so. Particularly given the recent de-averaging of Periodicals rates, to now also de-average the service standards for Periodicals mail, and make them dependent on presort levels and containerization, etc., may impose an unwarranted added burden on smaller-circulation publications that lack any practical ability to adapt. To lower service standards for smaller-circulation but widely-distributed publications would be tantamount to imposing an additional rate increase on them because they would stand to receive less valuable service despite the higher rates that they already pay.¹⁰ The fact that such publications have long paid much higher rates than larger-circulation publications,¹¹ and incurred substantially above-average rate increases in Docket No. R2006-1, should entitle them at least to expect service under the current standards, if not the superior service already received by larger-circulation publications (by virtue of their ability to finely presort, palletize, and drop-ship much of their mail).¹²

¹⁰ See Docket No. C2004-1, Tr. 6/1949 (McGraw-Hill witness Schaefer).

¹¹ See *id.*, Tr. 6/1925-1930 (McGraw-Hill witness Schaefer).

¹² While a number of parties have suggested in this docket that it costs the Postal Service more to provide better service, it generally costs the Postal Service considerably less to provide superior service to larger-circulation Periodicals mailers, as reflected in the relatively low rates paid by such mailers. Further, the

An analogous issue cutting across mail classes involves service standards, as well as measurement and improvement of service performance, for the so-called “tail of the mail”. A number of commenters focus not on lowering the service standards for such mail, but rather on measuring and remedying deficiencies in service performance.¹³ Another option for some mail classes or subclasses may be to establish a floor under the service standard, which appears tantamount to establishing a range of performance as the standard. However, such approach would not meet the needs of Periodicals mailers in view of the time-sensitivity of Periodicals mail.¹⁴ Only by maintaining high but achievable service standards will the Postal Service have an adequate incentive to meet the service needs of Periodicals mailers by maintaining and improving service performance.

In the event that the Postal Service were to fail persistently and substantially to meet service standards for a significant portion of a subclass, and failed to undertake adequate remedial action, the Commission has ample authority under PAEA to provide a remedy to affected mailers.¹⁵ One step the Commission can take in this regard is to

ability of such mailers to finely presort, palletize, and drop-ship their mail is essentially a function of their greater circulation density, and palletization of their mail (a practical necessity for drop-shipping) is substantially less expensive per-piece to prepare than using sacks. See Docket No. C2004-1, Tr. 6/1932-1933, 1941 (McGraw-Hill witness Schaefer). Smaller-circulation publications that are relegated to sacks not only incur higher preparation costs per piece, and higher postal rates, but may well receive substantially slower service than palletized mail -- all else being equal. See *id.*, Tr. 6/1947-1949. This is one reason – although not the only or most important reason – why McGraw-Hill has opposed recent proposals for major de-averaging of Periodicals costs and rates. See *id.*, Tr. 6/1945-1949.

¹³ See comments of American Postal Workers Union at 4; comments of National Postal Policy Council and American Bankers Association at 4; comments of Major Mailers Association at 3.

¹⁴ See Docket No. C2004-1, Tr. 6/1939-1942 (McGraw-Hill witness Schaefer).

¹⁵ Under 39 U.S.C. §3662(a), as enacted by PAEA, “[a]ny interested person” is entitled to lodge a service complaint with the Commission. McGraw-Hill concurs with other parties that only a persistent,

recognize that deficient service amounts to a rate increase,¹⁶ and to count that rate increase against the annual limitation on the average rate increase for the class under PAEA.¹⁷ Such remedy, unlike a fine,¹⁸ could potentially compensate the mailers affected by the service failure.

To bring that about – and to avoid any possibility that the mailers affected by the service failure could also be financially penalized – the Commission could also order appropriate rate adjustments.¹⁹ In the event of a cognizable service failure affecting smaller-circulation Periodicals mailers, for example, an appropriate rate adjustment might take the form of restraining cost pass-throughs in rates that would otherwise adversely impact such mailers. The burden of such rate adjustment would appropriately fall on the Postal Service, rather than larger-circulation mailers that might otherwise benefit from such pass-throughs, so long as the Commission also adjusted the classwide average rate cap as discussed above.

substantial, and widespread service failure should justify a service complaint proceeding before the Commission. However, the Commission should direct the Postal Service to maintain an internet-based system for inviting, facilitating, and cataloging complaints focusing on service to individual mailers, and making available to the public aggregate data in that regard (without necessarily identifying complainants), so that mailers may track any persistent, substantial, and widespread service failure.

¹⁶ If a consumer pays a particular price for a particular amount of service, but receives only half the service purchased and no refund, the obvious effect is to double the price for the service received.

¹⁷ See, e.g., Reply Comments of The McGraw-Hill Companies, Inc. Pursuant to Order No. 2, filed May 7, 2007, at 2 & n.3

¹⁸ A fine may also be an appropriate remedy (particularly if the Postal Service has retained earnings) in the presumably unlikely event of any “deliberate noncompliance” by the Postal Service with requirements under PAEA. 39 U.S.C. §3662(d). Either a fine or a downward rate adjustment could result in a diminution of the Postal Service’s retained earnings, but only the latter would inure to the benefit of those adversely affected by service deficiencies.

¹⁹ See 39 U.S.C. §3662(c); Reply Comments of The McGraw-Hill Companies, Inc. in Response to Supplemental Comments of the United States Postal Service on the Classification Process, filed July 6, 2007, at 5-6 (discussing broad Commission rulemaking authority under the *Chevron* case).

McGraw-Hill appreciates the opportunity to present these comments and respectfully requests that the Commission take them into consideration.

Respectfully submitted,

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