

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

COMPLAINT ON BOUND PRINTED MATTER

Docket No. C2008-2

STATEMENT OF POSITION OF THE UNITED STATES POSTAL SERVICE
(March 7, 2008)

Pursuant to Commission Order No. 61, the United States Postal Service hereby states its position on the complaint in accordance with 39 C.F.R. § 3001.84(b) and (c). The Postal Service does not believe that it is providing service that violates the policies of the Act. The Postal Service's actions about which the complainant complains do not constitute undue discrimination; rather they are rational efforts to function efficiently and economically, and to provide its various services through appropriate channels.

The complainant's underlying assumption that any postal customer should be able to obtain any postal service wherever and however he or she would prefer is untenable. The Domestic Mail Manual and other postal directives necessarily contain conditions on the availability of the various postal services.

The Postal Service's actions are consistent with the nature and history of this product and make reasonable distinctions among customers. Approximately 97 percent of Bound Printed Matter flats and parcels are sent by commercial mailers. Docket No. R2006-1, Tr. 18C/5851. Bound Printed Matter derives from the old "fourth-class catalog rate." Before Postal Reorganization, only matter consisting entirely of advertising could be mailed at this rate, an option available only to commercial mailers. After Postal Reorganization, this restriction was amended to allow any bound printed matter that

contained advertising to be mailed at the rate, and the subclass was renamed “Bound Printed Matter.” See PRC Op., MC73-1, at 59-62. (The change was intended to address the anomaly that “Yellow Pages” could be mailed at the catalog rate, while phone directories containing both “White Pages” and “Yellow Pages” could not, and had to be mailed as Parcel Post.) Regardless of this change, the subclass remained a commercial product for mailers of advertising. Both single-piece and bulk rates existed for the subclass, because not all commercial mailers could meet the bulk requirements, especially in the earlier days of presortation, and the single-piece rates are also available for smaller mailings that do not meet the presort minimums.

The change recommended by the Commission in Docket No. MC73-1 also resulted in book publishers’ being able to qualify for Bound Printed Matter by including “non-incidenta” advertising in their books. They increasingly did so over the years, to the extent they found it advantageous to pay zoned BPM rates, rather than unzoned “book” rates (special-rate fourth-class mail, now Media Mail). The Commission recommended removal of the advertising requirement in Docket No. R90-1. Its rationale for doing so was that “[i]t does not make economic sense to require publishers to include advertising in their books in order to qualify for these [BPM] rates.” PRC Op., R90-1, vol. 1, at V-375-76. The Commission also noted that this would provide an incentive for mailers to prepare their mail in a manner consistent with low-cost characteristics and to encourage dropshipping. *Id.* at V-376. The entire analysis was premised on the commercial nature of Bound Printed Matter. No part of the Commission’s rationale was based on adding BPM, a classification explicitly geared toward cataloguers and binders and printers, to the retail customer’s mailing options.

That was, however, an unintended effect. At that time, when retail transactions were less automated or completely manual, the “availability” of Bound Printed Matter at retail essentially depended on the knowledge of the customer or the clerk. In other words, the option came up rarely and only when specifically applicable. Thus, the BPM retail option did not have the potential to add time or complexity to every flat and parcel transaction at the window.

By contrast, while computerization has in many ways made retail transactions easier, it also meant that BPM could potentially appear as an option for every flat and parcel transaction. With respect to Automated Postal Center (APC) kiosks, management determined that inclusion of this option, which is rarely sought at retail, for which alternatives exist, and which requires verification of eligibility, would add needlessly to programming requirements (and costs) and lengthen and obfuscate automated transactions. Accordingly, BPM is not made available at APCs. Similarly, at the window, automatically showing BPM on a screen visible to customers who mail flats and parcels, the vast majority of which do not qualify for BPM, can generate questions about why that rate is not available. Complicated issues could also arise about the differences in qualifications between Media Mail and BPM. All of this can add unnecessary time and complexity to retail transactions. Removing BPM as an option offered at retail both streamlines parcel transactions at the window and reduces programming complexity. BPM retail transactions are so rare that in Docket No. R2006-1, the manager of Retail Operations testified that, in his many years of experience, he did not think he had ever seen a Bound Printed Matter piece accepted at the window. Tr. 3/388.

For those rare customers, such as the complainant, who wish to tender BPM pieces, the Postal Service kept open the option for retail associates to accept BPM pieces already stamped and prepared for mailing. Customers who inquire about BPM or seek to buy postage in order to prepare their pieces are served at the window as with any other inquiry or postage purchase.

In Docket No. R2006-1, the Postal Service explained these plans to the Commission.¹ The Commission expressed the opinion that a specific classification change would be necessary to effectuate them. The Commission also indicated in its Opinion that it was rejecting the Postal Service's proposal to change the name of the Single-Piece BPM rate category to Nonpresort BPM. PRC Op., R2006-1, at 391-92. The actual Recommended Decision, however, included the combined term "Single-Piece Nonpresort Rate Category." *Id.*, Appendix Two, page 68 (DMCS § 522.21).

The Governors, in their Decision generally approving the recommended rates and fees in that docket, stated as follows:

We do not agree with the Commission's view that this would constitute a classification change. We think it is within the Postal Service's authority to manage its sales channels. For instance, Bound Printed Matter is not offered through Automated Postal Centers or usps.com. The Postal Service's retail associates will continue to provide customers with information regarding Bound Printed Matter and will accept pre-stamped Bound Printed Matter. *The Postal Service will consider whether further classification changes are appropriate in the future.*

Governors' Decision on Docket No. R2006-1, at 19 (March 19, 2007) (emphasis added).

In light of this Complaint, as well as other anecdotal information regarding apparent confusion at the retail window between the limited availability of BPM and the

¹ See also the Postal Service's response to interrogatories DBP/USPS-220(a), DBP/USPS-227(c)-(e), and DBP/USPS-234. Tr. 18C/5851-52, 5860-61, 5869.

general availability of Media Mail, the Postal Service has determined that a further classification change is indeed in order and is seeking the Governors' approval of such a change. The Postal Service believes this change will moot the instant complaint by eliminating the alleged disparate effect on retail customers of current policy. The Postal Service will give the Commission notice of the establishment of the classification change (or lack thereof) in advance of its April 3 statutory deadline to begin proceedings or dismiss the complaint. Assuming that the modification is made, the Postal Service will explain why, in light of the change, the Commission should dismiss the complaint. The specific relief the complainant seeks is inconsistent with the nature and history of the product, with the Postal Service's reasonable management of its sales channels, and with the expected forthcoming modification of the product description.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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