

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

MODIFICATION OF MAIL CLASSIFICATION SCHEDULE DOCKET NO. MC2008-3
REGARDING BOUND PRINTED MATTER

INITIAL COMMENTS OF DAVID B. POPKIN

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Respectfully submitted,

PRCPI20081COMMENTS

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The following are my comments on the United States Postal Service's request to modify the Mail Classification Schedule to restrict the methods by which a mailer may utilize the postage rates which apply to the Bound Printed Matter ["BPM"] product.

PRESENT METHODS OF MAILING BPM

There are two general categories, namely, Flats and Parcels. For each of these two general product lines, there are three separate categories:

1, Nonpresorted rates. These may be utilized by anyone and the postage may be paid by any means including adhesive stamps, PC postage, APC stamps, PVI strips sold at a retail window, and postage meters. Any number of pieces may be mailed at any time and at any authorized mailing location including blue collection boxes.¹

¹ Blue collection boxes may be utilized for mailpieces which are over 13 ounces so long as the postage has been paid by a means that the sender may be identified such as APC stamps or postage meters.

2. Discount rates - "normal" Carrier Route and Presorted rates. These rates require a minimum of 300 identical weight pieces and must be presented at Business Mail Entry Unit. Postage is normally paid by a Permit Imprint.

3. Destination Entry mailings which are presented at the local Business Mail Entry Unit and then transported at the mailers expense to the destination facility. These rates also require a minimum of 300 identical weight pieces and postage is normally paid by a Permit Imprint. An annual Permit is required for mailing at this rate.²

PROPOSED METHOD OF MAILING BPM

There have been three separate iterations of the Postal Service's proposal. The latest which was filed just two days ago will allow for the same mailing procedures for methods two and three listed above.³

The Nonpresorted Rates may still be utilized for mailings as small as a single piece. The only change that will take place is that the postage must be paid by means of a Permit Imprint. Presently, a Permit Imprint requires a minimum of 200 identical weight⁴ pieces or a minimum weight of 50 pounds.

The filing made on April 7th indicates that the Postal Service will allow BPM Permit Imprint mailings to be made of single pieces, I would hope that this amendment to the DMM will be made in time for the new BPM rules should they be approved by the Commission.

OPTIONS AVAILABLE FOR MAILINGS OF INDIVIDUAL PIECES

² The fee is presently \$175 and will increase to \$180 on May 12th.

³ Discount Rates and Destination Entry methods.

⁴ DMM Section 604.5.1.8.

In addition to the expedited methods that are available to all mailers, namely First-Class Mail, Priority Mail, and Express Mail, there are two other possibilities for mailing articles that currently meet the eligibility requirements for BPM.

1. Media/Library Mail ⁵

In general, the main difference between Bound Printed Matter and Media Mail is that Bound Printed Matter may contain advertising while Media Mail is restricted to advertising that consists of incidental announcements of books.⁶ The minimum number of printed pages for Media Mail is limited to eight or more pages.⁷

2. Parcel Post

All articles eligible for Bound Printed Matter rates are also eligible for shipment as Parcel Post.⁸

RATE SHOCK CAUSED BY THE PROPOSED CHANGE

Those mailers who will be forced to utilize Parcel Post for those mailings that they will no longer be able to mail as Bound Printed Matter⁹ will suffer a severe Rate Shock. As can be seen on Tables 5 through 8, most of the rate cells will experience an increase in postage of between 100 and 200-percent. The highest increase will be for a 4-1/2 pound BPM flat which will experience a 202.2 percent increase or a rate which is over three times the BPM rate.

⁵ Media Mail and Library Mail have similar content eligibility. Library Mail may be utilized to mail articles either to and/or from certain categories of addressees [primarily non-profit types].

⁶ DMM Section 173.3.2.a

⁷ DMM Section 173.3.2.a

⁸ Some light weight BPM mailpieces may cost less to ship First-Class Mail instead of Parcel Post.

⁹ Either because they do not have a Permit Imprint account or because the mail will not qualify for mailing as Media Mail, primarily due to advertising. While all mailers are eligible to obtain a Permit Imprint account, the \$180 fee effective May 12, 2008, will, in most cases, make it economically infeasible to obtain. Also, the time and requirements to make a Permit Imprint mailing will be far less convenient for single piece mailers.

Tables 12 and 13 indicate the effect of the use of Media Mail over BPM in those instances where the mailing qualifies for mailing as Media Mail. An increase of as high as 60.2% exists. Since the BPM rates are Zone dependent, the higher zones will have a higher BPM rate than the unzoned Media Mail rates. These cells are indicated by a negative value.

METHOD OF MAKING A PERMIT IMPRINT MAILING

Based on a Permit Imprint mailing that I made last week, the procedure appears to be as follows:

1. The mail is brought to the Business Mail Entry Unit ["BMEU"] and the appropriate mailing forms are competed and the mailing is processed to determine the necessary balance that is required to be in the account.
2. A deposit is then made at the retail window to ensure the necessary balance will be in the account.
3. The mailing can then be processed at the BMEU.
4. The mail must be segregated from other mail to ensure that all Permit Imprint mail is processed and not dispatched prior to charging the account.

PRESENT METHOD OF MAILING NONPRESORTED BPM

Since the postage may be paid with adhesive stamps or a postage meter, the mailing may just be handed in over the retail window, the stamps cancelled, and the mail immediately placed into the Package Services mailstream.

COMPARISON OF THE PRESENT VS THE PROPOSED METHOD OF MAILING

There is no comparison between the present and proposed methods of processing nonpresorted BPM in the amount of processing time required. The time required for mailing hundreds and thousands of pieces can be justified, however, under the proposed method, the same time and costs would apply to the single mailing.

Since the rules for Permit Imprint mailings require that the mailings be of identical weight,¹⁰ a mailer who had a number of different weight BPM articles to mail would be required to make separate mailings for each of the articles.

Even those small BPM mailers who might possess a Permit Imprint account will be discouraged by the time and requirements to make a Permit Imprint mailing as opposed to the simple, but higher postage rate, Media Mail and/or Parcel Post.

NUMBER OF MAILERS AFFECTED BY THIS PROPOSAL

As indicated in the response to an R2006-1 Interrogatory, there would be many mailers who would be affected by this proposal and suffer the rate shock described above.

DFC/USPS-56. Please refer to the response to OCA/USPS-33. Please provide the volume of single-piece Bound Printed Matter for which the postage was paid using postage stamps or a PVI label.

RESPONSE:

For the most recent fiscal year, approximately 1,052,000 were paid with postage stamps and 3,599,000 with a PVI label.

This does not include the volume that was paid by other means such as postage meters, APC stamps, or PC postage.

USPS PRESENTATION

In spite of the effect that this ruling will have on the many mailings of nonpresorted BPM, the Postal Service fails to provide any justification for its request. Without even the barest of a justification on the part of the Postal Service, how can the mailers file meaningful comments and how can the Postal Regulatory Commission ensure that the Postal Service's request will be in the public interest?

¹⁰ DMM Section 604.5.1.8.

In Docket No. C2008-2 on page 2 of the **ADDENDUM TO STATEMENT OF POSITION OF THE UNITED STATES POSTAL SERVICE** dated March 20, 2008, the Postal Service states:

Media Mail service and other several other postal services remain available to retail customers who mail Bound Printed Matter material.

As noted above, this statement fails to indicate the differences in eligibility between Media Mail and Bound Printed Matter as well as the rate shock that would be experienced.

AVAILABILITY OF POSTAL SERVICES

With the possible exception of Periodicals, this will be the first time that a single piece rate will not be available to mailers for each of the categories that also have a discount "bulk" rate.

COMPLIANCE WITH 39 U.S.C. § 3642

The Commission's Notice indicates that the Postal Service's proposal must be in compliance with 39 U.S.C. § 3642. The Postal Service has not shown how its proposal will be in compliance with subsections (b)(3)(B) and (C). Without the ability for discovery, it must be noted that the Postal Service has the knowledge which will allow the Commission to make this determination.

Sec. 3642. New products and transfers of products between the market-dominant and competitive categories of mail`

(a) IN GENERAL- Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists. `

(b) CRITERIA- All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria: `

(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products. `

(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY- A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term `product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1). `

(3) ADDITIONAL CONSIDERATIONS- In making any decision under this section, due regard shall be given to-- `

(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved; `

(B) the views of those who use the product involved on the appropriateness of the proposed action; and `

(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

DISCRIMINATION

By limiting the method of postage payment to a Permit Imprint account, the Postal Service is discriminating against mailing with other forms of postage payment that are more efficient and less costly.

PROPOSED CHANGE IN REGULATIONS

If the Commission believes that the Postal Service has made its case, I would suggest that the eligibility for Media Mail be expanded to include all of the present criteria of Bound Printed Matter. This would lessen the rate shock that would be experienced by most of the mailers of nonpresorted BPM.

DISCUSSION

For the reasons stated above, I request that the Postal Service continue to provide the ability for mailers to ship at the Bound Printed Matter nonpresort rates regardless of the method by which the postage is paid.