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POSTAL RATE AND FEE CHANGES, 1997

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Docket No. R97-1

**OBJECTION OF AMERICAN BUSINESS PRESS TO USPS  
INTERROGATORIES USPS/ABP-T1-1-34 AND USPS/ABP-T3-1-34  
(February 2, 1998)**

Pursuant to Section 25(c) of the Commission's Rules of Practice and Procedure, the American Business Press hereby objects to interrogatories USPS/ABP-T1-1-34 and USPS/ABP-T3-1-34, propounded on January 22, 1998. As shown below, these interrogatories seek information that in substantial part does not exist (which would not, in and of itself give rise to an objection) and that, to the extent it exists, would be enormously burdensome to produce and is irrelevant to the issues in this case.

The Postal Service, apparently stung by criticisms of the results of its costing system, at least insofar as those results pertain to Periodicals, has asked each of the publishing interests that sponsored or co-sponsored testimony on the cost issue to produce staggering amounts of data for each magazine, newsletter or newspaper published for each of the past twelve years. The first twenty-three questions appear to request billing determinant data that can be found on mailing statements in the possession of the Postal Service and that the Postal Service collects and maintains on an aggregate basis for the class as a whole. The remainder of the questions seek information not found on mailing statements but developed (such as in sack reports) for individual mailings and typically discarded by the mailer.

In part because ABP *supports* the rate request for Periodicals, and in part because it did not see the relevance in these requests, counsel for ABP followed the Commission's request that parties endeavor to work out discovery disputes informally. We were advised that the Postal Service deems the requested information to be relevant to an effort to demonstrate the possibility that changes in periodical mailer behavior and mail characteristics over the past twelve years might explain some of the otherwise unexplained cost increases for Periodicals.

Although ABP concedes that the data requested, *if it were available and if it were representative of the class as a whole*, might be relevant to such a Postal Service defense, we submit that the study by discovery that the Postal Service undertook on January 22 is years too late and cannot be accomplished within the brief discovery period of a litigated rate case. In any event, however, the limitations on data availability and the lack of representativeness of such data as might with unlimited effort be produced would render that which could be produced irrelevant. Furthermore, the burden of producing even the information that is, in theory, available is overwhelming.

Publishers are required to maintain mailing statements for up to three years, and in the case of the publishers from whom data has been requested here (Crain and Intertec), they do not systematically retain either the forms or the information longer than necessary. Therefore, given unlimited resources, they could produce reasonably complete responses to the first twenty-three requests for between one and three years, not twelve, depending upon the individual publication. As for the remaining questions, seeking such information as pallet, sack and bundle counts, records simply do not exist beyond the most recent mailing.

Inasmuch as the Postal Service claims that it seeks these data in order to examine the existence of trends in the makeup of periodicals mail over the twelve-year time period during which publishers have contended that costs have increased without explanation, it follows that

three years' of data in some instances, combined with no more than a month or two in others, would not be relevant to this effort.

But even if the information that exists were of some marginal relevance, which we deny, the burden of producing it far outweighs any value that it might have. Both witnesses Cavnar from Intertec and McGarvy from Crain have advised counsel that to produce the information requested in questions 1-23 for *one magazine for one year* would take a person about a week. The information is simply not maintained in electronic (or other centralized) form, and producing the one-year data would require an analyst to go through many multi-page forms and compile the data. For the seventy-six publications listed on Appendix A to Mr. Cavnar's testimony, the development of even two years' worth of data—which would hardly be useful in showing a trend—would take 152 person-weeks. To respond in two weeks would take seventy-six people (without considering training time). To complete the task by the close of rebuttal hearings would take more than twenty people working full time.

And what would this effort produce? Two years of mailing statement/billing determinant data already in the Postal Service's possession for seventy-six magazines out of twelve thousand or more. On the other hand, no amount of effort could produce the sack/pallet/bundle information, because it is not retained. Surely one month of sack reports, with phone book thickness for each publication, would have no relevance whatsoever, and certainly there is no reason to require the mailers to undergo the burden of producing them.

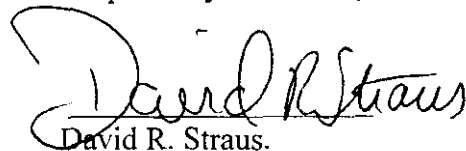
Were all of this not enough, it should also be pointed out that for the data sought to have any utility to a showing of industry trends, it must be representative of the industry's mailing. ABP's responses to interrogatories USPS/ABP-1-34 will advise the Postal Service that, other than the "Kobak surveys" introduced in prior proceedings, it has none of the requested data. It is our understanding that the Magazine Publishers of America will respond in similar fashion, as

will the Coalition of Religious Press Associations and the National Newspaper Association. Therefore, even if ABP's witnesses were able to provide responses from their companies, and even if the witnesses employed by Dow Jones, McGraw-Hill, Meredith, and Time Warner were able to provide the data, the Postal Service would have information from a handful of companies.

Finally, ABP submits, if the kind of statistical data sought in the challenged interrogatories is relevant to this case, the best source of such data is the Postal Service itself. Not only does the Service collect class-wide billing determinant data for and between rate cases, but it also performs surveys "designed to produce estimates of mail volume, packages, and containers by package and container presort levels and container type, for barcoded and nonbarcoded flat-shaped mail." USPS Library Reference H-190 at 2, sponsored by Postal Service witness Talmo, Tr. 16/7884.

ABP is heartened by even this tardy effort to investigate the possible causes for skyrocketing Periodicals processing costs but submits that ill-conceived interrogatories to a few Periodicals mailers in the middle of a rate case is no way to begin. The interrogatories seek data that do not exist and that, to the extent they exist, would be extraordinarily burdensome to produce and irrelevant.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David R. Straus", written over a horizontal line.

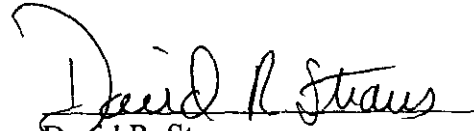
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing document in accordance with Section 12 of the Commission's Rules of Practice.

  
David R. Straus

Dated: February 2, 1998