



Postal Regulatory Commission
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POSTAL REGULATORY
COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Blair:

In your letter of April 18 to Secretary of State Rice, you invited the Department of State to submit comments in relation to a study to be conducted by the Postal Regulatory Commission on universal postal service.

In response both to this letter and to Federal Register notice of April 30, 2008 I am pleased to submit to you the attached paper containing Department of State comments on universal postal service. The comments focus mainly on the relationship between universal postal service and U.S. obligations under the Acts of the Universal Postal Union.

The Department of State looks forward to submitting additional comments, as appropriate. I would be pleased to meet with you, at your convenience, on matters of interest to both our agencies, including issues related to U.S. preparations for the forthcoming UPU Congress in Geneva.

Sincerely,

Gerald C. Anderson
Deputy Assistant Secretary
For Economic and Global Issues,
Bureau of International Organization Affairs

Mr. Dan Blair
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Postal Regulatory Commission Report to Congress on Universal Postal Service

[Docket No. PI2008-3; Order No. 71]

Initial Comments by the U.S. Department of State

In a Federal Register notice of 30 April 2008, the Postal Regulatory Commission invited interested parties to submit comments on universal postal service and the postal monopoly in the United States. The 2006 Postal Accountability and Enhancement Act, P.L. 109-435 (Act), requires the Commission to submit a report to the President and Congress on universal postal service and the postal monopoly. The Commission will use comments submitted in response to its request in the preparation of its report.

Under the Act, the Secretary of State is "responsible for the formulation, coordination and oversight of foreign policy related to international postal services and other international delivery services" and is authorized to "conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services".

The principal multilateral treaty governing the exchange of international mail between the United States and nearly all other countries and territories worldwide is the Universal Postal Union Convention (UPU Convention). The current UPU Convention is expected to expire on 31 December 2009. The 24th UPU Congress to convene in Geneva from 23 July to 12 August 2008 will adopt revised UPU Acts, which are comprised of the UPU Constitution, General Regulations, Convention and Postal Payment Services Agreement. It is expected that UPU Acts adopted in Geneva will become effective on 1 January 2010 and remain in force until 31 December 2014. The U.S. delegation attending the UPU Congress in Geneva is expected to sign the Acts adopted by the Congress before the Congress concludes on August 12. In the ensuing months the Department of State will transmit the amendments to the UPU Constitution to the President for ratification and will ask the President to approve amendments to the other UPU Acts.

The Department of State has serious concerns about the relationship between PRC determinations concerning market dominant and competitive international postal products and provisions of the UPU Convention, in particular those provisions in the Convention regarding rates and customs clearance. It is of utmost importance to the Department of State and other U.S. Government agencies that the PRC pay due regard to U.S. obligations under the UPU Acts as they relate to inbound and outbound international postal products when making its product determinations. It is equally important that other U.S. agencies also pay due regard to such obligations when applying customs clearance procedures to inbound international postal products.

Accordingly, in the view of the Department of State, the Commission's report on universal postal service must take into account the obligations that the UPU Convention imposes on the U.S. Government, and by extension on the designated operator – the U.S. Postal Service – for the exchange of international mail between United States and other countries and territories worldwide. The provisions of the UPU Convention require the designated operator to deliver letters and parcels originating from the other 190 signatory countries

(plus from the postal administrations of a further 25 associated territories also covered under the Convention) at the rates indicated in the Convention and its Regulations. The UPU Convention and Regulations also provide that postal customs clearance documentation (that is, UPU forms) and procedures shall be applied to clear inbound international mail through customs in the destination country (UPU Member States are not required to extend this treatment to postal service providers that are not designated operators as defined under the UPU Acts).

In its Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, of 29 October 2007, Order No. 43, the Commission determined that the following international postal products are considered to be competitive products:

- International Expedited Services (Express Mail Service)
- Outbound Priority Mail International
- Inbound Air Parcel Post
- International Priority Airlift (IPA)
- International Surface Airlift (ISAL)
- International Direct Sacks – M-Bags
- Global Customized Shipping Services
- Inbound Surface Parcel Post at non-UPU rates
- International Money Transfer Service
- International Ancillary Services
- Outbound International Negotiated Service Agreements

The Department of State holds the view that there are important links between the concept of universal postal service and the provisions of the UPU Acts that should be examined by the Commission in its report on universal postal service. These links mainly concern the postal items covered by the UPU Acts and PRC determinations on market-dominant and competitive products, and the implications thereof on customs clearance procedures, if any.

In view of these considerations, the Department of State proposes that the Commission's study on universal postal service should address the following questions:

1. Which international mail products are to be considered covered by universal postal service? Market-dominant products only? Or both market-dominant and competitive postal products? Or are competitive postal products to be considered *outside* the realm of universal service?
2. If market-dominant products only are covered by universal service, would there be a logical link between market-dominant products as defined by the Commission and the international mail covered under the UPU Convention?
3. Under the UPU Convention, the designated operator – the U.S. Postal Service in the case of the United States – is required to accept and deliver inbound letters and parcels at the rates indicated in the Convention. If the U.S. Postal Service must deliver the mail it receives from the designated operators of 215 other countries and territories at rates fixed by the Convention, and if this mail is to be delivered in accordance with the universal service requirements established by the Commission as a result of this study, what is the rationale for classifying such mail as a competitive postal product?

4. The 2006 Postal Accountability and Enhancement Act requires Customs and Border Protection and other appropriate Federal agencies to "apply the customs laws of the United States and all other laws relating to the importation or exportation of . . . shipments [of competitive products] in the same manner to both shipments by the Postal Service and similar shipments by private companies". This provision could be construed to require that inbound items that are competitive postal products should be cleared through Customs using commercial customs clearance procedures. Are competitive inbound international products therefore to be considered outside the realm of universal postal service as defined in the PRC's report?
5. Should the determinations for international and domestic postal products be aligned? For example, since domestic single-piece domestic parcels have been determined to be market-dominant products, should single-piece inbound international parcels also be considered to be market-dominant?
6. Without prejudice to the views held by other interested U.S. government agencies, does the PRC have a view as to whether universal postal service, and therefore market-dominant international products, should be equated with single-piece international items, while bulk international mail is considered competitive? If so, what criteria would distinguish single-piece and bulk international products? See question above.
7. Without prejudice to the views held by other interested U.S. government agencies, does the PRC have a view as to whether the traffic imported and exported to and from the United States by ETOEs should be considered as covered under universal postal service?

Finally, we recommend that the Commission, in its conduct of this study, consult the UPU publication "Status and structures of postal administrations", which contains important information about legislation and regulations in UPU member countries related to universal postal service.

For further information about these initial comments and the questions put forward in this document, please contact Dennis Delehanty of the Office of Technical and Specialized Agencies, Bureau of International Organization Affairs, U.S. Department of State at 202-647-4197 or by email at the following address: DelehantyDM@state.gov