

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Dan G. Blair, Chairman;
Mark Acton, Vice Chairman;
Ruth Y. Goldway;
Tony L. Hammond; and Nanci
Langley

Report on Universal Postal
Service and the Postal Monopoly

Docket No. PI2008-3

**Comments of National Newspaper Association
Pursuant to Order No. 71
(June 30, 2008)**

Summary

Delivery of newspapers is intertwined with the history of American postal administrations. Tradition and law suggest that if there is any specific type of mail around which a universal service obligation has developed, it must include newspapers. As the Postal Service has automated mail processing and changed its network, successful handling and distribution of newspapers has diminished—particularly mail destined to move outside a Delivery Unit area. Network realignment, new automation plans and transportation stresses are likely to further hamper the successful delivery of this mail. However, the need for the service remains and has been reemphasized by Congress in the Postal Accountability and Enhancement Act. NNA believes meeting the need will require a clear statement of the universal service obligation, measurement and monitoring of service, and, in the event of a systemic service failure, a moderation of the letter mail and mailbox monopolies to enable private delivery companies to fill gaps in service, particularly in rural areas.

Background

The National Newspaper Association (NNA) is a 2,700 member trade organization. NNA has represented owners, publishers, and editors of America's community newspapers since 1885. Fair postal rates and reliable delivery have been among the industry's concerns since the earliest days of American publishing, and seeking them was part of NNA's mandate at its founding. NNA frequently appeared before this body's predecessor, the Postal Rate Commission, and was an active participant in shaping the Postal Accountability and Enhancement Act (PAEA) Pub. L. No. 109-435, 120 Stat. 3198 (2006). NNA principally represents within-county Periodicals mailers, but also has appeared on behalf of outside-county Periodicals mailers and Enhanced Carrier Route mailers. All three subclasses are important to community newspapers. Here, NNA principally addresses concerns of Periodicals mailers.

NNA has chosen to address only the topics, among those proposed by the Commission, that relate to the history of universal service, the nature of the monopoly, and needs of newspapers in the future. They are enumerated in order.

Topic No. 2: Historical Development of Universal Service, the USO and Monopoly Laws

Section 702(a)(2)(A) of the PAEA requires the Commission's report to include "a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas...." NNA here addresses in part several issues raised by the Commission's Discussion Memorandum, focusing upon development of public policy with respect to community newspapers.

Founded in 1885, NNA may be the oldest of the mailers' organizations regularly appearing before the Commission and its predecessor body. Its postal history far pre-dates the establishment of a Commission in 1970. NNA's

centennial history book, *From Quill to Computer*¹, notes that postal issues were woven into the organization's concerns from its earliest days:

“Almost from the beginning postal regulations and rates were priority concerns, growing even more serious at the end of the association's first century as the need to control a billowing national deficit threatened to wipe out long-time advantages. Earlier the organization had carried on a running fight with the Post Office Department over the printing of stamped envelopes on government presses which robbed newspaper job shops of thousands of dollars in support revenues.” Robert F. Karolevitz, *From Quill to Computer: The Story of America's Community Newspapers*, 163 (National Newspaper Foundation privately printed 1985).

Distribution of newspapers by mail, of course, is woven into the history of both newspapers and the nation's postal administration. One of the first newspapers in the colonies, the *Boston News-Letter*, was published by colonial postmaster John Campbell. He used his position as postmaster to gather information that came through his hands in Boston, an important urban center, to supply information to special correspondents in other colonies. Meetings, proclamations, legal notices, available cargo space and other news from the British homeland supplied by incoming London newspapers filled his pages and kept colonists informed. Emery et al., *The Press and America, An Interpretive History of the Mass Media*, 23-24 (Simon and Schuster, 8th ed., 1996).

Campbell refused to relinquish his newspaper when his successor took over the political appointment, so the new postmaster, William Brooker, was forced to start his own paper, the *Boston Gazette*. The *Gazette's* legacy was carried on when James Franklin, brother of Benjamin, became its printer. Emery at 25. When Brooker lost his appointment, James Franklin started his own paper, the *New England Courant*, where his rebellious younger brother, Ben, was an

¹ From *Quill to Computer: The Story of America's Community Newspapers*, was commissioned by National Newspaper Association for its 100th anniversary in 1985. Author Robert Karolevitz, a newspaper historian from South Dakota, traced the history of community newspapers as they paralleled the development of the nation's larger metropolitan papers. The book, which was privately printed, is found in most journalism school libraries. NNA has placed a copy on file at the Commission as a Library Reference, as NNA Lib Ref 1, for the duration of this docket.

apprentice and where the historic “Silence Dogood” essays of Benjamin Franklin first appeared. *Id.*

Of course, Benjamin Franklin’s *Pennsylvania Gazette*, the outgrowth of his need to make a living after deserting his apprenticeship in Boston, launched the American founding father’s career, and provided the first foundation for his fortune and fame. Reversing the historic course, Franklin became a postmaster after he was a publisher, but the linkage of the two professions was no less critical. A postmaster had the dual advantages of guaranteed delivery of his product² and unique access to the incoming news in the days before the telegraph—and later the news wire services—arrived to outstrip the slow pony dispatches. In Franklin’s era it took six weeks to bring the posts from Boston to Philadelphia by land and there was a mail pickup only fortnightly. Emery at 34.

The attempts of English King George to level a Stamp Tax upon newspapers, which were to be required to carry a half-penny stamp, helped to ignite the colonial rebellion that eventually led to the Revolution. Unlike taxes on sugar or molasses, this stamp affected virtually everyone in the colonies, and led to such graphic protests as a turned rule.³ A skull and crossbones appeared in the *Pennsylvania Journal*, bidding its readers “Adieu, Adieu to the Liberty of the Press.” Karolevitz at 15.

Following the Revolution, early Congresses, though strapped for cash to pay the heavy war debt, pressed for rapid dissemination of information. In 1792 and 1794, it put colonial postal customs under federal control and adopted below-cost postage. Newspapers were carried at a rate no greater than 1.5 cents regardless of size or weight, as Congress struggled to create a sense of national

² Franklin was thought to have bribed the pony express riders to carry his paper, Karolevitz at 9.

³ A turned rule is a journalistic symbol of mourning used in lead type days whereby the broad bottom end of spacing lead was turned uppermost to produce mournful black borders around stories.

unity for the fractious colonial federation. Congress also permitted publishers to exchange copies for free, which furthered the clip-and-paste type news service that Franklin and other postmasters had pioneered and that served as the purveyor of national news until the telegraphs were developed. Emery at 111. Postal historian Richard Kielbowitz notes that subsidies for newspaper postage comprised one of the nation's oldest continuous federal subsidies. Report to the Congress: Preferred Rate Study, Postal Rate Commission, US Postal Rate Commission, June 18, 1986 at 21.

As the American frontier expanded, competition for readers' time and attention expanded with it. Local newspapers, facing higher production costs than big city papers, began to worry about the incursion of the out of town publishers. The double edged-sword of postal distribution, beneficial to local papers but also the avenue along which traveled new competition, began to affect local publishers. A Goshen New York editor, complained:

It is well known that post roads and post offices have increased rapidly within a few years; and that almost every person can have convenient access to papers by mail; and printers know, that the New York papers, designed for circulation in the country, are made up twice a week from the daily papers and published at less expense than we can publish our country papers—hence they can afford them at lower price in proportion to the news they contain, than we can publish our papers in the country, thus in consequence of the facility of the mails and the cheapness of the city papers, the circulation of our country papers is rapidly diminishing, and ere long many of them must be consigned to oblivion.” Kielbowitz at 22 (quoting Milton W. Hamilton, *The Country Printer: New York State: 1785-1830*, 236-237, (New York: Columbia University Press 1936)).

Congress responded with sympathy for the plight of the disadvantaged local paper and created free postage within a 30 mile zone of the office of publication. Kielbowitz at 23 (citing Act of March 3, 1845). The act brought protests of unfairness from the frontier, where 30 miles encircled a sparse few homes, compared to the dense towns of New England.

The colorful history of Congressional debates, tinged with the tensions of pre-Civil War sectarian differences, led to a see-saw of policies for the next decade, as rural members of Congress railed against corruption from the big city papers. The subsidy disappeared, reappeared and was repeatedly trimmed, expanded or tailored to accomplish the goals of rescuing the smaller papers from the new competition ushered in by the mails and helping them to bind their own communities together. The policy finally settled by 1852 as free postage for newspapers mailed within the county, with those mailed within the state to travel at half the regular rate. Kiebowitz at 27 (citing Act of Aug 30, 1852, 10 State 38-30).

Once implanted, the in-county rate endured for more than a century until the subsidy began to phase out with passage of the Postal Reorganization Act of 1970, requiring all mail to bear its own costs. Pub. L. No. 91-375, 84 Stat. 719 (1970). That the distribution policy succeeded in embedding a thriving community newspaper industry in America is beyond question. Though there appear to be no identifiable tallies of the rising and falling number of titles over the years, NNA's *Quill to Computer* walks through a rich history of newspapers that served America, in large cities and small towns, in English, German, Finnish, French, Dutch, Italian and every other language that settlers brought with them. Descriptive names abounded—the *De Queen Bee* in De Queen, Arkansas, the *Fishrapper* in Wheeler, Oregon, the *Thousandsticks* in Hyden, Kentucky, and thousands more like them. See, Karolevitz at 171-197. The popularity of one name, however, reflects the relevant roots of American newspapering in the US Mails: the *Post*.

This history is central to the Commission's investigation of the history of universal service, intertwined as it is in development of the press, the post and the nation. The repeated decisions of the government, from the colonial Stamp Act protests to a hundred years of funding for local newspaper subsidies—subsidies, it might be noted, that were still thought essential after the advent of

both radio and television. That universal service for newspapers was developed, reiterated and reaffirmed by Congress over the years appears again and again in the Congressional record. The most recent expression of Congressional intent reaffirmed the obligation imposed upon USPS and articulated in 39 USC 3626, which preserves reduced rates brought forward from former section 4358(a) through (c) for within county newspapers. Buttressed by regional loyalties, devotion to literacy and, even pragmatic political concerns about coverage of campaigns and elections and, in the 21st Century, recognition of the viability of local newspapers, the public policy support for a local press undergirds postal history from the 18th century to today.

The history, one which has developed both tradition and business models, makes it easy to understand why publishers consider delivery of newspapers to be an essential piece of universal service, part and parcel of an obligation imposed by Congress and why the essentiality of service is tied to the health of their communities. NNA Witness Merle Baranczyk, publisher of the *Mountain Mail*, Salida, CO, articulated that belief at the Commission's May hearings in Flagstaff, AZ, in response to a question about the possible loss of a single day of service, out of today's six-day service scheme:

“...in a community where you have the daily newspaper, people are depending on that news the very next day. They want that news. If there is a city council meeting or a county commissioners meeting or a school board meeting or hospital board, any of these types of meetings, we would want to have that information the next day or next morning. So they've grown to expect that, and in weekly communities, and -- in communities served by weeklies, I should say--people grow dependent on that and build their schedules around it. So if, for example -- well, we're not going to have Thursday deliveries anymore, what is that going to do to our subscribers? What is that going to do to the relationship between newspapers and the community and their government, the local government?”

Flagstaff Field Hearing on Universal Service and Postal Monopoly, May 21, 2008, 44 [hereinafter *Flagstaff Field Hearing*] (testimony of Merle Baranczyk on behalf of National Newspaper Association).

Baranczyk described his newspapers, one small daily and four weeklies, with their heavy dependence upon the mail, *Flagstaff Field Hearing*, Tr. at 42, and their similarity to most of NNA’s members. He acknowledged the role of the Internet, pointing out that his newspaper does publish there, but affirmed that the printed product remains the primary product. *Flagstaff Field Hearing*, Tr. at 26.

NNA rarely surveys all of its members, and even less often attempts to produce data for the Commission’s use, having learned over the years that busy publishers –who, as opinion leaders, are besieged by surveys—generally cannot produce sufficient numbers of responses for the Commission’s data experts to consider the surveys worthy of serious consideration. However, NNA does communicate with its own leadership and opinion leaders through informal surveys from time to time, as a way of testing the governing body’s assumptions. In preparation for these comments, NNA asked whether they assumed delivery of newspaper was part of the Postal Service’s universal service mandate. It is probably not surprising that out of 44 respondents, 100 percent responded that it was. Interestingly, when asked to choose among several working definitions for universal service, the respondents by majority chose the broadest definition:

Publishers are asked to choose a working definition of “universal service”

Delivery of 1st Class letter mail at one flat rate across the US	9.5%
Delivery of mail to every residential address in the US	33.3%
Delivery of mail six days a week in the US	21.4%
Prompt and affordable delivery of mail to any address, here or abroad, at rates set to cover the cost of delivery	59.5%

One publisher offered his own working definition: “Universal service means everyone, everywhere should get the same level of service for the same cost,” which probably describes as well as any what NNA believes most members of the public would call “universal service.” In other words, when we purchase postage, we expect the same level of service as everyone else who spends the same for the same product.

Asked how well USPS carried out its service mandate for all mail and not just for newspapers, interestingly, nearly 92 percent said the mandate was executed moderately well or better. When asked whether service for newspapers had improved or declined in the past three years, 100 percent said it had gotten better locally, but 93.8 percent said it had gotten worse nationally. These responses reiterate the testimony NNA has supplied in repeated dockets before this body’s predecessor, the Postal Rate Commission, as the Postal Service’s delivery network has shifted to greater automation and more centralized plants.

Finally, NNA asked what effect it would have upon their communities if USPS stopped delivering the paper. A number of comments are supplied as an appendix to this statement. One candidly captured the sentiments frequently heard in NNA meetings:

“I think too many decision-makers live in large cities and do not understand the nature of the weekly newspaper in smaller communities. We ARE the source of information about the government, the schools, the local fundraisers, local sports—local everything. Our county has no municipality over 5,000. Daily papers can’t begin to cover the events in our small towns—we do it, including 9 school districts! Everything is locally generated—no wire services, just local input. There are no TV stations in our little towns. We do get TV news from the larger cities within 30 miles, but seldom, unless there’s a murder, do we get coverage. All newspapers are not the same and to try to lump them all together is ridiculous. Our local postmasters and carriers understand the importance of the paper. We’ve had carriers stop in our office to tell us that ‘Mrs Richardson didn’t get her paper today and was asking about it. Can you give me one to give to her?’”

This fundamental information role is well understood in local communities. But it is perhaps not so often discussed in federal policy chambers, as Commissioner Goldway intimated at the conclusion of the Flagstaff hearing, asking for more elaboration on the importance of that role. *Flagstaff Field Hearing*, Tr. at 52-53.

From time to time, someone suggests that the Internet is going to replace local newspapers, and therefore the Postal Service may not any longer need to shoulder the obligation of delivering them. However, even such an Internet enthusiast as John Steele Gordon, witness for Time Warner, Inc., in Docket No C2004-1 [hereinafter C2004-1] agreed that the new technologies do not really replace the old. C2004-1 at 684, 686. And though in his large-city way, he grudgingly admitted that weekly newspapers were, in fact, newspapers, (C2004-1, Tr. 743), he could not name any Internet websites that approximated electronic news media for purposes of disseminating local news. C2004-1, Tr. at 651. Nor has there since been a witness before this Commission able to point to a viable Internet substitute for a local newspaper. And there will not likely be one in the foreseeable future, because the economics of support for local news in a non-print medium have been as elusive as the cure for the common cold. Internet sites are maintained by newspapers, yes, but the economic base for the news continues to come from the printed newspaper, which continues to require timely and affordable hard copy delivery.

Until the newspaper itself is unneeded, the obligation imposed by Congress to deliver it will not have been extinguished. Yet many indicators have developed over the recent past, and are looming ahead for newspapers that this service may be, in Washington jargon, thrown under the bus in the months ahead. As this testimony was prepared, NNA received word of a consolidation of Business Mail Entry units in northern New Jersey that threatens to eliminate Delivery Unit entry in 65 locations for one of the nation's leading community weekly newspaper companies. And the failure of the Postal Service to squarely

address the need for DU entry of newspapers in Flats Sequencing system zones presents the most dramatic threat to the survival of the mailed newspaper seen in many years. It all adds up to an environment of tectonic change, an era that will cry out for careful management and effective oversight.

Topic No. 3: Universal Service: Geographic Scope

Section 702(a)(2)(C) of the PAEA requires the report to include “a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.”

No doubt most of America assumes that every inhabited household in the nation receives mail service every day that mail exists in the mailstream for that home, unless the occupant has elected not to receive mail. But, of course, it is not true. Daily mail service is not always available in the US. In many small towns, it is still necessary to call at the Post Office for one’s mail.

Delivery occurs only three days a week in a small town in North Dakota, like others in its area, and now the ability of patrons to call at the post office for the mail is even in question.

In the small town of Fortuna, the Postal Service has determined there isn’t sufficient mail to deliver six days a week. There, neither rain nor snow nor gloom will inhibit delivery, but the arrival of a Tuesday stops it dead in its tracks, as the reporter for the nearby Crosby (ND) Journal noted. (Copies of the stories describing Fortuna’s plight appear as Appendix A).

Perhaps it was easier in the days of federal subsidies to argue that ALL of America that was not physically hard to reach—like a mountaintop or a canyon

floor—should get the same degree of service. Since the economics of mail delivery have been better understood, the system has gravitated toward the efficiency of density, and struggled with sparser mailings, communities and destinations. Increasingly, a rural penalty is paid by citizens choosing to live in towns outside the metropolitan areas. NNA has testified in many Postal Rate Commission cases about the woes of small town publishers, whose mail was once carried point to point by USPS but who now must witness the trucking of small bundles from the small town to the P&DC 30-50 miles away, just so they can be trucked back to a town that may have been 10 miles from the entry point. See e.g, Docket No. R97-1, Tr. 27/14746-14749; Testimony of Max Heath, Docket C2004-1 at 5-8. Clearly, rural America has been on the blunt end of the continuous network realignments that have occurred over the years with various USPS automation plans.

And the bigger the machines, the bigger the plants and the greater their need for throughput to reach the intended investment returns. The coming of Flats Sequencing Systems (FSS) has struck fear into the hearts of publishers large and small. It purports to eliminate Delivery Unit entry, and to cost all newspapers within the FSS zones the ability to obtain same-day delivery. Current plans would back up deadlines for news and advertising 24 to 48 hours, which is a destructive of the business model for timely news and advertising. Fears of even greater losses abound, and have been intensified by the absence of the Postal Service's promise that continued DU entry will be available, even as competing saturation mailers will be able to enjoy that privilege.

If NNA's publisher is right about a common sense universal service element—that when Person A pays the same price for the same product and level of service as Person B, the service provided should be the same—then all would be well. A newspaper of same size and weight sent from Zone 1 to Zone 3 would arrive at roughly the same time. But does it? The Urban Publisher sending a newspaper from within a city to a reader 150 miles away is likely to receive

better service than the Rural Publisher trying to reach that 150-mile away reader from a different direction. The difference in service is accounted for, in part, by the additional transportation time required to move that entered mail to the processing center before it is “worked” and sent on its way. Differences in density of the origin mailing may also affect delivery times. And yet, the Urban Publisher and the Rural Publisher paying the same for the service, assuming the same distance, weight and shape of the newspaper, may well get very different outcomes. For the reader, service may consist of late delivery, and receipt of newspaper issues in clumps of two or three at a time. *See, Kansas City, MO, Field Hearing, June 22, 2007*, (testimony of Dave Berry on behalf of National Newspaper Association).

The Commission should query whether service today for newspapers outside their Delivery Unit entry zones is provided with sufficient consistency that it achieves universality, particularly as it applies to sparse copies of newspapers sent through one or more processing plants. In the Discussion Paper issued with Order No. 71, the Commission posits that prohibitions against discrimination in rates (39 USC 403(c)) and fair and reasonable rates, (39 USC 403(a)) may be considered elements of universality. Admittedly, within a nationwide service, some mail within a category will be at the high end of a measurement band and some at the low. But poor service for long-distance newspapers has been so consistently discussed before the Commission, particularly after 1996, without any recognition in pricing for the category of newspapers receiving the poor service that this docket may well present the opportunity for the Commission to question whether the obligation, if it exists, is met.

The question is critical today, because the realignments of networks, the advent of FSS and transportation changes that will assuredly be driven by falling

overall mail volumes will likely lead to still more service disruptions⁴. If, as NNA believes, a mandate for universal service for newspapers is embedded in postal policy, the potential for its being achieved in the future looks bleak, indeed. The Commission must devise measurements and sanctions that improve the situation.

The Commission's role in this evolution is greater than just that assigned for Congressional feedback. In several sections of PAEA, the Postal Service is required to notify the PRC of major service changes (see, e.g., 39 USC 302(c)(2)) and the Commission is mandated to monitor service in a variety of ways, as well as to facilitate Congressional understanding of the costs incurred. 39 USC 3658(a)(1)(A). The Commission should take into account in this report its existing powers and those it may need to protect parts of the nation from unfair treatment during this time.

- 1) It should sanction USPS if a level of service offered draws such level of complaint from mailers or recipients that it becomes evident that service commitments are not achieved;
- 2) It should require transparency about levels of service actually offered and actually provided. Service standards proposed by USPS, for example, clearly lengthen the time for a newspaper to travel between two distant rural points. As measurement tools fall into place, the Commission must seek sufficient stratification of mail within a class to be able to identify the problems of newspapers, as opposed to other Periodicals in the mailstream.
- 3) If and when USPS ceases to serve an area with six-day mail service when such service is available elsewhere, or it reduces its national

⁴ Not standing in the way of progress, NNA works actively through the Mailers Technical Advisory Committee to devise new labeling and sorting schemes to help the Postal Service speed newspapers in their way despite such changes.

frequency to a level beneath that required for the regular conduct of business, the Commission require clear and transparent announcements of the service retraction, with sufficient notice to enable mailers to seek alternatives.

- 4) With a change in the obligation should come a change in the powers of the monopoly. Publishers and other businesses and citizens in American cities and towns that cannot economically receive service from USPS should then be fully enabled to create their own services to send and receive all classes of that mail, and should be permitted just compensation from the revenue derived by all classes of that mail.

Topic 10: The scope and standards of universal service, specifically, the mailbox monopoly.

The foregoing leads to a discussion of the exclusivity of the mailbox and of the Postal Service's letter mail monopoly.

Section 702(a)(2)(D) of the PAEA requires the Commission's report to include "the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the ... public...." In addition, Section 702(b) requires the Commission to provide the estimated effects of any recommended changes to universal service and the postal monopoly, as well as an analysis of the likely benefit of the current postal monopoly to the Postal Service to sustain the current scope and standards of universal service. In addressing this topic, commenters were asked to discuss how their conception of the universal service obligation would affect the need for, and parameters of, the postal monopoly and mailbox monopoly

The Post Office Department was first granted a monopoly on the mailbox in 1934. According to a General Accounting Office Study commissioned in 1996-

1997 by Rep John McHugh, then Chairman of the House Subcommittee on the Postal Service, Committee on Government Reform and Oversight, this monopoly was created after the postal authorities complained about the loss of business to private carriers and the annoyance to the Post Office Department of finding mailboxes stuffed with unstamped matter. The new law, to guarantee the Post Office uncontested access to the revenues generated by the mails, was intended to alleviate the annoyance. The concern was simply to protect the postal administration from competition at a time when mail service was heavily subsidized by the taxpayers.

Since then, of course, exceptions to the monopoly have been granted or written out of the monopoly. Saturation mail, for example, is not considered to be directed to a specific person or address and is exempt. 39 CFR 310.1 (a)(3). Checks moving within the banking system are not considered letters, within the scope of the monopoly. 39 CFR 310 (a)(7)(ii) and neither newspapers nor magazines are letters, 39 CFR 310 (a)(7)(iv), though the delivery of selective newspaper advertising materials outside the mail in Total Market Coverage programs has evidently not been tested against the statute.

But although these items may be carried outside the mailstream without the payment of postage, nonpostal carriers are not permitted to use the mailbox as their repository. The criminal sanction was tested and found valid against the First Amendment rights of civic associations that were in the habit of putting notices to their members in mailboxes until they were enjoined from doing so by the court. United States Postal Service v. Council of Greenburgh, 453 US 114 (1981).

Though daily newspapers have typically exercised their rights to delivery outside the mailbox to achieve same day, usually early morning delivery, (although NNA notes that it observes a trend of some smaller dailies into the mail of late), the development of private delivery companies for other types of

newspapers and/or advertisements has suffered from a number of disabilities. As Time-Warner notes, the lack of access to the mailbox is a significant handicap and may have been sufficient deterrent to prevent the success of these alternative services. Initial Comments of Time Warner, Inc., in Response to Commission Order No 71, Docket No. PI 2008-3 at 5.

If the day were to arrive in an era of stressed-out postal economics when USPS did intentionally cut service to some geographic areas, the ability to permit a limited and licensed use of the mailbox by private carriers could become an important tool in saving affected communities. NNA witness Baranczyk testified in Flagstaff that he didn't believe very many publishers were eagerly planning to deliver mail, but that if it became necessary, access to the mailbox could be critical. *Flagstaff Field Hearing*, Tr.at 29.

Should the Commission explore this question in its report to Congress? Though NNA generally supports the mailbox monopoly, it also believes the time may be ripe to at least lay a framework for licensed access to the mailbox as a necessary adjunct to preserving universal mail service.

In 1997, GAO surveyed many stakeholders to determine their views of opening the mailbox to private carriers. General Accounting Office, Report on Information About Restrictions on Mailbox Access, GAO/GGD 97-85 (1997) [hereinafter *GAO Mailbox Access*]. By and large the reaction of stakeholders was negative, with USPS leading the pack of opposition. However, today's mail mix and changed circumstances in the postal world might lead to a different conclusion. Revisiting the study's findings and postulating about how the responses might be formed today, or 3, 5, 10 and 15 years from now, is an interesting exercise.

For example, the study found in points highlighted below:

- --the Postal Inspection Service said mail theft was a serious problem in the United States, (though interestingly, the Inspection Service had no data to quantify the problem). It said the mailbox restriction made it easier for the Service to investigate thefts of mail, such as government benefit checks. *GAO Mailbox Access* at 14.

But most government benefit checks, such as Social Security payments, are now electronic deposits. The “check is in the mail” pretext has become an anachronism of a bygone era. Payments are made by credit and debit cards, direct deposits and wire transfers. Stock dividends and annuity payments are less likely to arrive in mailboxes and more likely to be deposited to brokerage accounts. Though credit card numbers may be found in outgoing mail, perhaps, even the US Justice Department does not identify theft of mail from the mailbox as a profitable business line for identity thieves. Rather most identity theft is an inside job within companies, or an outside job carried out by dumpster divers. Department of Justice, Fraud Section at <http://www.usdoj.gov/criminal/fraud/websites/idtheft.html#whatcommonways>.

In an era where fewer checks are incoming and outgoing, is mail theft a greater or smaller problem?

- --federal laws govern distribution of sexually-oriented advertisements, but the Postal Service said these laws would not apply to a private carrier. *GAO Mailbox Access* at 23.

Have these materials largely moved to the Internet (even on the private website of a distinguished jurist)? And in any event, why could not their distribution by mail be criminalized for any carrier?

- In 1981, in a constitutional test of the mailbox monopoly, the Postal Service said if unstamped mail were in mailboxes, letter carriers would be obliged to separate out unstamped mail matter from outgoing mail. *GAO Mailbox Access* at 14.

Even by 1997, 30 percent of stakeholders said they used their own mailboxes for outgoing mail. How much outgoing mail now originates from household mailboxes? *GAO Mailbox Access* at 20. And how much unwanted stamped, or indicia mail already remains more than a day in the mailbox, in an era where the absence of personal correspondence and the overwhelming dominance of advertising mail may supply less motivation for emptying the box?

- In 1997, GAO found correlations between education and willingness of adults to allow private carriers to use mailboxes for certain mail. Highly educated persons, for example, were more opposed to allowing advertising matter to be placed in the mailbox. *GAO Mailbox Access* at 17.

But would those same adults have been opposed—both then and now—to having that same matter placed in their mailbox by USPS if they were asked? It is hard to know whether respondents to that question addressed an aversion to other carriers' mailbox access or to too much advertising in the boxes.

- In 1997, two thirds of adults reported getting their mail in boxes without locks. *GAO Mailbox Access* at 45.

With the movement to cluster boxes in new, particularly suburban, developments, are more mailboxes now locked? If so, is mail now more secure? Do thefts more often occur in mailboxes without locks?

In 1997, GAO's questions largely assumed a relaxation of the monopoly would result in a free-for-all: anyone and everyone could put material in mailboxes. Its questions did not suppose any licensing or access limits. Several questions were formed like the following:

"Suppose companies could put catalogs, coupons or ads inside your mailbox?" *GAO Mailbox Access* at 48. That question led to a resounding "no." *Id.* The answer is predictable, but again it is impossible to tell whether respondents were reacting to the mail content or the "companies."

What if recipients were asked: "If a licensed and regulated private carrier were allowed to put catalogs into your mailbox in an attempt to provide you with better service, in lieu of this service's being provided by the Postal Service, would you favor or oppose? The question may appear to have a bias, but so did the one posed by GAO. However, to be effective, the question has to test *service* not *mailbox content*. Chances are most respondents would not object to private carriers if they liked the service and they wanted the mail.

In sum, NNA believes that the Commission must develop tools to measure underserved areas and to seek from Congress authority to develop criteria for determining that if and when USPS can no longer economically serve an area, licensed private carriers may step in. These carriers should be enabled to operate from the revenue USPS would have earned from those areas, be licensed to access the mailbox and be accountable to the Postal Service and the Commission for fulfilling their contracts.

It is important to be clear about what NNA's comment on this subject is intended to convey and what it isn't.

First, it is not an over-reaction to a decade of declining newspaper delivery quality. As the Commission would readily discern from NNA's testimony over the

years, local newspaper delivery has generally been quite good. The longer distance delivery is where the problems are. The service challenges seem to lie in the processing plants and networks and in the nature of manual sorting operations. If the plants are the problem, private carriers will be hampered by mail processing as much as USPS carriers. But if shortened delivery weeks are added to mail processing delays, the newspaper could be a historic relic before it is read.

Second, NNA is not making the proverbial proposal to open the mailbox to all comers, so pranksters could insert chocolate bars to melt over a Social Security check. If the contractor were regulated by USPS, as rural contract carriers are now, there is no more reason to fear security problems than under today's scheme.

Third, it is not a gambit to cherry pick the revenues that hold USPS together. If the future becomes one where USPS increasingly tailors service to demand, and shapes its delivery network to areas where mail volume is high, the underserved portion of the nation will be, by definition, that segment where USPS believes it cannot profitably operate. That cherry tree looks barren to the economy-of-scale, urbanized eye. But to the local orchard, it bears important fruit. Public policy should enable communities to nurture what they may find there.

Fourth, it is not a proposal to gradually privatize the Postal Service. NNA firmly believes delivery of newspapers is a part of the universal service mandate. However, NNA's members disproportionately serve rural areas where fuel prices and changing mail volumes may well cause USPS to want to truncate service, if Congress permits it to do so. If USPS cannot serve an area, the logic of giving other businesses the opportunity to try is incontrovertible.

In sum, NNA believes that while the letter and mailbox monopolies are important, neither can be used to handcuff private delivery carriers from providing service that USPS declines to provide. In the same way the monopoly was relaxed to permit expedited letter delivery, which led to competitive markets, rural mail delivery must be permitted by the entity most able to provide it. Properly designed and overseen, such a moderated relaxation of the monopolies could help to unburden USPS and serve rural America as well.

Conclusion

NNA believes the Commission has several opportunities in this docket to help reverse the slide in newspaper delivery. Specifically it asks the Commission to do the following:

1. To reaffirm that the universal service obligation includes the delivery of newspapers.
2. To affirm that it intends to continue its work to identify and measure newspaper delivery in the mailstream
3. To advise Congress that the Commission should have the power to identify and cure gaps in achievement of the universal service obligation, particularly in rural areas, by developing limited and licensed access to the mailbox and a relaxation of the letter monopoly sufficient to allow private sector services to provide what the USPS cannot provide.

NNA believes its recommendations are common sense solutions to vexing issues that it has placed before the Commission's consideration time and again. Nothing in the pace or direction of USPS's network realignment or automation

plans suggests that problems will be resolved. Rather, indicators show that in rural areas, in particular, service is likely to suffer as mail processing is increasingly concentrated in large urban plants. While NNA believes both the letter mail and mailbox monopolies are important guarantors of the Postal Service's operating revenues, it also believes that if the Service demonstrates an inability to serve some areas and to handle some products, it cannot be permitted to rest upon its monopolies while denying others the opportunity to fill in the gaps. This docket presents the Commission's first opportunity to demonstrate a willingness to test private sector solutions in limited and controlled ways. NNA urges it to examine them here.

Respectfully submitted,

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June 30, 2008

Appendix A

Stories from the Crosby (ND) Journal. Highlights added by NNA.

Fortuna residents skeptical of Postal Service savings claims

By Steve Andrist

Fortuna area residents remain skeptical, but the U.S. Postal Service says it is saving money by servicing Fortuna routes out of the Grenora post office.

"Moving the route allows us to recognize an annual savings of \$7,000 even with the current high fuel costs," said postal spokesman John Hammersmark in a letter to Fortuna patrons.

Hammersmark, Bismarck, manager of post office operations, sent the letter after a number of Fortuna area patrons complained about what they believe to be a diminished level of service.

Nearly 60 people have signed petitions asking that the routes be served out of the Fortuna post office as they were until February, when Postmaster Wanda Wehrman retired.

With the move to Grenora, "The same work is completed only now the route driver has to drive 28-plus miles to sort the mail and deliver it to Fortuna," said Missy Torgeson last week in a letter to the editor of The Journal.

However, Pete Nowacki, a spokesman in Minneapolis for the Postal Service's Western Area, said management and administrative costs that will be reduced by the move will more than offset the cost of additional mileage.

He said a Postal Service analysis shows the first year savings will be almost \$5,600, and ongoing savings are expected to average about \$7,000 a year.

Moving the routes allows the Postal Service to downgrade the Fortuna postmaster job and reduce the number of hours at the Fortuna post office, Nowacki said.

Meanwhile, because the Grenora office is at a higher level, he said, it can administer the Fortuna routes without additional cost.

"When you have a route in an office the postmaster administers that route," Nowacki said.

Administrative tasks can include everything from dealing with patrons to evaluating the contract drivers, he said.

Fortuna route patrons already feel slighted for a couple of reasons.

The first is that they are one of just five routes in the entire state that get mail delivered just three days a week.

The second is that many of them had become accustomed to occasionally stopping to pick up their mail at the Fortuna Post Office on days when there is no delivery on their route.

To do that now they must call the post office

Six-day delivery unlikely

Fortuna is one of just five places in the state where mail is delivered just three days a week.

But those who would like to join the vast majority of Americans in six-day delivery had best not get their hopes up.

"They're well beneath the standard," said Pete Nowacki, a spokesman in Minneapolis or the Postal Service's Western Area.

In fact, he says it's possible that by today's standards the Fortuna area might not be eligible for rural delivery at all.

"One family or business stop per mile is the standard," Nowacki said.

That standard is applied when residents of a developing area seek delivery services.

If a driver would have to put on 10 miles to serve three people, the route would not be approved, he said.

While he did not know how many miles or stops there are on the Fortuna routes, he said it is unlikely the Postal Service would ever increase delivery service to an area that doesn't meet the standard.

However, he said it also would not discontinue service to an existing route just because it doesn't meet the standard.

3-day delivery

The five North Dakota routes that get mail only three days a week are:

1. Fortuna
2. Alexander
3. Medora
4. Solen
5. Rhame

There are 28 such routes in South Dakota.

before 9 a.m. when they want to pick up mail in town so the route driver knows to bring that patron's mail from Grenora to Fortuna.

Otherwise, the mail will be stored in Grenora until the next scheduled delivery day on the route.

Hammersmark said the postal service is making one change in deference to Fortuna patrons – keeping the lobby open 24 hours a day so they can get their mail after hours.

He said it also is considering a method for route patrons to be able to pick up mail after hours at the Fortuna office.

Fortuna residents protest mail service

By Steve Andrist

Fortuna area residents liked their mail delivery the way it used to be and they're circulating petitions asking for a return to what they say was better service.

Though the petitions have not yet been delivered, the U.S. Postal Service already is pledging to make some changes that it believes will improve service to Fortuna area patrons.

Those who address some concerns, but some patrons still can't understand why, in an age of instant world wide communication, they can still only get mail delivered three days a week.

The issues developed in February when the Postal Service decided to curtail services out of the Fortuna office following the retirement of Postmaster Wanda Wehrman.

John Hammersmark, Bismarck, manager of post office operations, said he determined that based on Postal Service standards the work load at Fortuna didn't justify the level of service being offered there.

Beginning in February, the hours of the Fortuna office were curtailed and the Grenora post office was given responsibility for Fortuna rural routes.

That proved problematic when those who get delivery just three days a week learned they could no longer stop at the Fortuna office on non-delivery days to pick up their mail.

"Grenora is a place we don't normally go," said Marilyn Selle,

Fortuna post office to remain

Rain, snow and gloom of night may not keep mail carriers from their appointed rounds, but Tuesday will if you live south of Fortuna.

"There still are some isolated places that don't have daily delivery," said John Hammersmark, Bismarck, manager of post office operations.

One of them is rural Fortuna, where three households in the Skjerno Lake area get mail deliveries only on Tuesday, Thursday and Saturday, and 12 south of N.D. 5, which get mail on Monday, Wednesday and Friday.

"On Mondays we get three Minot papers," said Alice Stromstad, who lives on the south route.

"Sometimes it has happened that someone mails a letter in

so it's not practical to pick up mail there on the days it doesn't come to her box on the farm.

To ease that issue, Hammersmark said, patrons on the Fortuna route can call the Grenora office and ask that their mail be left at Fortuna on days when they want to stop there to pick it up.

However, with curtailed hours, patrons would have to get to Fortuna before 2:30 p.m., when the doors to the office are locked.

"That is definitely something we can address," Hammersmark said. In fact, he said plans al-

ready are being laid to keep the Fortuna office open 24 hours a day so patrons can access their boxes.

He also said he will plan to install a parcel locker so that patrons on the routes can have their mail brought to Fortuna for pickup after the window is closed.

But Ron Olson, a substitute carrier on the rural routes who has been circulating petitions, still can't understand why the routes are serviced out of Grenora.

"Mail is brought from Williston to Grenora by a driver who con-

tinues past Fortuna to Ambrose, Hammersmark said.

Fortuna mail is left at Grenora, where the route driver sorts it and heads north, dropping Fortuna city mail at the post office there and then delivering the routes.

"It's pointless," said Olson, who has 57 signatures on a petition asking for a return to the system of working Fortuna mail at Fortuna.

"The guy (from Williston) drives right by Fortuna anyway," he said, so bringing Fortuna's mail with him seems logical.

"They say they're saving money, but they have to pay us more to travel down to Grenora and back."

He said the petitions will be sent to U.S. Postmaster General Jack Potter as well as Sens. Kent Conrad and Byron Dorgan.

"We all wrote letters and that didn't change anything," Olson said, so now he's going right to the top.

"We're only getting delivery three days a week, so they are already shortchanging us," Selle said.

"This is making it even more inconvenient for people."

Hammersmark is hoping the planned changes will improve convenience.

Once the Fortuna office is open 24 hours a day, he said, some of those on the routes may decide a postal box in town that is accessible seven days a week is better than delivery on the farm three days a week.