

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

**REPLY COMMENTS  
OF THE NATIONAL NEWSPAPER ASSOCIATION  
(NNA)  
(August 1, 2008)**

In its initial comments pursuant to Order No. 71, National Newspaper Association (NNA) provided a detailed background on the history of delivery of newspapers by the United States Postal Service. An interwoven pattern developed as expectations for universal service developed in America that bound publishers and the Postal Service together. NNA believes the roots of that tradition live on in today's concepts of universal service.

NNA's primary argument has been that the Commission should find the affordable, reliable delivery of newspapers to be an affirmative obligation of the Postal Service. NNA agrees with many commenters in this docket that timely service and affordable rates are the pillars of universal service. See, e.g, Comments of Valassis Direct Mail, Inc. at 2, Initial Comments of Time Warner, Inc at 1; Comments of American Business Media at 5.

NNA also pointed out that the universality of this service has frayed and is under threat. It made several suggestions for Commission action that would spotlight problems with newspaper delivery so that appropriate remedies could be developed. NNA suggested a limited relaxation in the mailbox monopoly may be needed in the event of wholesale failures of service—including but not limited to newspaper delivery—in some geographical areas.

The Postal Service's comments seem to address a much more radical proposal than NNA has made. Its initial filing, and also some press commentary on NNA's proposal, have assumed NNA is advocating evisceration of the mailbox rule. Indeed, even the Commission Chairman himself seemed aghast at the thought that one slip of postal policy could justify an attack on the mailbox monopoly.

Chairman Blair: "And one last question would be that there seems to be a lot of concern over the Flats Sequencing System and its implementation and how it impacts on access to the postal system. Mr. Rowley brought it up, Mr. Baranczyk brought it up, and you seem to be suggesting that if that access is denied, then a hard look needs to be made at the mailbox monopoly. That's rather radical." Transcript of Flagstaff Field Hearing on Universal Service and the Postal Monopoly, May 21, 2008 at 49.

NNA believes its intentions have been somewhat misinterpreted. It here makes clear that its position is not to lead the parade of horrors that USPS seems to fear. The specter of inevitable wantonness that the Postal Service has traditionally thrown up to ward off any incursion into householders' mailboxes (which, it may be worth suggesting, the householders themselves are generally required to pay for and maintain) is a cannon aimed at a flea if it is put up as a defense against any proposal NNA is making or might make in the future. NNA is not asking the Commission to recommend an elimination of the mailbox monopoly, and certainly not merely because of the current uncertainties about FSS.

NNA simply seeks a process whereby the Commission can find that USPS has abandoned universal service in geography or product and thereby open an avenue for a fair and economical licensed contractor's access to provide the services that USPS will not. NNA does not address here whether the authority delegated to the Commission under the Postal Enhancement and Accountability Act is sufficient for appropriate relief, though the Postal Service has propounded its constricted view of the Commission's limitations. The Commission's mandate here is to make an array of recommendations, one of which might well be an expansion of its delegated authority to oversee and regulate the Postal Service's behavior if and when it declines to provide services.

It is important to understand the distinctions between NNA's position, which is largely driven by concerns about rural delivery and mail service (of all mail, not just periodicals) to small towns, and the seeming fears of many that the Postal Service will fall unawares into a European-style open mailbox.

The Postal Service has devoted a substantial part of its initial comments to a defense of the mailbox monopoly, including its beliefs that:

- the monopoly promotes efficient service by discouraging overcrowding of the mailbox (Comments of the United States Postal Service at 9);
- private carriers would be more likely than USPS carriers to read someone's mail; (USPS at 10);
- restricting mailbox access creates a presumption that anyone other than a householder or a USPS carrier who opens the box is possibly guilty of mail theft; (Id.); and

- the environment is improved by a rule limiting delivery to one monopoly carrier's delivery fleet. (Id).

USPS quibbles that the mailbox rule may not really be about protecting a monopoly, arguing that delivery to a doorknob or a front yard is a competitive channel. It even suggests that an ad in a local newspaper is a substitute, evidently forgetting the importance of the private letter whose sealed protections it wishes to guard. (Id.) But it does fairly and openly admit to the fundamental reason for the mailbox rule: its role in protecting USPS revenues. (USPS at 9-10)

Apart from the candid claim to the revenue, the Postal Service's fears are often unsupported by reality.

For example, while USPS says it wishes to deter mailbox overcrowding, it actively promotes volume discounts in several Negotiated Service Agreements (see, e.g. EXPERIMENTAL CHANGES TO IMPLEMENT CAPITAL ONE NSA, PRC Docket MC2002-2 and its progeny) that are obviously considered a consumer good when the mailbox becomes stuffed like a Thanksgiving turkey.

And USPS believes private carriers would be more likely to invade the privacy of someone's correspondence, but it provides no support for the inference that USPS carriers would never read someone's postcards. To its credit, it does point out that personal correspondence volume is in a free fall and that the mailbox is increasingly filled with advertising mail, (USPS at 15) where expectations of privacy are likely to be diminished.

As to the presumptions that only a householder and a USPS carrier ever open someone else's mailbox, there is no support whatever to indicate that real-world access is as limited as the mailbox rule assumes. In today's world, a host of non-householders may open someone's mailbox, ranging from house-and-pet-sitters to neighbors overseeing a house during a householder's vacation.

The hints of environmentalism around the rule are noble latter-day rationalizations, but specious. Who is to say that a private carrier would not ride a bicycle, walk a route, use a Segway or hop a motor scooter? And where USPS has ceased to provide delivery at all, the carbon savings is obvious—there is no fleet to spew carbon dioxide—but the reduction is so dramatic that one neighborhood may be overpaying the price of environmental improvements.

The foundation for the Commission’s decision to accept NNA’s recommendation is found in the Postal Service’s initial comments. It recognizes that some areas in the US already receive fewer than 6 day delivery because they are “geographically remote,” (Comments of the United States Postal Service at 24), and it wishes to hold closely its sole authority to retract service in other areas. Here, it conflates its authority to close facilities with its decisions to constrain service to an area altogether:

“All things considered, additional constraints on necessary change cannot help improve system wide efficiency, although they may well impact localities. Alternate channels of access to postal services will continue to grow, but they will not entirely supplant the need for bricks and mortar. Such facilities provide access to postal services, regardless of whether some but not other are deemed contributors to or necessary for universal service. *Id.*”

Buried in this USPS comment is the nut of the problem: USPS may decide it needs to curtail service to some “geographically remote” areas so it can retain “system wide efficiency.” A colloquial translation might be that USPS wishes to be able to truncate its trips to Crosby, ND, because it needs the resources to better serve Sedona, AZ. Given the relative demographics of the areas, the latter—with its stylish resorts and dining havens—may well warrant more mail volume than the ranchlands of the former, though both are reasonably “remote.” The volume of the mail to be delivered is likely to govern the Postal Service’s decisions about the timing of trips from a mail processing facility to either

location—and it is reasonable to assume Crosby would be the loser in a contest between the two.

The question is not whether USPS should make decisions in favor of efficiency. The question is whether it should be allowed to sit on an unused monopoly to Crosby simply because it fears the effect of losing revenues that it might wish for its services to Sedona. Obviously, if the residents of Crosby have no other choice, they will have to continue to pay postage to send their mail, and the businesses trying to reach Crosby will continue to pay postage to reach them, even if the mail shows up only 3 days a week. USPS can save fuel and labor by not delivering the mail, while Crosby sits uncovered certain days of the week.

But is that fair? Should not the people of Crosby be afforded a venue to petition the postal administration for the right to send their own carrier to Fargo or Billings, or wherever the nearest facility may be, to retrieve Crosby's mail and deliver it on a daily basis? And should that carrier not receive the fair value of that mail, as USPS would do if it were performing the delivery?

A decision in favor of truncated service to “geographically remote areas” that handcuffs those residents from self-help in getting their mail, simply so the Postal Service can harbor the small amount of revenue that may be involved, would be a hard decision indeed. And yet the vehemence of the Postal Service's justification of its sole mailbox access would lead a reasonable person to believe it will allow Crosby to wither on the vine before it will take a risk with the principle of the monopoly mailbox. That is precisely why the Commission must insert itself into the process and develop a system of licensing and regulation that will permit those “geographically remote” Americans who—one might assume—consider themselves equally to be availed of basic American services like the mail, to use their own ingenuities to solve their problems. The Commission must have rules that permit a private postal system, licensed by the Postal Service or by the Commission itself if USPS cannot be trusted to play fair, that affords these rural

Americans the same mailbox sanctity and trusted service that their urban neighbors take for granted.

That is what NNA seeks--neither a radical retribution nor a wanton neglect of the mailbox. Just a simple, workable rule that allows private creativity and enterprise to supply what USPS may no longer be able to do.

Respectfully submitted,

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