

Before the  
POSTAL REGULATORY COMMISSION  
Washington, DC 20268-0001

Rules for Complaints

Docket No. RM2008-3

REPLY COMMENTS OF THE GREETING CARD ASSOCIATION

In these Reply Comments, the Greeting Card Association (GCA) responds to an issue raised in the initial round by Valpak<sup>1</sup> and David B. Popkin<sup>2</sup>, concerning the appointment of an officer of the Commission (OOC) to represent the interests of the general public.

Proposed Rule 3030.2, tracking the statutory language, provides that

Any interested person (including a duly appointed officer of the Commission representing the interests of the general public) may file a written complaint with the Commission if that person believes that the Postal Service is not operating in conformance with [the provisions listed in 39 U.S.C. § 3662(a)].

With one limited exception, however, the proposed rules appear to make no provision for the existence of such an officer before a case has been docketed. It is thus not clear how, given the present organizational arrangement under which no standing public representation office exists and the OOC is designated case by case, Rule 3030.2 would operate with respect such officers. The stated precondition for filing a complaint is that the “interested person” (including an OOC) believes that the Postal Service is failing to conform to statutory or regulatory requirements. The relevant belief is thus not one held by the Commission (as indeed would be expected, since the Commission must ultimately decide the complaint on the record before it). Consequently the proposed rules seem to lack a

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<sup>1</sup> Valpak Direct Marketing Systems, Inc. and Valpak Dealers’ Association, Inc. Comments Regarding Proposed Rules Governing the Disposition of Complaints, pp. 11-13.

<sup>2</sup> Initial Comments of David B. Popkin, p. 1.

provision for fully executing the statutory directive that the class of persons capable of filing a complaint include the OOC.

The “limited exception” mentioned above – under which, in certain circumstances, the Commission does undertake to appoint a public representative before a docketed case exists – does not dispose of the problem. Proposed Rule 3031.12 provides that, given a volume of related rate or service inquiries possibly sufficient to “warrant treatment as a complaint,” the Commission may appoint an investigator or “a public representative representing the interests of the general public to pursue the matter.” The Commission thus apparently considers it possible to appoint at least the functional equivalent of an OOC before a case has been filed. The Rule 3031.12 mechanism, however, does not fully respond to the statutory provision that an OOC may file a complaint in any of the situations listed in § 3662(a).<sup>3</sup>

GCA believes that, given the relatively specific focus of this docket, it would be premature to argue in general terms the merits of a continuing public representation office<sup>4</sup> within the Commission. GCA, at this point, is inclined to believe that such an office would have significant advantages. However, the broad scope of 39 U.S.C. § 505 (“all public proceedings”) implies that need for such an office should be assessed with due consideration of all the types of cases in which the statute requires an OOC to be appointed. At least from the standpoint of clarity and simplicity, however, the problems discussed above suggest that such a standing public representation office could well be desirable.

October 27, 2003

Respectfully submitted,

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<sup>3</sup> This is especially true since the proposed distinction between “complaints” and “inquiries,” while a reasonable case management measure, does not exist in § 3662.

<sup>4</sup> Not necessarily limited in scope to representing consumer interests in the narrow sense.

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