

**BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON DC 20268-0001**

REPORT TO CONGRESS AND THE PRESIDENT )  
ON UNIVERSAL POSTAL SERVICE AND THE ) Docket No. PI2009-1  
POSTAL MONOPOLY )

**REPLY COMMENTS OF  
MAGAZINE PUBLISHERS OF AMERICA, INC.  
AND ALLIANCE OF NONPROFIT MAILERS  
(March 19, 2009)**

Pursuant to Order No. 152, Magazine Publishers of America, Inc. (“MPA”) and Alliance of Nonprofit Mailers (“ANM”) respectfully submit these reply comments. These comments respond to Section I of the February 17 initial comments of Valpak Direct Marketing Systems, Inc., and Valpak Dealers Association, Inc. (“Valpak”). In that section, Valpak contends that the costs incurred as a result of a failure of Periodicals Mail to achieve a cost coverage of 100 percent “should not be considered part of the USO.” *Id.* at 1-9.

Valpak’s analysis of this issue is largely a rehash of arguments that Valpak has advanced—and periodicals mailers have answered—repeatedly in other recent Commission dockets.<sup>1</sup> Valpak’s latest statement of its position does include one new

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<sup>1</sup> See, e.g., Docket No. ACR2008, MPA-ANM Reply Comments (Feb. 13, 2009). See also Docket No. RM2007-1, Comments of ANM and MPA (April 6, 2007) at 2-12; *id.*, ABM comments (April 6, 2007) at 3-4; *id.*, NNA comments (April 6, 2007) at 3-10; USPS comments (April 6, 2007) at 22-23; *id.*, Reply Comments of ANM and MPA (May 7, 2007) at 2-6; *id.*, ANM-MPA Reply Comments (July 3, 2007) at 6-7; *id.*, Reply Comments (Oct. 9, 2007) at 6-7; Docket No. ACR2007, ANM-MPA Comments (Jan. 30, 2008) at 9-10; *id.*, ANM-ABM-Dow Jones-MPA-McGraw Hill Reply Comments (February 13, 2008) at 9-23; Docket No. RM2008-4, Reply Comments of MPA, ANM and ABM (Nov. 14, 2008).

point, however: that “losses on periodicals are not costs of the USO” because the only attribute of the USO that conceivably could relate to the Periodicals rates is “product range,” and the discussion of “product range” in the Commission’s December 2008 report on universal service did not mention Periodicals rates. Valpak Comments at 8 (criticizing *Report on Universal Postal Service and the Postal Monopoly* (December 19, 2008) (“*USO Report*”) at 134).

The obvious fallacy in this reasoning is that the costs of the Postal Service’s universal service obligation are determined not by the Postal Service’s “product range” in isolation, but by the intersection of the products that the Postal Service is required to offer with the regulatory and competitive constraints on the prices that the Postal Service can charge for those services (i.e., the “pricing” attribute of the USO). If the CPI-based price cap imposed by 39 U.S.C. § 3622(d) prevents the Postal Service from recovering 100 percent of the attributable costs of a class of mail in a given year, the resulting shortfall is a cost of the USO, because it results from the intersection of the services that the Postal Service must offer (“product range” attribute) with the prices that the Postal Service must charge (“pricing” attribute). The Commission made this point very clearly in the *USO Report*—indeed, in the very paragraph that Valpak criticizes:

Under the PAEA price cap, the losses in FY 2007 from the two subclasses that make up the Periodical class could not have been eliminated. Therefore, the FY 2007 loss of \$448 million by Periodicals was made necessary by current statutory obligations. Consequently, the negative contribution made by them should be included with the costs of the USO.

*USO Report* at 134.

The Commission’s common-sense recognition that universal service costs may arise from the obligation of a regulated common carrier to offer specified products at

specified prices—not just from the variations in unit costs that result from variations in geographic density—is also well recognized in regulatory precedent. In telecommunications, for example, the rules established by the Federal Communications Commission for determining the costs of the USO of telecommunications carriers under the Telecommunications Act of 1996 define those costs in terms of “product range,” not just geographic variations in customer density. The product attributes specified by these rules include dual tone multi-frequency signaling, access to operator services, access to emergency services, access to directory assistance, and access to interexchange service. 47 C.F.R. § 54.101. Moreover, other programs designed to meet the goals of universal service, such as the Low Income program, focus on the specific services which qualify for federal universal service support.<sup>2</sup> For example, carriers are obligated to offer Lifeline services to low-income consumers. *Id.*, § 54.405.

The regulated “product range” is also an attribute of universal service in the electric power industry. The primary focus of state universal service programs is the provision of assistance to customers who cannot pay their electric bills. See, e.g., MD Code Ann., Pub. Util. Cos., § 7-512.1 (LexisNexis 2009) (defining USO to include Electric Universal Service Program, which assists low-income electric customers with arrearage retirement, bill assistance, and weatherization of their homes).

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<sup>2</sup> The FCC has also established the Schools and Libraries program and Rural Health Care program which provide universal service support for telecommunications services, including internet service, to schools, libraries and rural health care providers. 47 C.F.R. §§ 54.500-523, 54.601-625.

In sum, the Commission's finding that the Postal Service's USO includes a "product range" attribute, and is more than just an obligation to provide service in low density geographic areas, is very much in the mainstream of regulatory precedent.

Respectfully submitted,

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