Postal Regulatory Commission
Submitted 1/29/2010 12:45:37 PM
Filing ID: 66577
Accepted 1/29/2010

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001**

Annual Compliance Report, 2009) **Docket No. ACR2009**

INITIAL COMMENTS OF AMERICAN BUSINESS MEDIA

(January 29, 2009)

Pursuant to Order No. 380, issued in this docket on January 5, 2010, American Business Media, the trade association for the nation's leading business-to-business media companies and an active participant in proceedings before this Commission, hereby submits these brief preliminary comments on the Postal Service's submission in this docket.

Given the events of the past year, it is not at all surprising (but it is nevertheless disappointing) that mounting Postal Service losses have led to the asserted failure of revenues from flats, including Periodicals, to cover attributable costs. Thus, despite the 3.961% Periodicals rate increase in Docket No. R2009-2 and increasing worksharing efforts by Periodicals mailers, the cost coverage for Periodicals, according to the Postal Service, has continued to decline.[1]

There is no doubt that, as stated by the Postal Service in its report (at 39), "[t]his presents a challenge to the Postal Service and mailers," as it no doubt will to the Commission. Fortunately, or perhaps unfortunately, this is not a new issue, and it has

[1] See the ACR report at 40.

been addressed previously by the Commission, which has rejected the simplistic notion (suggested in earlier ACR proceedings) that the cost coverage shortfall and 39 U.S.C. § 3622(c)(2) together mandate a massive rate increase irrespective of the CPI cap applicable to Periodicals (and other market dominant products).

In response to Valpak's ACR2007 argument that section 3622(c)(2) requires an immediate increase in excess of the price cap in order to produce 100% cost coverage, the Commission in that docket disagreed, stating that "it is most appropriate to allow the recently adopted strategy for overcoming the Periodicals revenue-cost relationship a reasonable interval of time to succeed." Annual Compliance Determination at 70. More recently, in its December 19, 2008, Report on Universal Postal Service and the Postal Monopoly, the Commission was more explicit as to the statutory underpinnings of its conclusion, stating (at 134) that, under PAEA, Periodicals losses cannot be eliminated by a cap-piercing rate increase in light of "current statutory obligations."

Faced in Docket No. ACR2008 with a similar gap between Periodicals revenues and alleged attributable costs, the Commission's March 30, 2009 Annual Compliance Determination (at 54) again properly refrained from ordering a gap-closing rate increase, instead urging the Postal Service to direct its efforts "mainly at cost control and improved pricing signals. . . ." The Commission also (at 58) cited the "imperative need to reduce the extent to which Periodicals are exposed to manual sorting operations," an issue pressed by several commenters and addressed very recently in a new study by Halstein Stralberg that we understand Time Warner will present to the Commission in its comments in this docket.

It is apparent from the raw data that the Commission's desire for a closing of the cost/revenue gap has not occurred, for a combination of several reasons. Those reasons no doubt will be addressed in the public forum and comment procedures spelled out in the Commission's January 20 order in this docket and in the report of the Joint Periodicals Task Force expected later this year. American Business Media suggests that such reasons will include, presumably among others, the Postal Service's overall financial condition and huge annual losses, the continuing manual sortition of machinable Periodicals, the excessive retiree health care costs imposed by the Postal Accountability and Enhancement Act along with the new study by the Postal Service's Office of Inspector General finding excessive Postal Service CSRS retirement payments of $75 billion, and the limited deployment and inefficient use of the new FSS equipment. Moreover, American Business Media also contends, as it and others (including the Postal Service) have in the past, that Periodicals processing costs are not 100% volume variable, so that Periodicals attributable costs are overstated, an issue litigated years ago but as to which the Postal Service has acceded, for ACR purposes, to the Commission's unreasonable conclusion that such costs are indeed 100% volume variable.[2]

For all of these reasons, it is premature at this point to address the flats revenue gap in isolation. The Commission has recognized that a combination of facts and

[2] For how long must unit costs increase while volumes decrease before the Commission takes a fresh look at thi issue?

circumstances has led to the present situation, and it has properly set in motion a more comprehensive examination of these facts and circumstances.

Respectfully submitted,

/s/ David R. Straus

David R. Straus
Attorney for American Business Media

Law Offices of:

Thompson Coburn LLP
1909 K Street, NW
Suite 600
Washington, DC 20006-1167
(202) 585-6900
dstraus@thompsoncoburn.com

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