

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

MARKET DOMINANT PRODUCT PRICES
INBOUND MARKET-DOMINANT MULTI-SERVICE AGREEMENTS
WITH FOREIGN POSTAL OPERATORS 1

Docket Nos.
MC2010-35

MARKET DOMINANT PRODUCT PRICES
STRATEGIC BILATERAL AGREEMENT BETWEEN UNITED
STATES POSTAL SERVICE AND KONINKLIJKE TNT POST BV
AND TNT POST PAKKETSERVICE BENELUX BV (MC2010-
35)
NEGOTIATED SERVICE AGREEMENT

R2010-5

MARKET DOMINANT PRODUCT PRICES
CHINA POST GROUP - UNITED STATES POSTAL SERVICE
LETTER POST BILATERAL AGREEMENT (MC2010-35)
NEGOTIATED SERVICE AGREEMENT

R2010-6

NOTICE OF FILING RESPONSE TO CHAIRMAN'S INFORMATION REQUEST NO. 2
(September 23, 2010)

The United States Postal Service hereby gives notice of filing its response to
Chairman's Information Request No. 2 in this proceeding, issued on September 21,
2010.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
CHAIRMAN’S INFORMATION REQUEST NO. 2
DOCKET NOS. MC2010-35, R2010-5, AND R2010-6**

Please refer to the Strategic Bilateral Agreement between the United States Postal Service and TNT Post, consisting of Koninklijke TNT Post B.V. and TNT Post Pakketservice Benelux B.V. (Request, Attachment 1, at 7), which lists the following “Streams” and “Service Descriptions”:

Stream	Service Description
A,UZ,BG	PRIORITY IPA
B,UL,IL-P	SAL LETTER TRAY
B,UL,IL-G	SAL FLAT TRAY
B,UN,BG	SAL BAG
B,UN,PC or CN	SAL BULK CONTAINER
B,UM,BG	SAL M-BAG

In its request, the Postal Service proposes to add inbound multi-service agreements with foreign postal operators to the market dominant product list. Please explain why the IPA and SAL streams are included within the proposed inbound market dominant multi-service agreement product, given that outbound IPA and ISAL are classified as competitive products.

RESPONSE

As explained in Frank Cebello’s Statement of Supporting Justification concerning Global Plus 1 contracts, outbound International Priority Airmail (IPA) and International Surface Air Lift (ISAL) are excluded from the Private Express Statutes. United States Postal Service Response to Order No. 81 and Notice of Filing Information Responsive to Part 3020 of the Commission’s Rules of Practice and Procedure, Docket Nos. CP2008-8, CP2008-9, and CP2008-10, June 13, 2008, Attachment A (hereinafter “Cebello Statement”), at 2-3. To the extent that outbound IPA and ISAL contain letters subject to the Private Express Statutes, private firms may offer competing services due to the longstanding suspension of the Private Express Statutes for outbound international letters. 39 C.F.R. § 320.6; see *also* 39 U.S.C. § 601(c) (codifying extant suspensions as statutory exceptions). When it established the competitive and market dominant

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product lists, the Commission recognized Congress's preliminary determination that bulk international mail services such as outbound IPA and ISAL belong in the competitive category. PRC Order No. 26, Order Proposing Regulations to Establish a System of Ratemaking, Docket No. RM2007-1, August 15, 2007, at ¶ 3017 ("Based on the parties' comments, there appears to be little dispute that, at a minimum, bulk international mail consists of [IPA and ISAL, among other products]."); PRC Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, Docket No. RM2007-1, October 29, 2007, at ¶ 3003 & Appendix A at 3, 9; 39 U.S.C. § 3631(a)(4). Moreover, the Postal Service has described the competitive nature of the actual market for services comparable to outbound IPA and ISAL. Cebello Statement at 2-5.

Unlike outbound IPA and ISAL, inbound IPA and ISAL contains letters that are subject to the Private Express Statutes. There is no suspension or exception to the Private Express Statutes for inbound international letters as there is for outbound international letters. Moreover, many inbound international letters do not fall under any exception to the Private Express Statutes: they weigh less than 12.5 ounces and are priced such that competitive private carriage would likely be unavailable at prices six or more times the rate for a one-ounce single-piece First Class Mail letter. Because letters subject to the Private Express Statutes can be mailed using inbound IPA and ISAL, these services may not be included in a product on the competitive products list. 39 U.S.C. § 3642(b)(2); Reply Comments of the United States Postal Service in Response to Order No. 26, Docket No. RM2007-1, October 9, 2007, at 64 (opposing FedEx's proposal to

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group bulk inbound international mail as competitive because this proposal “seemingly disregards the applicability of the Private Express Statutes”).

Although inbound IPA and ISAL may also include content that falls outside the definition of a “letter” or that is otherwise excluded from the Private Express Statutes, the Postal Service submits that it would be unduly complicated to attempt to distinguish this content from inbound IPA and ISAL items that are subject to the Private Express Statutes. See Order No. 43 at ¶¶ 3024-3025 (acknowledging that inbound bulk international letters are subject to the Private Express Statutes and that other inbound bulk international mail within the same product cannot readily be distinguished from those letters, and classifying inbound bulk international mail as market dominant accordingly). The situation is essentially analogous to that of other products, such as First Class Mail letters and Standard Mail, portions of which fall within and portions outside of the Private Express Statutes, that the Commission has placed on the market dominant list.