

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

ANNUAL COMPLIANCE REPORT, 2010

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Docket No. ACR2010

**REPLY COMMENTS OF
ALLIANCE OF NONPROFIT MAILERS
ON PREFERRED RATES**

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February 17, 2011

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Pursuant to Order No. 636, Alliance of Nonprofit Mailers (“ANM”) respectfully submits these reply comments on preferred rates. These comments respond to the initial comments of American Catalog Mailers Association (“ACMA”) concerning the appropriate methodology for setting rates for Nonprofit Standard Mail under 39 U.S.C. § 3626(a)(6). ACMA at 3-6 & 7. ACMA’s grievance, to the extent that we understand it, appears to be that the Postal Service has combined commercial and nonprofit Regular Standard Flats as a single product for the purpose of reporting cost coverage, and that this approach unfairly causes the rate preference for Nonprofit Standard Mail flats to be “funded tit for tat” by commercial Standard Mail flats, rather than by the “entire mailing industry.” *Id.*

These claims reflect a basic misunderstanding of how nonprofit and commercial Standard Mail rates are set. The controlling statute is 39 U.S.C. § 3626(a)(6), which was added to section 3626 in 2000 by Pub. L. No. 106-384, § 1)(d), 114 Stat. 1461. This legislation was the result of a compromise among nonprofit mailers, commercial mailers and the Postal Service that resolved a decade-long struggle over how to preserve preferred rates without the traditional revenue foregone appropriation from

Congress.¹ Section 3626(a)(6) provides that rates for Nonprofit Standard Mail shall be set so that the “estimated average revenue per piece to be received by the Postal Service from each subclass of” Nonprofit Standard Mail “shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.” *Id.* (emphasis added). In applying this section, the Postal Service estimates the “average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail” by reference solely to commercial volume and revenue data. Commercial volume and revenue data are *not* aggregated for this purpose with nonprofit volume and revenue data. See, e.g., Library Reference USPS-R2011-2/2, workbook CAPCALC-STD-FY2009.xls, worksheet “Price Changes Summary.”² Moreover, in practice the Postal Service and the Commission have applied this formula at the class level, not the subclass or product level. Docket No. MC2010-36, *Transferring Commercial Standard Mail Parcels to the Competitive Product List*, Revised Response of the USPS to Chairman’s Information Request 1, Question 11(c) (filed October 15, 2010).

Furthermore, nothing in the statute or the Commission’s rules requires the Postal Service to offset the revenue foregone as a result of this rate preference solely (or “tit for tat”) from the commercial mail within the same product. Nor have the Postal Service or the Commission made “tit for tat” rate adjustments on their own initiative. Before the Postal Accountability and Enhancement Act of 2006 took effect, the Postal Service and

¹ Previous legislation on this subject included Postal Service Appropriations Act, 1993, Pub. L. No. 102-393, Title II, § 201, 106 Stat. 1738 (1992) (“Royball fix”), and Pub. L. No. 103-123, §§ 703 and 704, 107 Stat. 1267-1268 (1993) (“Clay compromise”).

² The 60 percent ratio does not mean that nonprofit rates are 40 percent lower than commercial rates prepared in the same manner.

the Commission set rates for the non-preferred classes by reference to the multiple factors set forth in former 39 U.S.C. § 3622(b). Since PAEA took effect, the Postal Service has generally applied to each rate class approximately the full amount of the rate increase authorized by the CPI-based price cap. 39 U.S.C. § 3622(d). And that price cap is applied at the class level, not at the subclass or product level. *Id.*, § 3622(d)(2)(A). The class definitions are fixed by law as of the date of enactment of PAEA. *Id.*

Respectfully submitted,

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