



**The Honorable Edward J. Gleiman**

**PostCom**

**June 15, 2000**

When I bring the Washington Post into my home on Sunday morning I head straight for the Dilbert cartoon—to sort of ready myself for the upcoming week in the office. Just above Dilbert is the “Sunday in the Loop” column full of interesting “inside the beltway” information. The lead item in this past Sunday’s column was entitled *Incendiary Remarks*.

In it, writer Al Kamen presented the answer to a question that has long puzzled presidential scholars.

The question: Why do cabinet officials stay in their jobs for less than three years, on average?

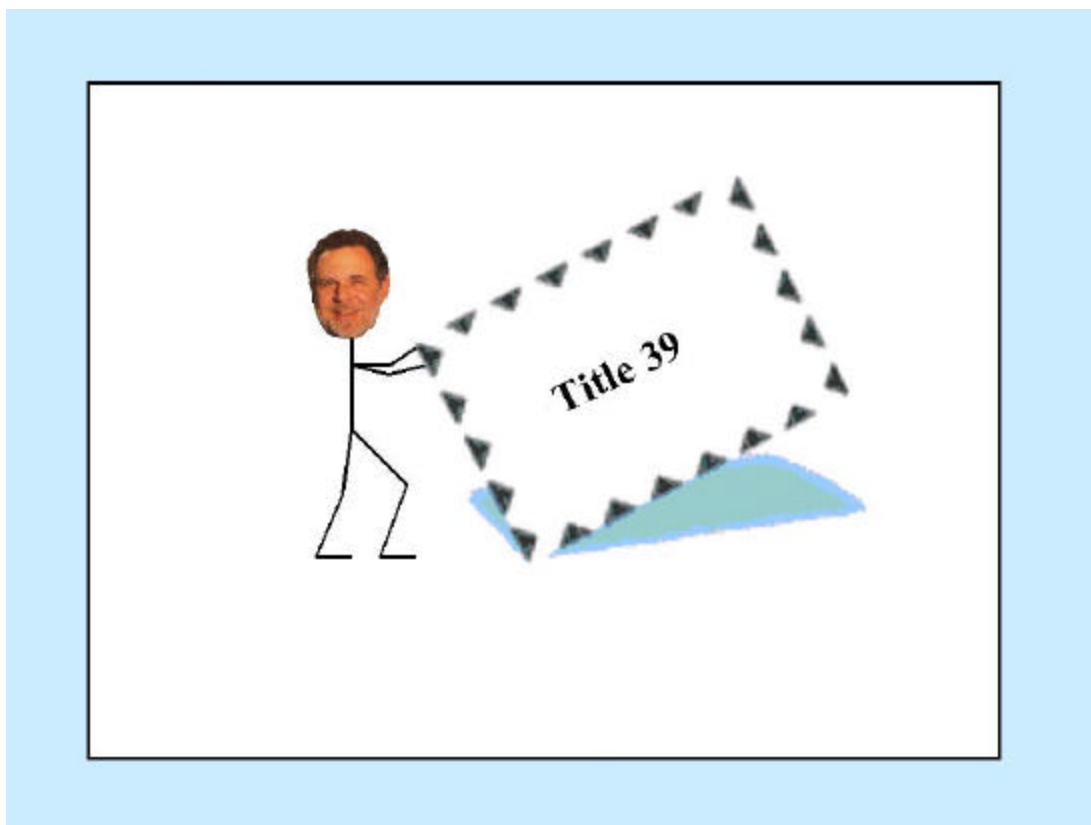
The Answer: “They know the longer they stay, the greater the risk that comments they make will jump up and bite them later, that 20-20 hindsight will mock their prior ‘wisdom’.”

Although the PRC chairmanship is certainly not cabinet level, at six plus years I have been around for more than double the safe, if you will, average.

Nevertheless, lest I disappoint some of you, I will ignore the sound advice, implicit in the Kamen article, that I not offer up any incendiary remarks. After all, I do read Dilbert first!

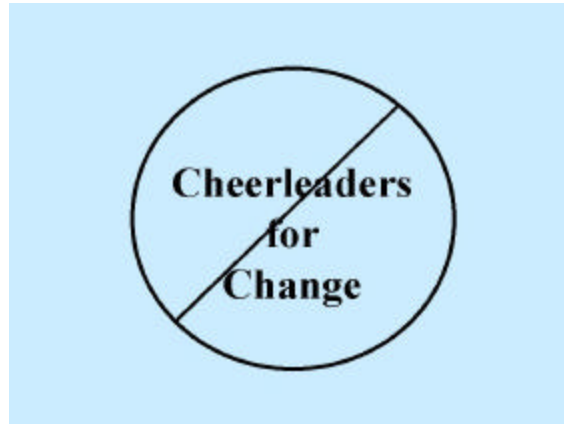
The program has my presentation listed as “Flexibility Unexplored.”

Actually some of what I plan to talk about today has been explored. Therefore, I am changing the title of this presentation to Ed Gleiman Pushes the Edge of the Envelope.



Whether one calls it exploring the unexplored or pushing the edge, you need to know that I was assigned this topic by Gene Del Polito. He did so, because he has been trying for some months TO GET ME TO ENLIST IN HIS CLUB.

Gene, the answer is NO THANK YOU!



Why would I “diss” Gene’s club like this? I think I owe him an explanation, don’t you?

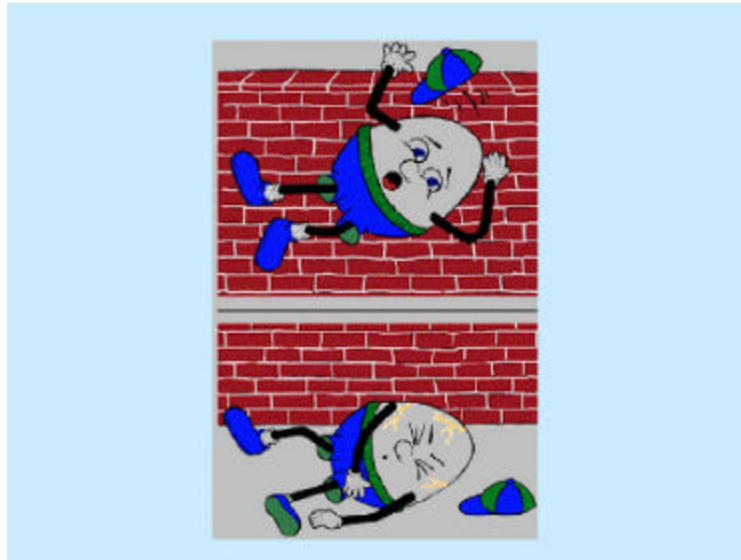
Well, it’s because many, many years ago, when I was really a very young pup, one of my mentors told me

**WE TRIED HARD... BUT IT SEEMED THAT  
EVERY TIME WE WERE BEGINNING TO FORM  
INTO TEAMS WE WERE REORGANIZED.....I  
WAS TO LEARN IN LIFE THAT WE TEND TO  
MEET ANY NEW SITUATION BY  
REORGANIZING AND A WONDERFUL METHOD  
IT CAN BE FOR CREATING THE ILLUSION OF  
PROGRESS WHILE PRODUCING  
confusion,  
inefficiency,  
and demoralization.**

PETRONIUS ARBITER 210 B.C.

Moreover, as it turns out, I like eggs. And, although it may not always seem so, the U.S. Postal Service is—all its warts notwithstanding, a pretty darn good and very important egg; one that I doubt we could live without.

In my mind, it would be unfortunate if we embarked on some uncontrolled experiment that resulted in this particular egg crashing down, incurring irreparable damage such that all the trade associations' horses and all the mailers' men couldn't put this egg on which we all depend together again.



Actually, I'm not opposed to change. We've made quite a few changes to streamline procedures at the PRC during my tenure. It's just that I prefer controlled experiments. Perhaps the next slide will help you understand the distinction I'm trying to draw.



This is a headline on an article that appeared several weeks ago in the Federal Times newspaper. The issue of Postal Service competition aside for the moment, in my opinion this would be a great lead if we changed one little word. Strike "Congress" and insert "Postal Service".

I'm reminded here of the comedian, Gallagher, who, when not showering his audience with smashed watermelon, offers up insightful comments such as "There's Congress and then there's progress." Remember now, that's Gallagher's prior wisdom, not mine!

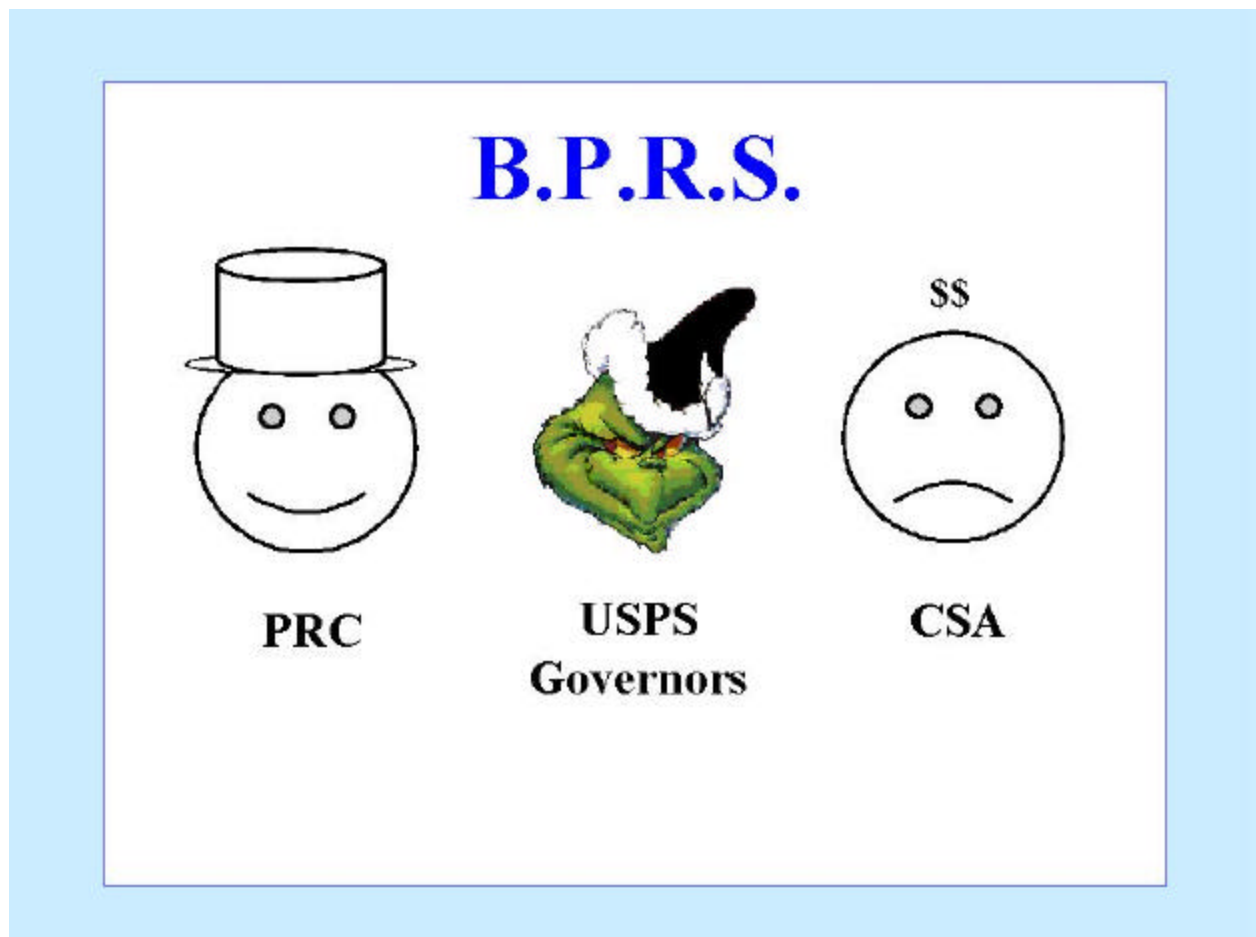
But the revised headline does, I hope you agree, have a nice ring to it:  
**Postal Service Must Position Postal Service to Compete!**

But how does the Service accomplish this—position itself?

It's pretty clear that all of you would like to help the Service in this endeavor. And, as I mentioned earlier, we've made some helpful changes and would likely be willing to make more. But, the Postal Service has got to help itself first.

The Service must do more than "talk the talk"; this is especially so when it comes to being responsive to the needs of its customers.

For example, in April the Commission issued an Opinion and Recommended Decision in the Bulk Parcel Return Service complaint case. Last week the Postal Service Governors rejected our recommendation that the rate for this service be lowered to reflect the numbers in a USPS cost study. Consequently, members of the Continuity Shippers Association and other users of this service will have to pay the old, higher rate.



The Governors dismissed the PRC recommendation on the grounds that the Commission failed to explain why the existing rate was unlawful. The governing statute does not require any such explanation of us. The Commission may entertain complaints that rates do not conform to the policies of the Postal Reorganization Act. The policies of the Act provide that the PRC recommend rates that cover costs, and which are fair and equitable.

## Bulk Parcel Return Service

- **EXPLANATION-**  
**USPS Release No. 44**
- ...recommendation was dismissed because the Commission failed to **explain why the existing rate is unlawful**, a requirement during a complaint process...
- **THE LAW**
- **39 U.S.C. 3662**
- ...parties who believe...the Service is charging rates which **do not conform to policies**...in this title...
- **THE POLICIES**
- **39 U.S.C. 3622**
- ...fair and equitable...
- ...bear...postal costs attributable to...

The Postal Service has the flexibility—it could have done right by its customers—under current law. It chose not to!

Instead of talking the talk about the need to change the law so that it can have flexibility and then ginning up tortured arguments about why it won't do things, the Postal Service should help position itself for the future by walking the walk under current law.

I am somewhat reluctant to offer my thoughts on matters that might generate additional work for the Commission during the next five months or so, as we are currently operating at the “whelmed” level—that’s a notch or two short of being overwhelmed. However, when it comes to pushing the edge of the envelope under current law, how could I not talk about Negotiated Service Agreements? But first, a brief quiz on HR 22.

How many of you have read the bill? Show of hands!



How many of you think you know what is in it and, perhaps, think you understand the bill? Hands please and you need not have read the bill to answer yes to this one!

**Remarks by  
William J. Henderson  
Postmaster General of the United States  
at the National Postal Customer Council Day  
Providence, RI  
— May 18, 2000 —**

**Or offer negotiated service agreements that  
guarantee one rate in exchange for a  
guaranteed volume threshold - regardless of  
what you mail.**

Here is an excerpt from the PMG's recent Postal Customer Council Day remarks. I'll give you a moment to read it. He is talking to the assembled masses about what the Postal Service will be able to offer under HR 22 (...offer negotiated service agreements that guarantee one rate in exchange for a guaranteed volume threshold-regardless of what you mail.)

Can I have a show of hands from those who believe this statement reflects the NSA provision of HR 22! (I do not believe the bill permits solely volume-based agreements. If it does, I bet there will be some very surprised people.)

Back to NSAs and current law: The current law permits the Postal Service to enter, tentatively, into what many of you think of as negotiated service agreements. The only significant difference between current law, where we call such proposals "classification cases", and the NSA legislative proposal, is the requirement for pre-approval under current law as opposed to notice and review under the legislative proposal.

I'm frequently asked whether current law would accommodate a USPS proposal for a NSA or classification for which only a couple—a handful of mailers — can qualify. Yep, that's acceptable under current law. You might call these "niche" classifications, and one that comes to mind is the Commission approval not so long ago of a special fee arrangement for bulk nonletter-size business reply mail.

By the way, I've heard talk that the Postal Service actually has several niche classification/NSA-type proposals ready to go. But, supposedly, it is reluctant to move forward—to request Commission approval—out of concern that doing so would undercut the broader legislative initiative.

As I mentioned before, we are not looking for additional work at the Commission right now. It would, however, be a real shame if the Service sat on initiatives that would help its customers and itself because it was banking on a change in law or, as in the case of BPRS, it did not for some reason feel motivated to act promptly.

Let me throw out a couple of current law softballs at this point:

Back in 1992 the joint USPS-PRC task force recommended what came to be known as the “4 by 2” rate cycle—a full case every 4 years with a limited intermediate case. On the eve of the R97 rate case I suggested that the concept of phased increases was worth exploring. These ideas may be worth revisiting should a massive legislative overhaul not come to pass.

In the Mailing Online case, a recommended decision on which I believe will be forthcoming within the next week, the Service asserts that distributed printing and entry close to the destination will save both time and money. Mailers get better service and the Service avoids the transportation costs. Aren't these among the benefits of drop-shipping? Are there untapped drop-ship opportunities that should be explored? (First Class and Priority Mail come to mind)

Speaking of drop-shipping, the Postal Service may wish to consider seeking out additional alliances or agreements with private carriers who are willing to hand parcels over to the Service for final delivery, especially for final delivery to residential addresses. And, perhaps acceptance of post office box delivery of materials sent by private carriers. After all, a private carrier's money is just as green as that of an individual parcel shipper or consolidator.

Some years ago, when I was a Senate staff member, representatives of the credit card industry came to us for assistance. In an effort to minimize the possibility of the theft of credit cards from the mail, they proposed shipping packages of cards to destination post offices using private carriers. The packages, containing letter mail bearing proper postage, would then be entered into the mailstream for delivery. At the time the Postal Service was simply not interested in having postal employees open these packages.

Although I know that postal employees currently open Priority Mail packages containing the likes of photographs and prescription drugs, I don't know what the current status or thinking is on this type of arrangement when the package is from a private carrier. Hopefully, the Service's view is less parochial than in the past.

In discussions on legislative reform during the past five or so years, there have been frequent references to what is happening in other countries.



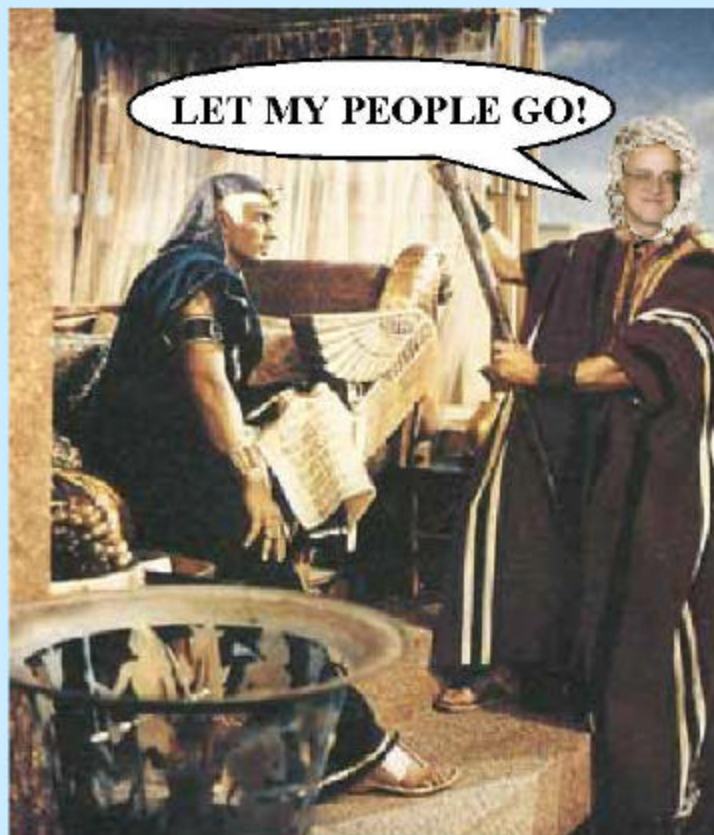
Some suggest that we just must keep up with the rest of the world. Before I attended a conference at postal headquarters back in February, I was under the impression that everyone else was privatizing; that privatization was the one and only prescription for survival.

I learned, however, that there are several reform models being tested around the world. Postal operations have, indeed, been privatized to varying degrees in a very few countries; that is, there is now at least some private ownership of a few formerly government entities. In other countries, postal administrations are corporatizing or commercializing—that is, entering new lines of business and partnering with other postal administrations and private firms. In many countries there has also been, or there are plans for, liberalization, which I tend to characterize as demonopolization.

Before I go on, it's time for another HR 22 quiz question:

First, do we all agree that HR 22 limits or, if you will, cuts back on the Postal Service's monopoly? (Currently, letters may be carried outside of the Post if they meet the urgent letter rule, including private delivery costs of the greater of \$3 or double the First Class postage. I think I got that right. Under HR 22, the upper limit on the monopoly is 6 times the single ounce stamp—\$1.98—or a letter weighing less than 12 ½ ounces.)

Second question: If HR 22 becomes law and Gene Del Polito petitions the Postal Service, as he did in 1990, to “Let his people go!” by suspending the monopoly on third class mail, will the Postal Service have more or less flexibility to grant his demand than it has under current law?



## Title 39

### § 601. Letters carried out of the mail

(a) A letter may be carried out of the mails when—

- (1) it is enclosed in an envelope;
- (2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;
- (3) the envelope is properly addressed;
- (4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;
- (5) any stamps on the envelope are cancelled in ink by the sender; and
- (6) the date of the letter, of its transmission or receipt by the carrier is endorsed on the envelope in ink.

(b) The Postal Service *may suspend the operation of any part of this section* upon any mail route where the public interest requires the suspension.

Notice that in section 601 of Title 39, there are a half dozen requirements that must be met if you want to send letters by private carrier. Also, and this is important—I want you to keep this point in mind for later, the Service can suspend some or all of these requirements.

## **HR 22**

### **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) **REPEAL OF SUSPENSION AUTHORITY.**—Subsection (b) of section 601 of title 39, United States Code, is repealed.

(b) **PRIVATE CARRIAGE.**—Section 601 of title 39, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) A letter may be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first-class letter;

“(2) the letter weighs at least 12½ ounces;

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 1998) that purport to permit private carriage by suspension of the operation of this subsection (as then in effect); or

“(4) the requirements of subsection (b) are met.

“(b) A letter shall be considered to satisfy the requirements of this subsection if

“(1)...(6)

Now let's look at what happens to this section under HR 22. There is a new subsection (a) that includes the 6 times the stamp and 12 ½ ounce provisions I mentioned a bit ago. The half dozen requirements for carriage of a letter outside the Post are now in subsection (b). But, old subsection (b), the one that gives the Service the authority to let folks out from under the monopoly, is repealed.

It appears that, under HR 22, the monopoly could not be further relaxed by suspending any of those requirements. Gene's demand that the postal pharaohs let his people go could not be granted, regardless of the number of plagues—I mean op-ed pieces—that might rain down on the pyramid at L'Enfant Plaza.



## Title 39

### § 601. Letters carried out of the mail

(a) A letter may be carried out of the mails when—

- (1) it is enclosed in an envelope;
- (2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;
- (3) the envelope is properly addressed;
- (4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;
- (5) any stamps on the envelope are cancelled in ink by the sender; and
- (6) the date of the letter, of its transmission or receipt by the carrier is endorsed on the envelope in ink.

(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.

Let's go back to the previous slide—section 601 of current law. I want to give you a moment to read it again. And, while you are looking at that slide, give some thought to what Gene's people would do with all their advertising mail if his demand was granted—if the monopoly was waived for their mail? Are they going to throw it on a driveway or doorstep?

Over the years, there have been work share developments in mail processing and in mail transportation. Mail delivery, an area where fixed costs are growing as a million or so new delivery points are added every year, has seen little innovation—no sharing of work and related savings with mailers. Why?

## Title 18

### **§ 1725. Postage unpaid on deposited mail matter**

Whoever knowingly and willfully deposits anyailable matter such as statements of accounts, circulars, sale bills, or other like matter, on which no postage has been paid, in any letter box established, approved, or accepted by the Postal Service for the receipt or delivery of mail matter on any mail route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined under this title.

Perhaps it's that pesky old mailbox rule!

But look again, the prohibition on you, the mailer, placing something in a mailbox is premised on the intent to avoid payment of lawful postage. Lawful postage is, of course, any rate that is established pursuant to the existing law.

Under current law, the Postal Service can suspend 39 U.S.C. 601(a)(2) which provides that for a letter to be delivered outside the mail it must carry the amount of postage required if it had been sent by mail. The Service could then request a lawful rate for delivery of letters by private carrier which covered say, for the sake of discussion, the institutional cost contribution the piece would have otherwise made and maybe a little bit more—to cover the administrative cost of licensing alternative deliverers.

I know that, given the resistance in many quarters to opening the mailbox, this idea may seem to bust through the edge of the envelope. It may even run counter to concepts associated with economies of scale. However, it is an idea whose time may come, if ever the Service is faced with the need to better control deliver costs in the face of declining volume.

It is an idea that might have given a shot in the arm to the alternate magazine delivery effort of several years ago.

I want to switch gears now and talk about one of the Service's outside the box initiatives— its entry into a new, nontraditional area: eBillPay! I am going to limit my comments here to an aspect of this offering that is not likely to be an issue before the Commission but which raises questions in my mind concerning the Service's ability to think outside the box—to run with the big dogs.

I don't need to tell you that privacy is a hot topic. You have been living, and in some cases almost dying, with this issue.

It's a topic I know a little bit about from back in the early and mid-1970s when I was point man for the then Department of Health, Education and Welfare on implementation of the Federal Records Privacy Act and the school records access law.

As I understand it, eBillPay involves a partnership between the Postal Service and Checkfree.

Let's take a look at how Checkfree handles information obtained from its customers. No sharing of your personal information with other companies, the government or third parties. Not bad!



## **Our Commitment to Privacy**

CheckFree has created this privacy statement in order to demonstrate our firm commitment to privacy. The following discloses our information gathering and dissemination practices for this website: [www.checkfree.com](http://www.checkfree.com).

### **Use of your personal information**

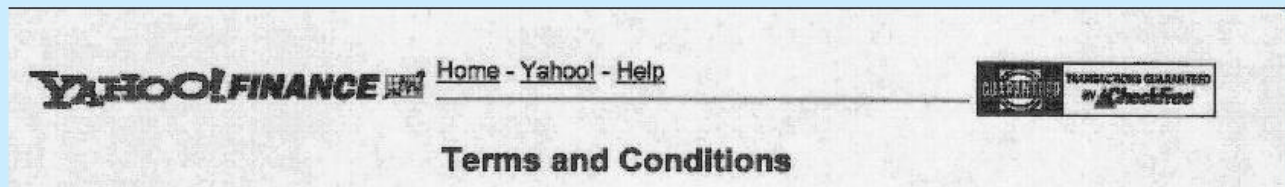
Our site's request of information form requires users to give us contact information (like their name and email address). We do use customer contact information from the registration form to send the user information about our company. The customer's contact information is also used to contact the customer when necessary.

*We do not share your personal information with other companies, the government or any third party.* We do not sell your personal information to anyone. Your personal information is kept strictly confidential.



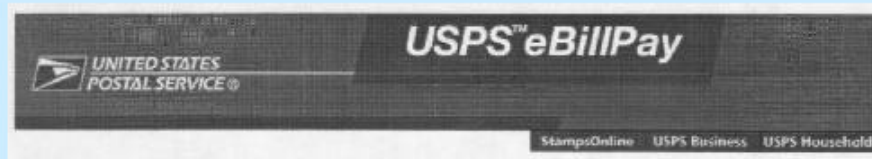
Basically, usps.com and other Checkfree partners are a source of “eyeballs”.

So, let’s take a look at how one of the other partners, Yahoo, treats personal information obtained in connection with electronic bill payment. Its uses are limited to bill paying purposes, but it will respond to an agency or court order. Almost as tight as Checkfree!



### DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

We will disclose information to third parties about your account or the transactions you schedule through the Service **ONLY in the following situations:** 1) To a payee to request your bill be sent to you electronically by the Service; 2) Where it is necessary for completing transactions; 3) In order to verify the existence and condition of your account to a third party, such as a credit bureau or payee; 4) To a consumer reporting agency for research purposes only; 5) In order to comply with a governmental agency or court orders; or, 6) If you give us your written permission.



### DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

Privacy Act Statement: The collection of information required for this service is authorized by 39 U.S.C. §§401 and 404. The information you provide will be used to provide you with electronic billing and payment services. As a routine use, the information may be disclosed to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding for which the Postal Service is a party or has an interest; to a government agency in order to obtain information relevant to a Postal Service decision concerning employment, security clearances, contracts, licenses, grants permits or other benefits; to a government agency upon its request when relevant to its decision concerning employment, security clearances, security or suitability investigations, contracts, licenses, grants or other benefits; to a congressional office at your request; to an expert, consultant or other person under contract with the Postal Service to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during official audit of Postal Service finances; to a Postal Service contractor for purpose of providing electronic billing and payment service and or customer support services with regard to the electronic billing and payment service; to a payee or financial institution for the purposes of resolving payment-posting or discrepancies regarding status of bill payment; and to a credit bureau for the purposes of obtaining a credit rating. Providing this information is voluntary; however, if this information is not provided, we will not be able to provide the service requested.

Now, let's take a look at another Checkfree partner, the Postal Service. Just look at this list of possible recipients who can get eBillPay information from the Postal Service. I dare say that if your company had a policy of routinely giving out personal information in this manner you might well find yourself on the hot seat in a Congressional hearing.

Just because it is a government agency doesn't mean that it has to think like one; it doesn't mean it has to pull some government-wide routine disclosure jargon off the shelf—especially when it is entering into a seemingly competitive, commercial venture in partnership with a private sector concern.

Putting aside for the moment your loyalty as a customer of the Postal Service, with which Checkfree partner would you feel more comfortable when supplying personal, financial information?

All this raises questions in my mind as to whether the Postal Service is thinking like the Big Dogs—like you.

The Postal Service has, I believe, done itself a disservice! It certainly has not positioned itself well for the future, in this instance.

On the off chance that I have not already offered up enough “wisdom” that will jump up and bite me in the future, let’s try one final HR 22 quiz question:

## HR 22

### “§ 3662. Rate and service complaints

“(2) in a matter involving a violation of any limitation under section 3732 (relating to limitations on rates for noncompetitive products), order the unlawful rates to be adjusted to lawful levels and the taking of such other action as it considers appropriate;

“(3) in a matter involving a violation of section 3743(a) (relating to costs-attributable requirement for competitive products) or section 3763(b) (relating to conditions to be met by new competitive products), order the unlawful rates to be adjusted to lawful levels and...

This section of the bill directs the Postal Regulatory Commission to order that “...unlawful rates to be adjusted to lawful levels...” This direction applies to both complaint cases and findings from the annual year-end audit. Does anyone know, or for that matter care, what the “lawful levels” are to which unlawful rates must be adjusted?



Well, I'm pretty sure I have overstayed my welcome, so let me leave you with one final thought—Skepticism is a Virtue!

# SKEPTICISM IS A VIRTUE

Oops! How did that get in there?

