

POSTAL REGULATORY COMMISSION

Commission Response to Section 407(c)(1) Request for Views in connection with 2012 Universal Postal Union Congress in Doha, Qatar

(September 12, 2012)

Introduction

This document responds to a request from the United States Department of State, pursuant to 39 U.S.C. § 407(c), requesting the views of the Postal Regulatory Commission concerning proposals to amend the Acts of the Universal Postal Union (UPU) that will be considered at the UPU Congress in Doha, Qatar from September 24 to October 15, 2012. Section 407(c)(1) provides that “[b]efore concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36 [of title 39], the Secretary of State shall request the [Commission] to submit its view on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.” The standards and criteria established by the Commission under section 3622 are limited to market dominant Postal Service products.

To address the State Department’s request, the Commission reviewed approximately 400 proposals. Each was examined to determine, initially, whether the proposal raises a market dominant rate or classification issue, and, if so, whether it is consistent with the criteria established by the Commission under 39 U.S.C. § 3622. If a proposal did not raise a market dominant rate or classification issue, the Commission’s view is not required.

The Commission’s review also distinguished between proposals concerning existing and prospective market dominant products. With respect to proposals involving changes to existing market dominant products or proposals to be implemented

beginning in 2013, the Commission's view is set forth in Attachment 1. Proposals for future rates or classifications (or prospective implementation) were excluded because they typically lack the requisite level of detail needed to develop a view. However, in the interest of providing useful guidance, the Commission offers comments on these proposals in Attachment 2.

The Commission groups the proposals on which it presents its views into eight sections: Terminal Dues; Literature for the Blind; International Merchandise Return Service; Customs Fees; Open Transit; Other Charges; Postal Payment Services; and General Classifications. Within these sections, the Commission refers to proposals by the UPU-assigned number and identifies sponsors and supporters. It then summarizes the proposal and presents the Commission's view on consistency. Additional information is provided in connection with some proposals.

Two proposals (addressing Literature for the Blind and Classification of Letterpost Items Based on Their Formats) include both a substantive change and a nomenclature change. In these instances, conforming editorial changes are needed in other provisions to reflect the nomenclature change. The UPU Congress's practice is to present conforming editorial changes in separate proposals. The Commission expresses a view on the consistency of the substantive aspect of each proposal with section 3622 factors and objectives and addresses the appropriateness of the nomenclature change. The Commission identifies related proposals, presents the conforming editorial changes and comments on them, but does not express a view on the consistency of a conforming editorial change with section 3622 factors and objectives.

I. TERMINAL DUES PROPOSALS AND RESOLUTIONS

This document addresses three types of terminal dues proposals: the three proposals put forward by the Postal Operations Council (20.27.1, 20.28.1 and 20.29.1), referred to as the “main terminal dues proposals;” ten amendments to the main terminal dues proposals; and a set of other proposals, including resolutions, addressing other aspects of terminal dues.¹

In general, the main terminal dues proposals reflect increased rates, which are projected to be compensatory by 2017, and thus satisfy a number of important considerations under section 3622, including, for example, predictability and stability in rates, revenue adequacy, cost recovery, and rate impact. See 39 U.S.C. §§ 3622(b)(2), (b)(5), (c)(2), (c)(3).

In its view provided to the Department of State in June 2008, in advance of the last UPU Congress in Geneva, the Commission raised concerns that terminal dues for Inbound Single-Piece First-Class Mail International under the UPU Convention did not cover the Postal Service’s costs. The Commission expressed the opinion that rates paid by postal operators in the UPU for the handling, transport and delivery of letterpost should be aligned as closely as possible with domestic postage to ensure appropriate cost coverage for postal administrations that deliver the mail. It also stated that there should be a reasonable transition towards a terminal dues system in which all postal operators pay the same rate to access the same foreign postal delivery network, regardless of the country of origin, to eliminate arbitrage opportunities and incentives for remail.

The Commission continues to adhere to the position that the U.S. Government should actively promote terminal dues rates in the UPU that are closely aligned with

¹ Terminal dues set the remuneration among designated postal operators for the delivery of international letterpost (letters, flat envelopes and small packets weighing up to 2 kilograms or 4.4 pounds).

domestic postage rates and provide sufficient cost coverage to handle, transport and deliver inbound international mail for the Postal Service.

The Commission notes that terminal dues rates are available only to designated operators. Some businesses and private carriers contend that exclusion from these rates is unreasonable and discriminatory and may distort competition in the provision of international postal and other delivery services. They assert that the terminal dues provisions fail to comport with various provisions of title 39. The Postal Service contests these assertions. These comments raise significant and complex matters that warrant additional attention. The Commission encourages the Department of State to move the UPU to adopt a terminal dues system that is more cost-based, country-specific, and just and reasonable.

A. Proposal 20.27.1, Terminal Dues, General Provisions and Amendments

1. Proposal 20.27.1 (Postal Operations Council)

Summary. This proposal is designed to ensure a continued transition of countries toward the UPU target system; increases rates 2.8 percent for M bags over the period 2014-2017; and establishes new rates for registered items, insured items, and bulk mail. It applies to all UPU members.

View. The Commission views this proposal as consistent with 39 U.S.C. § 3622 as it improves cost coverage and creates rate stability.

2. Amendments to Proposal 20.27.1

a. Proposals 20.27.3 and 20.28.2 (Chile; supported by Costa Rica)

Summary. These proposals establish a rate of 0.5 SDR (approximately \$0.74) for registered and insured items without a UPU-compliant barcode from all UPU member countries unless there is a bilateral agreement in place. Currently, this

provision exists within Article 28 of the UPU Convention and applies only to designated postal operators in the target terminal dues system. It does not apply to those in the transition terminal dues system. Taken together, these proposals move the provision from Article 28, Terminal Dues, Target System, to Article 27, Terminal Dues, General Provisions. This means the rate applies to designated postal operators in the transition terminal dues system as well as in the target terminal dues system.

View. The Commission views these proposals as consistent with section 3622 of title 39 because they improve cost coverage for Inbound Registered Mail. The U. S. Postal Service does not offer insurance for Single-Piece First-Class Mail International.

b. Proposal 20.27.5 (Saudi Arabia)

Summary. This proposal keeps the rate for M bags at the 2013 level for the period 2014-2017. This contrasts with Proposal 20.27.1, which includes a 2.8 percent annual increase in the M bag rate.

View. The Commission views Proposal 20.27.5 as inconsistent with section 3622 because of the potential that remuneration to the Postal Service for inbound M bags will fall below cost and not contribute adequate revenues to help maintain the Postal Service's financial stability.

c. Proposal 20.27.6 (Saudi Arabia)

Summary. This proposal keeps supplementary rates for registered and insured items at their 2013 levels. This contrasts with Proposal 20.27.1 which includes a 2.8 percent annual increase for 2014-2017.

View. The Commission views this proposal as inconsistent with section 3622 because it would maintain rates at 2013 levels and would not establish just and reasonable rates. The Postal Service does not offer insurance for Single-Piece First-Class Mail International.

- d. Proposal 20.27.7 (Brunei, Cambodia, China, Iran, Korea (Rep.), Malaysia, Nepal, Philippines, Samoa, Singapore, Thailand and Turkey)

Summary. This proposal maintains the current classification of countries in the transition and target terminal dues systems, thereby halting the proposed transition of 42 more countries to the target terminal dues system in 2016 as provided in Proposal 20.27.1.

View. The Commission views Proposal 20.27.7 as inconsistent with section 3622 because it would maintain the existing classification which would have a negative effect on cost recovery and revenue adequacy. Cost coverage for Inbound Single-Piece First-Class Mail International from target system countries is higher than from countries in the transition system.

- e. Proposal 20.27.8 (United Arab Emirates; supported by Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Tunisia and Yemen)

Summary. This proposal requires designated postal operators to provide a non-priority service at a 10 percent discount off of the terminal dues rate for inbound letterpost. Currently (and under Proposal 20.27.1), this service is optional with a 10 percent discount off the terminal dues rate.

View. The Commission views Proposal 20.27.8 as inconsistent with section 3622. The Commission estimates that such a non-priority service is unlikely to cover costs at a 10 percent discount below terminal dues. Thus, the resulting discounted rates would not be just and reasonable. Moreover, the Postal Service currently does not offer a non-priority service for Inbound Single-Piece First-Class Mail International.

- f. Proposal 20.27.9 (United Arab Emirates; supported by Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Tunisia and Yemen)

Summary. This proposal amends the proposed rates in Proposal 20.27.1 for M bags, registered items and insured items by eliminating the proposed 2.8 percent annual increase for 2014-2017 with a 2.8 percent increase for 2014 only.

View. The Commission views Proposal 20.27.9 as inconsistent with section 3622. The Postal Service does not offer insurance for Inbound Single-Piece First-Class Mail International. For Inbound Registered Mail and M bags, however, Proposal 20.27.9 would maintain rates at 2013 levels, would not cover costs, and thus would not establish a just and reasonable rate schedule.

B. Proposal 20.28.1, Terminal Dues, Target System

1. Proposal 20.28.1, Postal Operations Council Proposal

Summary. This proposal establishes terminal dues rates for letterpost exchanges among all members of the UPU target system (which includes the U.S. Postal Service), all industrialized countries and their territories, and countries that transitioned into the target system in 2010 and 2012. The rates are based on a new methodology that uses a 20 gram and a 175 gram domestic letter rate for each country. The proposal also amends the per item and per kilogram floor and cap rates for countries in the target system before 2010 and the cap rates for countries that joined the target system in 2010 and 2012. The new rates will provide the Postal Service with a 13 percent annual increase on terminal dues for Inbound Single-Piece First-Class Mail International from 2014-2017.

View. The Commission views this proposal as consistent with section 3622 of title 39 because it offers improvements in cost coverage for the Postal Service, enhances the adequacy of Postal Service revenues, and more closely aligns terminal

dues with domestic rates. This proposal also mitigates rate increases for U.S. mailers, ensures continued efforts towards improving quality of service, and will promote predictability and stability in international mail rates.

With respect to the price cap for market dominant products, given that Inbound Single-Piece First-Class Mail International is such a small percentage of Single-Piece First-Class Mail, terminal dues increases will not impact rate cap requirements for the entire mail class under title 39.

2. Proposal 20.28.4 (Brunei, Cambodia, China, Iran, Korea (Rep.), Malaysia, Nepal, Philippines, Samoa, Singapore, Thailand and Turkey)

Summary. This proposal lowers the per item and per kilogram cap rates for countries that entered the terminal dues target system in 2010 and 2012 from those proposed in 20.28.1.

View. The Commission views Proposal 20.28.4 as inconsistent with section 3622 of title 39 because it slows progress towards improving cost coverage for Inbound Single-Piece First-Class Mail International, will not contribute to the Postal Service's financial stability, and will not result in a just and reasonable rate schedule.

- C. Proposal 20.29.1, Terminal Dues, Transition System (Postal Operations Council)

1. Proposal 20.29.1 (Postal Operations Council)

Summary. This proposal establishes terminal dues rates for letterpost exchanges among countries in the transition system and between countries in the target system and countries in the transition system. The rates represent an increase of 5.3 percent from 2013 to 2014 and a 2.8 percent increase each year thereafter until 2017.

View. The Commission views this proposal as consistent with section 3622 because it moves towards improved cost coverage and promotes the generation of adequate revenue for the Postal Service.

2. Proposal 20.29.2 (Portugal)

Summary. This proposal establishes a rate of 0.5 SDR (approximately \$0.74) for registered or insured items in open transit without a UPU-compliant barcode from member countries in the transition terminal dues system.

View. The Commission views this proposal as consistent with section 3622 because it has the potential to provide additional revenue for Inbound Registered Mail, improve cost coverage and promote the generation of adequate revenue for the Postal Service to maintain its financial stability.

This provision currently exists only for open transit items from member countries in the target terminal dues system. The Postal Service currently does not offer open transit service. However, in the event that the Postal Service decides to resume open transit service for letterpost, this proposal could provide additional revenue.

3. Proposal 20.29.6 (Morocco; supported by Bahrain, Jordan, Kuwait, Libya, Mauritania, Qatar, Tunisia, Saudi Arabia, and Yemen.)

Summary. This proposal allows a 25 percent discount on terminal dues rates for bulk mail sent to countries in the terminal dues target system from countries in the terminal dues transition system. Bulk mail is defined as a mailing of letterpost items (letters, flat envelopes and small packets weighing up to 2 kilograms) sent from one sender with 1,500 items in 1 day or 5,000 items over the course of 2 weeks. Currently (and under Proposal 20.29.6), postal operators in the target terminal dues system can charge postal operators in the transition terminal dues system the target system rates for bulk mail.

View. The Commission views Proposal 20.29.6 as inconsistent with section 3622. The 25 percent discount on terminal dues rates paid to postal operators in the terminal dues target system would move away from full cost coverage, would not contribute to the Postal Service's financial stability, and would not establish just and reasonable rates.

D. Other Proposals Related to Terminal Dues

1. Proposal 20.12.3, Article 12, Basic Services (The Netherlands)

Summary. This proposal increases the weight limit for international letterpost (Single-Piece First-Class Mail International) that can access terminal dues rates, which includes priority and non-priority letters, postcards, printed papers and small packets from 2 kilograms (approximately 4.4 pounds) to 5 kilograms (approximately 11 pounds).

View. The Commission views this proposal as inconsistent with section 3622 because it may deteriorate cost coverage for Inbound Single-Piece First-Class Mail International. The proposal was put forward without any analysis of its financial impact.

2. Proposal 20.12.91, Article 12bis, Classification of Letterpost Items Based on Their Formats (Postal Operations Council) Related Conforming Editorial Proposals: 25.120.91, 25.122.91, 25.128.1

Summary. Proposal 20.12.91 establishes a new classification based on three formats: small letters, large letters and bulky letters. The related proposals implement Proposal 20.12.91 and include the size of each format and when these formats may be used.

View. The Commission views Proposal 20.12.91 as consistent with section 3622 because it promotes a just and reasonable schedule for classification. The related proposals are conforming editorial changes that reflect the portion of Proposal 20.12.91 that presents the nomenclature change. These proposals accurately reflect the need to

adopt conforming changes, but do not require a view on consistency with section 3622 factors and objectives.

E. General Resolutions on Classification and Transition of Countries for Purposes of Terminal Dues

1. Proposal 38

Summary. Proposal 38 is a general resolution through which the UPU Congress will approve the classification of UPU member countries into five groups for purposes of terminal dues and the Quality of Service Fund using an update to the methodology initially approved at the 2008 Congress. Considered in conjunction with the main UPU terminal dues Proposals in 20.27.1, 20.28.1, 20.29.1, and 20.30.1 (Quality of Service Fund), this proposal will foster the transition of 42 countries into the terminal dues target system in 2016. Cost coverage in the target system is higher than in the transition system.

View. The Commission views this proposal as consistent with section 3622. It improves cost coverage for Inbound Single-Piece First-Class Mail International, and promotes revenue adequacy and the establishment of just and reasonable rates.

2. Proposal 79 (United Arab Emirates)

Summary. Proposal 79 proposes a revised methodology for the classification of countries into five groups for purposes of terminal dues and the Quality of Service Fund. The country groups would not be known at the Congress.

View. This proposal is not sufficiently developed for the Commission to determine whether it is consistent with section 3622.

II. LITERATURE FOR THE BLIND (POSTAL OPERATIONS COUNCIL)

Proposal 20.7.1Rev1

Related Proposals: 20.12.1, 20.15.1, 23.3.1, 25.112.1, 25.11.1, 25.106.1, 25.124.1, 25.145.1, 25.184.1, 27.2.1 (all conforming editorial changes)

Summary. This proposal is a classification change because it changes “literature for the blind” to “items for the blind” within the context of mail exempt from postal charges. It further expands the current definition of “literature for the blind” to include “correspondence, literature in whatever format including sound recordings, and equipment and materials of any kind made or adapted to assist blind person in overcoming the problems of blindness.”

View. The Commission views this proposal as consistent with section 3622. It establishes a desirable special classification. In addition, the classification has educational, cultural, scientific and informational value. The related proposals are conforming editorial changes to reflect the portion of Proposal 20.7.1 that involves a nomenclature change. These proposals accurately reflect the need for conforming changes, but do not require a view on consistency with section 3622 factors and objectives.

III. INTERNATIONAL MERCHANDISE RETURN SERVICE

A. Proposal 20.13.3 (Postal Operations Council)

Summary. This proposal allows for the future creation of an international merchandise return service which designated operators could offer on an optional basis. It is the Commission’s understanding, based on documentation from previous meetings of POC Committee 2, Parcels, that this service would include parcels conveyed by both air and road transport, and therefore would include market dominant surface parcels.

View. The Commission views this proposal as consistent with section 3622 as it promotes the establishment of a just and reasonable schedule for rates and classifications.

- B. Proposal 35.129.91 (The Netherlands; supported by Greece, Malaysia, New Zealand, Norway, Pakistan and Sweden)

Summary. This proposal establishes a merchandise return service for the acceptance of prepaid return parcels with priority transportation that designated postal operators may agree to offer by bilateral agreement. In addition, it establishes charges for this service at 85 percent of the inward land rate (parcel delivery rate) of the designated operator returning the item, with a floor rate of 2.85 SDR (approximately \$4.32) per item and 0.28 SDR (approximately \$0.42) per kilogram.

View. The Commission views this proposal as inconsistent with section 3622. It prescribes bilateral rates tied to inward land rates. Special classifications are permitted, but rates should be established by agreement between the parties to the bilateral agreement.

IV. CUSTOMS FEES

- A. Proposal 20.18.3Rev1 (France)

Summary. This proposal allows a designated postal operator in a country of transit or destination to charge the designated postal operator of origin remuneration for the costs incurred for the handling of prohibited items.

View. The Commission views Proposal 20.18.3Rev1 as consistent with section 3622 of title 39 because it enables a postal operator to cover costs incurred by a postal operator for handling prohibited items.

- B. Proposal 20.18.4 (Greece)

Summary. This proposal allows a designated postal operator to charge a sender or addressee a presentation-to-Customs fee for non-dutiable items. Currently, the UPU Convention limits a postal operator to collecting a presentation-to-Customs charge for dutiable items, even if it still has to physically present the item to Customs.

View. The Commission views this proposal as consistent with section 3622 of title 39 because it enables a designated postal operator to cover costs incurred for the presentation of items to Customs, even if they are non-dutiable.

V. OPEN TRANSIT

Proposal 35.194.1 (Egypt)

Summary. This proposal increases the rate a designated postal operator can charge for the handling costs incurred for open transit parcels from 0.40 SDR (approximately \$0.60) per item to 1.5 SDR (approximately \$2.28) per item. The U.S. Postal Service does not currently offer open transit service for parcels.

View. The Commission views Proposal 35.194.1 as consistent with section 3622 of title 39 because, in the event the Postal Service resumes this service, it promotes improved cost coverage and contributes to the adequacy of the Postal Service revenue and financial stability.

VI. OTHER CHARGES

Proposal 20.23.1 (Czech Republic) Related Proposals: 25.145.3 and 35.135.2

Summary. Proposal 20.23.1 establishes that the sender of prohibited items under Article 15 of the Convention is liable to the designated postal operator of transit or destination for costs incurred for the seizure of all or part of the content of such items. The related proposals permit the designated postal operator of transit or destination to collect such charges through the designated postal operator of origin for the costs incurred. Proposal 25.145.3 relates to the collection of costs incurred for the seizure of prohibited items contained in letterpost, while Proposal 35.135.2 relates to the collection of costs incurred for the seizure of prohibited items contained in parcels.

View. The Commission views Proposal 20.23.1 as consistent with section 3622 because it promotes cost recovery, revenue adequacy, and just and reasonable rates.

VII. GENERAL CLASSIFICATIONS

Proposal 10.1.1 (Uzbekistan; supported by Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia and Ukraine)

Proposal 10.1B.1 (Belarus; supported by Azerbaijan, Kazakhstan, Kyrgyzstan, Russia, Ukraine and Uzbekistan)

Summary. Proposal 10.1.1 amends the UPU Constitution to include all postal items in the single postal territory through which freedom of transit must be guaranteed by all signatories to the UPU Acts. Currently, the single postal territory is limited to letterpost items, even though the Preamble of the Constitution says that the UPU mission is to “stimulate the lasting development of efficient and accessible universal postal services...” Proposal 10.1B.1 defines “postal item” to include “anything dispatched by the Post’s services (letterpost, parcel post, money orders, etc).”

View. Proposals 10.1.1 and 10.1B.1 represent a significant classification change, the implications of which are not fully developed. Absent considerably more detail, they cannot be deemed consistent with section 3622.