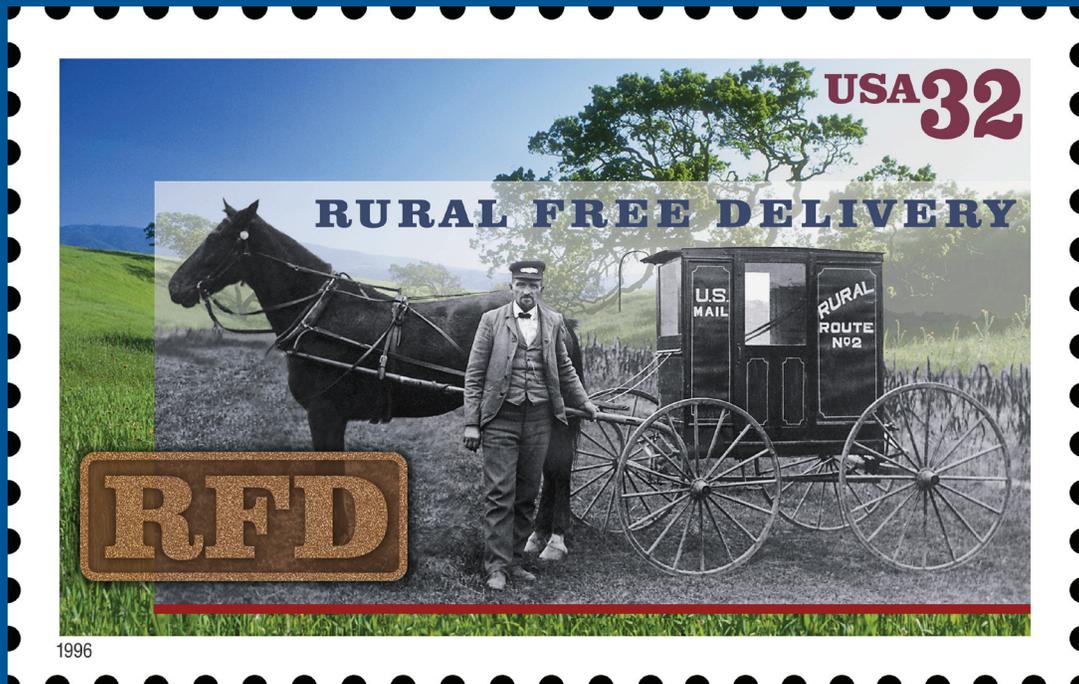


Report on *Universal Postal Service and the Postal Monopoly*





December 19, 2008

Dan G. Blair
Chairman

With enactment of the Postal Accountability and Enhancement Act of 2006, the Postal Regulatory Commission was tasked with providing a report on universal service and the postal monopolies to the President and Congress by December 19, 2008. On behalf of the Commission, I am proud to submit our report.

Issuance of this report comes at a critical time in the history of the Postal Service. When we began this report, economic circumstances were significantly different than they are today. The ongoing economic slowdown has contributed to a large decline in mail volumes; and the Service is faced with a second consecutive year of multi-billion dollar losses, with the Postmaster General predicting a similar scenario for next year as well. Through this report, the Commission has painted a portrait of the landscape up until this time, but the events of the last several months signal continued changes and future challenges. This report provides an in-depth view of the history behind the universal service obligation and monopolies for policy makers, while providing a foundation for policy considerations if the situation merits change. This work contains concepts and ideas for a path forward, in an effort to ensure the sustainability of future postal services.

The Commission began its efforts in preparing this report more than one year ago. To ensure adequate public participation, we cast a broad net for collection of public comments. We initiated our study through an extensive Notice and Request for Comments in the Federal Register. In an effort to reach out beyond Washington, D.C., the Commission took to the road and conducted field hearings in three different regions of the country. We heard from a wide variety of witnesses, such as a postmaster from an island off the coast of Maine, the president of a national senior citizens' association, a noted Ivy League economics professor, a large mail-order pharmaceutical provider, and a company that digitally scans customer mail to provide the equivalent of an "online" P.O. Box. The testimony we received was vital in helping us build a record on which we could assess the state of universal postal service in the United States as well as the monopolies which support its operations.

I would like to express my deep appreciation for the individual efforts of my fellow commissioners – Mark Acton, Ruth Goldway, Tony Hammond, and Nanci Langley - in authoring this report. Together, we spent many hours working our way through a myriad of issues. As has been the Commission's practice, we made a real effort to find common ground, and policies and direction on which we could agree. The result is a truly consensus report, of which I am very proud.

On behalf of my colleagues, I would also like to thank the Commission staff for their many hours of labor in researching, preparing and writing this report. In particular, I would like to thank Stephen Sharfman, our General Counsel, John Waller, Director of the Office of Accountability and Compliance, and Charles Robinson, Assistant Director of the Office of Accountability and Compliance. Without their knowledge, leadership and dedication, completion of this report would not have been possible. Finally, I would like to commend the Commission's contractor, the George Mason School of Public Policy (GMU), for providing the Commission with the background and research necessary to author this document.

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Preamble

The United States Postal Service is an independent establishment of the Government of the United States, created by Act of Congress to provide mail as a basic and fundamental service to the people.

The Postal Accountability and Enhancement Act of 2006, 120 Stat. 3198, sec. 702, directed the Postal Regulatory Commission to submit to the President and Congress this report on universal postal service and the postal monopoly in the United States.

Executive Summary

The Postal Accountability and Enhancement Act (PAEA) became law on December 20, 2006. It directs the Postal Regulatory Commission to submit a report on universal postal service and the postal monopoly within 2 years.

In developing this report, the Commission held three field hearings as well as one in Washington, DC, invited formal and informal written comments, and sponsored an open workshop. Many of those who provided written comments or testified at the field hearings state there has been insufficient experience under the PAEA to determine whether further changes should be made. Moreover, they note that under the PAEA, the Commission has enhanced regulatory authority with respect to service quality that has yet to be fully utilized.

As a threshold matter, no sender, recipient, interest group, or community reported any geographic area not served by the Postal Service, or any service that was deficient in scope or quality. Our record in this proceeding indicates that senders and recipients are generally satisfied with the current level of universal service provided by the Postal Service, although the Commission receives individual complaints and reads reports of localized problems.

Had this report been issued several months ago, these factors would have led the Commission to recommend that no near-term changes be contemplated to universal postal service, the USO, the postal monopoly, or the mailbox monopoly. Although no immediate changes are called for, recent events require the Commission to recommend that Congress closely monitor the Postal Service's financial situation as the possibility now exists that significant changes may become necessary to preserve effective and efficient postal services for the Nation.

The economic crisis of the last few months has had a substantial impact on Postal Service volume and revenues. Financial institutions, which are major users of mail, have been particularly affected. The economic downturn comes on the heels of technological trends that have produced declining volumes for single-piece First-Class Mail. The cumulative result of these events has been the most severe volume declines since the Great Depression, and significant financial losses for the Postal Service. Preliminary data show volume declines for every domestic class of mail in FY 2008, with First-Class Mail volume declining almost 5 percent.

This report provides a foundation and tools Congress can use to inform itself in the event that appropriate solutions need to be fashioned. Information on the probable reaction of large-volume mailers to potential service reductions was not available while this report was under preparation. The Commission believes that this key information should inform any decisions on service levels, and the Commission suggests Congress urge the Postal Service to develop it immediately.

The Commission knows that the Postal Service is focused fully on reacting to this crisis, and making the difficult decisions needed to cut expenses to preserve its financial health, including seeking a temporary adjustment to its retiree health benefits repayment schedule. Whether it will be able to meet this challenge can not be known at this time, and Congress will want to focus on this situation so that it can respond quickly and effectively should the Postal Service's condition continue to deteriorate.

The PAEA directed the Commission to identify the scope and standards of universal service and the postal monopoly based on a comprehensive review of their history and development which is detailed in Chapter 2. The Commission

identifies statutory language establishing the qualitative standards of the current USO. Universal service is enshrined in 39 U.S.C. 101(a): “The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people.” Congressional expectations are further set out in the remainder of 39 U.S.C. 101, and 39 U.S.C. 403 and 404.

The USO is not specific. The Postal Service is to achieve the best possible balance of these service features consistent with efficient and economic practices. Congress has rarely established rigid, numerical standards of minimally acceptable service for each of these features. Rather, throughout its history, the Postal Service has been expected to use its flexibility to meet the needs and expectations of the Nation while balancing the delivery of service against budgetary constraints. This long-standing policy has worked well. The Postal Service is a well-respected government agency and the public supports present service levels.

Currently, only a few legislative proscriptions limit Postal Service options. The PAEA established firm limits to preserve the affordability of market dominant products. For over 20 years, 1983 delivery levels have been specified as a minimum in annual appropriations legislation. Restrictions on the closing of small and rural post offices also have been enacted as part of the annual appropriations process. The Postal Service generally supports the status quo, although it would prefer not to be limited by annual appropriations legislation which requires it to maintain 6-days-a-week city and rural delivery at levels not less than existed in 1983.

The issue facing Congress and the Nation is whether the Postal Service will be able to continue to provide adequate levels of service in terms of these seven features in the months and years ahead, and if it can not, what should be the appropriate response.

Congress directed that this report contain estimates of the costs of universal service and the value of the postal monopolies that can be used should changes be contemplated. Chapter 4 contains models that estimate these amounts. The models can accommodate varying input values. Chapter 5 presents information on volume trends, and results from surveys exploring the likely future needs and expectations of the public and small businesses. However, one key input is unavailable: the likely current response of large customers to potential changes. It is probable that the recent deterioration of the economic climate has had a significant impact on this.

Primary Commission findings are:

- The universal service obligation has seven attributes:
(1) Geographic Scope; (2) Range of Products; (3) Access to Postal Facilities; (4) Delivery Frequency; (5) Prices/Affordability; (6) Quality of Service; and (7) Users' Rights.
- The current obligation to provide service to all persons in all parts of the Nation, its territories, and possessions, is paramount, and should not be altered.
- Current law makes the universal service obligation applicable to both market dominant and competitive products.

- A first estimate of the annual cost of the current universal service obligation, based on FY 2007, is \$4.4 billion.
- A first estimate of the annual value of the combined letter mail and mailbox monopolies, based on FY 2007, is \$3.5 billion, although this estimate is subject to substantial variation.

Policymakers also should be aware that there are numerous important benefits to the Nation beyond the delivery of the mail from the existence of a Federal agency providing mail as a user-supported public service. Although societal benefits are outside the statutory scope of this study, a number of witnesses and commenters emphasized their importance. They mentioned, for example, that the Postal Service is the only Federal presence in many urban and rural areas of the United States and this presence helps to bind the Nation together; that mail carriers provide uncompensated support to individuals along routes; and that the Postal Service provided significant assistance to Federal and State authorities following the Hurricane Katrina disaster.

The Commission is initiating a new public inquiry, Docket No. PI2009-1, to allow interested persons to express their views on this report. The Commission will evaluate all comments received, and may issue supplemental analyses as a result of this additional public input.

The recommendations set forth in this report are:

- ***The Commission recommends that Congress consider and balance all the features of universal service as part of any review of changes necessary to preserve a financially viable Postal Service.***
- ***The Commission recommends that the Postal Service be directed to develop information on the probable impact on mail usage by large volume mailers in reaction to potential alternative changes in the seven features of universal service.***
- ***The Commission recommends that, before any decisions to adjust or eliminate universal service or the monopoly are made, the resulting impact on the societal benefits of a Federal postal service should be carefully assessed.***

Introduction

This report has been prepared to fulfill the congressional mandate in Section 702 of the Postal Accountability and Enhancement Act (PAEA). After more than 10 years of work, Congress passed the PAEA, which went into effect on December 20, 2006. To enable Congress to formulate long-term national postal policy, the PAEA requires three studies. The Federal Trade Commission conducted the first study, a review of how Federal and State laws apply differently to the Postal Service and to other, private providers of its competitive products. The second study is contained in this report, which presents, among other things, the current status of the USO and the postal monopoly, and options for considering how to change both in the future. The third study, to be conducted by the Government Accountability Office, will investigate options for long-term structural and operational reforms of the Postal Service. Taken together, these studies can form the basis for consideration of national postal policy.

The remainder of this introduction discusses the requirements of the PAEA, the general process that the Commission used to conduct its study and prepare this report, and the organization of the rest of the report.

The Requirements of the PAEA

Section 702 of the PAEA (1) contains a due date for this report; (2) describes the minimum contents that Congress expects to be included; (3) requires the Commission to recommend any changes to universal service and the postal monopoly it considers appropriate; and (4) obliges the Commission to

receive written comments from the Postal Service and to consult with the Postal Service, other Federal agencies, mailers, competitors, and the general public.

Specifically, section 702(a)(2) of the PAEA requires that the following subjects be included in the Commission's report:

- A comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;
- The scope and standards of universal service and the postal monopoly provided under current law . . . and current rules, regulations, policy statements, and practices of the Postal Service;
- A description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and
- The scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the . . . public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

If the Commission decides to recommend any changes to universal service and the postal monopoly (whether those changes could be made under current law or would require changes in current law), then the Commission must provide estimated effects of each recommendation on the service, financial condition, rates, and security of mail provided by the Postal Service. Each recommendation should include:

1. An estimate of the costs attributable to the obligation to provide universal service under current law;
2. An analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and
3. Any additional topics and recommendations the Commission deems appropriate, together with estimated effects on service, financial condition, rates, and the security of mail.

Development of this Report

The singular nature of this study required a unique expansion of the Commission's analytical capability in order to fully address each of the issues mandated. The Commission decided to meet this need by hiring a contractor. To this end, the Commission issued a Request for Proposals in November 2007 which described the work to be done. The Commission received three proposals and, following a careful review, selected as the contractor from among those proposals George Mason University's School of Public Policy (GMU). The principal investigator for GMU is Professor A. Lee Fritschler, a resident scholar and former Chairman of the Postal Rate Commission.

The Commission tasked GMU with providing (1) a legal history and analysis of the postal monopoly; (2) a legal history and analysis of the universal service obligation; (3) a description of what selected countries have chosen to do concerning universal service and the postal monopoly; (4) a national assessment of the needs and expectations of households, small nonprofit mailers, and small business mailers; (5) a methodology for calculating USO cost; (6) a methodology for calculating the value of the letter monopoly and the mailbox monopoly; and

(7) assistance as directed by the Commission in developing recommendations on universal service, the letter monopoly, and the mailbox monopoly.¹

Public Outreach

Section 702(c) of the PAEA requires the Commission to "... solicit written comments from the Postal Service and consult with the Postal Service and other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public; and to ... address any written comments received under this section." An effective way to gather input from most of the groups listed in the PAEA is a public inquiry docket. Typically, the Postal Service, large mailers, mailer associations, and competitors of the Postal Service will participate in such Commission proceedings. However, household mailers, small nonprofit mailers, and small business mailers, e.g., in-home businesses, do not usually participate in Commission proceedings. To ensure its ability to gather input from all the groups envisioned by the PAEA, the Commission chose a bifurcated approach. It initiated Public Inquiry Docket No. PI2008-3, Report on Universal Service and the Postal Monopoly, on April 18, 2008. Simultaneously, GMU's Center for Social Science Research conducted a national assessment of households, small nonprofit organizations, and small businesses to gather input for the Commission's report.

In its initial notice and order establishing the Public Inquiry, Order No. 71, the Commission identified and discussed 12 topics and suggested specific questions for each topic that interested persons might want to address without limiting comments to these topics alone. The Commission requested written

¹ In this report, the terms "letter monopoly" and "postal monopoly" refer to the exclusive right of the Postal Service to carry and deliver certain categories of mail. The term "mailbox monopoly" refers to the Postal Service's exclusive right to deposit mailable matter in any mailbox. The term "postal monopolies" refers to both the letter monopoly and the mailbox monopoly.

comments from interested persons within 60 days of the date of publication in the *Federal Register*, reply comments within 90 days of the date of publication in the *Federal Register*, and designated an officer of the Commission to represent the interests of the general public.

To ensure that the Commission could fulfill its mandate to consult with other Federal agencies, it sent letters to 30 agencies. The letters informed each agency that the Commission had instituted an inquiry into the needs and expectations of stakeholders in the Postal Service with respect to universal service and the postal monopoly, and it requested the views on this matter from each agency. Many agencies provided comments. The Commission took special care to ensure that it had access to the particular knowledge and concerns of the Postal Service and its employees. The Postal Service was highly cooperative and provided extensive data, testimony, and other related materials in addition to separately commissioned analyses available at <http://www.usps.com/postallaw/universalpostalservice.htm>.

Mindful of the current universal service obligation to provide “a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining,” the Commission held three field hearings in areas where it might gain information regarding the needs and expectations of small and rural communities.² The field hearings were held in Flagstaff, Arizona on May 21, 2008; St. Paul, Minnesota on June 5, 2008; and Portsmouth, New Hampshire on June 19, 2008.

A fourth hearing was held in Washington, D.C. on July 10, 2008 to obtain testimony from employee organizations, experts on postal issues, and other

² Section 103(b) of the PAEA.

interested participants. The Commission also held a workshop on June 12, 2008, moderated by Chairman Dan Blair, to further broaden outreach to the public to gather a broad range of input as it prepared its report.

Congress requested a report that identifies “the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users ...”³ The Commission’s outreach to users of the mails, including those located in remote areas of the United States, the Postal Service and its employee organizations, and experts on postal issues has produced a broad range of comments. The Commission believes that the record captures the needs and expectations of the United States public, thus fulfilling the vision of Congress.

Organization of the Report

This report is organized around the subsections of section 702. Chapter 2 describes the Commission’s understanding of the current status of universal service, universal service obligation, and the postal monopoly. It also discusses the legal history of the postal monopoly, the legal history of the universal service obligation, and the development of the universal service obligation from a historical, rather than legal, perspective. Chapter 2 is supported by three appendices. Appendix B contains GMU’s presentation and analysis of the history of the postal monopoly from a legal perspective. Appendix C contains GMU’s presentation and analysis of the history of universal service and the universal service obligation from a legal perspective. Appendix D contains GMU’s description of the evolution of the USO from a historian’s perspective.

³ Section 702(a)(2)(D) of the PAEA.

No consideration of possible changes to the USO and the postal monopolies would be complete without researching how other developed countries have modified them and the impact of any changes on mail service. Accordingly, Chapter 3 presents the lessons learned from eight countries including selected European countries, New Zealand, Australia, and Canada. Appendix E contains a more detailed discussion of GMU's research in this area.

Chapter 4 discusses the economics of the USO and the postal monopoly. It describes the model George Mason University has used to estimate the cost of the USO and the value of the postal monopoly. It also discusses how other countries have attempted to calculate the same values. It appears that no one has previously developed an explicit model for estimating the value of the postal monopoly. Appendix F, presented in four sections, contains a more detailed explanation of the model and research.

Chapter 5 discusses the needs and expectations of the United States public and users of the mail. It includes the findings from the surveys conducted by GMU and the Commission's public proceedings. It also contains brief discussions of the important societal benefits that accrue from the Postal Service in its current form, and the Commission's consideration of such factors as potential "do not mail" legislation and environmental concerns. Further study of these important areas will benefit any analysis of potential future legislation.

Chapters 2 through 5 enable Chapters 6 and 7. Congress has asked the Commission to consider if there should be any changes made to the current USO, the postal monopoly, or the mailbox monopoly in light of the future needs and expectations of the United States public, including all types of mail users. Chapter 6 describes the panoply of options considered plausible by the Commission and the context for these options. The PAEA also obligates the

Commission to include any changes, including assumptions and analyses, considered plausible by the Postal Service. Although the Postal Service provided input to the Commission's study, it did not propose any changes to the status quo. For this reason, there is no Postal Service alternative presented here. The Postal Service's recommendations are discussed in Chapter 7 along with the Commission's own recommendations.

Concurrent with the publication of this report, the Commission is initiating a new public inquiry docket intended to allow interested parties to provide comments on the Commission's report. The Commission will consider all the comments entered into this new docket, and it may issue a supplemental report on universal service and the postal monopoly.

Current Status and Historical Development of the Universal Service Obligation and the Postal Monopoly

The history of the United States Postal Service reflects the history of the United States. At the time the Nation was founded, postal service was essentially an intercity service for newspapers and business correspondence. That service was provided over statutorily defined “post routes.” As the country expanded and changed, so did postal service.

The development of postal service has been molded by numerous factors, including increases in population; the growth and development of cities; improvement in the modes of transportation; popular demands for affordable non-commercial letter correspondence; an increase in the importance of international commerce; demands for service to rural areas and villages; the growth in demand for package services; and a growing need for expeditious commercial correspondence.

Postal service has been impacted by the emergence of alternative and competing forms of communication, such as telegraph and telephone, and more recently fax, internet, and computer- and communication-enabled express and package services.

Only since the mid-20th century has the term “universal service obligation” been consciously and intentionally applied to postal service in the United States.

Prior to that time, the Post Office Department had the responsibility for providing postal service, but the outlines of that responsibility were not explicitly established by statute. Rather, the obligations of the post office were the *de facto* product of the interaction of relatively narrow and specific statutory commands, financial capabilities, social expectations, and physical capabilities and limitations on the collection, transportation, and delivery of letters and parcels.

Even after the terms “universal service” and “universal service obligation” came into use, they continued to lack comprehensive and consistent commercial or legal definitions. As a result, the Nation’s concepts of “universal service” and “universal service obligation” continue to have a uniquely American flavor and content that differs significantly from the statutory approach taken by other countries, particularly those in the European Union (EU).

In the long history of the United States postal service, the attempt to articulate a legal formulation of universal service and the universal service obligation (USO) is a relatively recent development. With certain notable exceptions, the formulations have been so general as to be more in the nature of policy guidelines or precatory statements of desired objectives, as opposed to legally enforceable obligations. In the absence of a comprehensive legal obligation, the Postal Service’s duty to provide universal service has been enforceable, if at all, by means of political oversight and/or social pressure.

This chapter summarizes the current status of the Postal Service’s USO and the postal monopolies. It also presents the historical highlights of postal service in the United States, with particular attention to the origins and evolution of the USO and the letter and mailbox monopolies. This history is organized under the following eight headings:

- The Beginnings of the American Postal System: 1780s through the 1830s;
- The Foundations of Modern Postal Service: 1840s through the 1880s;
- The Postal Act of 1845: Cheap Postage and the Private Express Statutes;
- The Emergence of Universal Service, the Evolution of the Letter Monopoly, and the Adoption of the Mailbox Monopoly: 1890 through the 1950s;
- The Statutory Basis of the Universal Service Obligation: the Postal Policy Act of 1958 and the Postal Code of 1960;
- The Passage of the Postal Reorganization and Salary Adjustment Act of 1970;
- The Continuing Development of the Universal Service Obligation Following Passage of the PRA;
- Administration of the Universal Service Obligation: 1971-2006;
- The Continuing Development of the Postal Monopolies Following Passage of the PRA; and
- The Postal Accountability and Enhancement Act of 2006.

This chapter draws heavily upon detailed analyses contained in Appendices B, C, and D.⁴ To facilitate access to the appendices, frequent cross-references are provided.

⁴ Appendix B is GMU's study entitled *Universal Service Obligation: History and Development of Laws Relating to the Provision of Universal Postal Services*. Appendix C is the GMU study entitled *Postal Monopoly Laws: History and Development of the Monopoly on the Carriage of Mail and the Monopoly on Access to Mailboxes*. Appendix D is GMU's study entitled *History of Universal Service and the Postal Monopoly*. These three appendices are referred to in this chapter as "Appendix B," "Appendix C," and "Appendix D," respectively.

Current Status of the Universal Service Obligation and the Postal Monopoly

The Universal Service Obligation

The overarching USO of the Postal Service is set forth in section 101(a) of title 39 as “the obligation to provide postal services to bind the Nation together through ... the correspondence of the people ... [by providing] ... services to patrons in all areas and ... to all communities.”

In the Commission’s view, the USO has seven principal attributes: geographic scope; product range; access; delivery; pricing; service quality; and an enforcement mechanism.

These seven attributes are admittedly general in nature. Their generality promotes the evolution of postal service to meet an ever-changing mix of demands and opportunities. For example, the geographic scope of postal service has expanded over time from the needs during colonial times, through the period of westward expansion, to the needs of today. Over this long period, the country has become larger, the terrain over which service is provided has become more varied, and the distances between potential mailers and recipients have increased. As these changes have occurred, the geographic scope of postal service has expanded to meet the overall objective of binding the Nation together by providing service to all of the people of the United States.

Even before the term “universal service obligation” was applied to postal service, the Post Office Department and its successor, the United States Postal Service, recognized, sometimes implicitly, the obligation that it had to the citizens of the United States. As political, economic, and social demands have changed over time, our citizens have benefited from a USO that has had the flexibility to evolve with those changes.

The seven attributes of the USO also overlap. For example, access to postal facilities and the geographic scope of postal service affect each other and such common subjects as the location of postal facilities. Another example would be that frequency of delivery, pricing, and the quality of service are interrelated.

Geographic Scope. The geographic scope of the USO can be summarized as a flexible obligation that extends throughout the United States and to and from foreign regions pursuant to agreements with the United States military, United States agencies, and agreements relating to international postal services and international delivery services. This obligation is tempered by, and subject to, reasonable economic and efficiency limitations.

Product Range. The range of products covered by the USO includes all mail matter. The range of products is subject to change to meet the changing needs of citizens, and the service obligation also varies with the needs for distinct products.

Access. The USO requires “ready access to essential postal services” that is “consistent with reasonable economies.” 39 U.S.C. 403(b)(3). The concept of “ready access” includes not only the time and distance needed to get to the location where postal services are available, but time spent at that location in order to obtain the desired services. “Essential postal services” range from postal products, to mail acceptance points (such as collection boxes), to access to letter carriers who accept mail for posting, to easily accessible information. Within the general requirement of ready access consistent with reasonable economies, the Postal Service enjoys considerable discretion to determine the nature and location of postal facilities by which access will be provided. The Postal Service’s discretion is, however, subject to a number of limitations in title

39, including section 101(b) which precludes the closing of a post office solely because it operates at a deficit; section 403(c) which prohibits undue or unreasonable discrimination or undue or unreasonable preferences; section 404 which covers the closing or consolidation of post offices; and section 3661(b) which applies if changes in access “affect service on a nationwide or substantially nationwide basis.” In addition, annual appropriation acts preclude the use of appropriated funds for closing small or rural post offices. Finally, language consistently included in annual postal appropriations provides that “six day delivery and rural delivery of mail shall continue at the 1983 level.” This delivery requirement potentially affects access to the postal system by means of letter carriers who pick up outgoing mail at the time of delivery to the customer.

Delivery. The USO both authorizes and requires the Postal Service to deliver the mail. The method of such delivery—whether to the door, the curbside, to cluster boxes, to roadside mailboxes, to post office boxes, or by general delivery—is left to the discretion of the Postal Service. The frequency of delivery is subject to a provision in the appropriations legislation that provides that “six day delivery ... shall continue at the 1983 level.” This provision is subject to several different interpretations and its meaning and application are problematic.

Pricing. The USO’s affordability requirement is composed of general rate parameters; reduced rate or no charge requirements; uniformity requirements; inbound international rate requirements; and the pricing constraints of the PAEA that include price caps.

Service Quality. The USO’s service quality requirements consist of general admonitions to provide quality service; specific provisions which subject service changes that are nationwide in scope to public comment and

Commission review; and provisions in the PAEA that provide for generating enforceable service quality standards.

Enforcement Mechanism. Enforcement of the USO can be sought under provisions in title 39 that authorize interested persons to file complaints for failure of the Postal Service to meet the requirements of certain specific statutory provisions. The Commission has proposed regulations that would establish new complaint procedures. The right of an individual to seek judicial enforcement of universal service rights is unclear.

These seven attributes are discussed in more detail below.

The USO's Geographic Scope

The geographic scope of the USO is the subject of several statutory provisions. Title 39 of the U.S. Code expressly addresses the concept of geographic scope in sections 101, 403, and 407.

Section 101(a) provides that the Postal Service “shall provide prompt, reliable, and efficient services to patrons *in all areas* and shall render postal services *to all communities.*” (emphasis added). Section 101(b) states that the Postal Service “shall provide a maximum degree of effective and regular postal services *to rural areas, communities, and small towns where post offices are not self sustaining.*” (emphasis added). Section 101(b) further expresses Congress’ intent that “effective postal services be ensured *to residents of both urban and rural communities.*” (emphasis added).

Section 403(a) directs the Postal Service to “receive, transmit, and deliver *throughout the United States, its territories and possessions,* and, pursuant to arrangements entered into under sections 406 [for military installations] and 411

[for services to other governmental agencies] of this title, *throughout the world* ... [and] ... “to serve as *nearly as practicable the entire population of the United States*.” (emphasis added). Section 403(b) makes it the responsibility of the Postal Service “to maintain an efficient system of collection, sorting, and delivery of the mail *nationwide*.” (emphasis added).

Section 407(a) makes it “the policy of the United States ... to promote and encourage communications between peoples by efficient operation of *international postal services and other international delivery services* for cultural, social, and economic purposes” Section 407(d) recognizes the authority of the Postal Service to “enter[] into ... commercial and operational contracts related to providing *international postal services and other international delivery services* as it deems appropriate ...” subject to certain specific limitations. (emphasis added).

These broad formulations of the geographic scope of the USO are not without limit. Specifically, section 403(a) requires that the postal services be offered “at fair and reasonable rates and fees.” Section 403(b) requires that the “system of collection, sorting, and delivery of mail” must be “efficient.”⁵ These limitations are, of course, subject to differing interpretations. Consequently, the scope of the geographic service obligation is itself indefinite.

A further statutory directive has been included in annual Postal Service appropriations for more than 20 years. This language directs that “six day delivery and rural delivery of mail shall continue at the 1983 level.” While this

⁵ These rate and efficiency requirements have been recognized by the courts as placing limits on the Postal Service’s obligations. *Egger v. U.S. Postal Service*, 436 F.Supp. 138 (W.D. Va. 1977); *Grover City v. U.S. Postal Service*, 391 F.Supp. 982 (C.D. Cal. 1975).

requirement might appear to be specific, it is in fact quite ambiguous because of the absence of any definition or explanation of what constitutes delivery at “the 1983 level.”

In light of the foregoing, the Commission has concluded that the Postal Service’s obligation is to provide postal service throughout the United States, its territories, and possessions; to and from foreign regions pursuant to agreements with the United States military, United States agencies, and agreements relating to international postal services and international delivery services, subject to reasonable economic and efficiency limitations. The obligatory geographic scope for postal products can vary from product to product so long as the reason for the variation is based upon reasonable economic and efficiency limitations and is not unduly discriminatory. See PRC Op. R77-1 at 411-12.

USO Products

Sections 101 and 403 of title 39 allude to a number of different types of postal services without specifying which, if any, particular product or products are to be included in the Postal Service’s USO. Other sections of title 39 offer further guidance on what products should be included.

Various commenters, including the Postal Service, take the position that only market dominant products should be considered as part of the Postal Service’s USO. Other commenters take the position that all postal products, both market dominant and competitive, are included in the Postal Service’s USO.

Section 101(a) of title 39 gives the Postal Service “the obligation to provide postal services to bind the Nation together through the *personal, educational, literary, and business correspondence* of the people.” (emphasis added).

Section 403 makes similar broad statements of the Postal Service's obligation. Section 403(a) directs the Postal Service to "receive, transmit, and deliver ... *written and printed matter, parcels, and like materials and provide such other services incidental thereto as it finds appropriate to its functions and in the public interest.*" (emphasis added). Section 403(b)(2) requires the Postal Service "to provide *types of mail service to meet the needs of different categories of mail and mail users.*" (emphasis added). On their face, these broad formulations suggest that all forms of mail matter should be considered to be part of the Postal Service's USO.⁶

Section 101(f) requires that "[i]n selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of *all* mail (emphasis added)." Once again, the statutory language does not distinguish between mail products, but expressly applies to "all" mail.

In contrast to these broad formulations are the specific types of mail identified by other sections for special or preferential treatment.⁷ It could be argued that the preferences accorded to these types of mail matter suggest that they have some higher value that requires their coverage by the USO.

⁶ Excluded from the USO would, of course, be those items expressly declared to be non-mailable by sections 3001-18 of title 39 (*e.g.*, motor vehicle master keys; locksmithing devices; certain mail bearing a fictitious name or address; unordered merchandise; and sexually oriented advertisements).

⁷ For example, section 101(e) directs the Postal Service to "give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of *important letter mail.*" (emphasis added). Similarly, section 101(f) identifies "the overnight transportation ... of *important letter mail* to all parts of the Nation ... [as] ... a primary goal of postal operations." (emphasis added). Section 404(c) provides that the Postal Service "shall maintain *one or more classes of mail for the transmission of letters sealed against inspection ... [and that] ... [o]ne such class shall provide for the most expeditious handling and transportation afforded mail matter*" (emphasis added). Several provisions provide rate preferences to specialized categories of mail. See, *e.g.*, sections 3626 and 3683.

A similar argument can be made on the basis of the distinction drawn by the PAEA between “market dominant products” (as set forth in section 3621) and “competitive products” (as enumerated in section 3631). For example, it could be argued that the Postal Service’s ability to exercise market power over market dominant products requires the inclusion of these products in the USO as a means of insuring that the Postal Service’s market power will not be abused. Since, by contrast, customers who can use competitive products will, by definition, have access to alternative suppliers, there is less need to include competitive products under the USO in order to protect such customers from possible Postal Service abuses.

The Commission has concluded that the range of products covered by the USO includes all mail matter, not just preferential classes or market dominant products. The Commission has reached this conclusion in part because, on its face, the statute expressly refers to a broad array of postal items as being subject to the USO. Similarly, the requirement in section 101(f) that the “highest consideration be given to the prompt and economical delivery of all mail” by its terms is applicable to both market dominant products, such as First-Class Mail, and competitive products, such as Express Mail and Priority Mail. The preferential mail classes and the market dominant product/competitive product dichotomy were established for specific purposes that are independent of the universal service concept.

Finally, because of the flexible nature of the USO, it is possible for the Postal Service to meet the needs of citizens so long as this is consistent with overlapping requirements such as the maintenance of an efficient and economical system. As history has demonstrated, what is necessary to bind the Nation together changes over time. When it does, the USO requires that the

Postal Service respond. To its credit, the Postal Service has, over the course of its history, honored that obligation.

The USO's Access Obligation

Section 403(b)(3) requires the Postal Service to “establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.” This requirement is, like other aspects of the USO, broadly formulated and provides the Postal Service with considerable latitude to exercise discretion.

First, the “postal facilities” that section 403(b)(3) directs the Postal Service to establish and maintain do not have to be post offices or any other particular type of facility. Nor do these facilities have to be located in any particular place. They need only be of “such character” and “in such locations” that postal patrons “have ready access” to “essential postal services.” Neither “ready access” nor “essential postal services” are defined by the statute. The result is that section 403(b)(3) gives the Postal Service considerable discretion to determine both the type and location of postal facilities.

Second, in exercising its discretion to select and locate facilities giving “ready access” to patrons “throughout the Nation,” the Postal Service has the authority to select and locate facilities which are “consistent with reasonable economies of postal operations.”

Within the general parameters established by section 403(b)(3) for all “postal facilities” are provisions applicable specifically to “post offices.” Section 404(a)(3) of title 39 gives the Postal Service the power generally “to determine the need for post offices ... and to provide such offices ... as it determines are

needed” Other statutory provisions place limits on that power. For example, section 404(d) establishes procedures for closing or consolidating post offices; specifies the factors that the Postal Service must consider in ordering any such closure or consolidation; and provides a limited mechanism for appealing decisions by the Postal Service to the Postal Regulatory Commission.

Further limits on the Postal Service’s power to close or consolidate post offices are contained in section 101(b) of title 39 and in the annual postal appropriations acts. Section 101(b) directs that “[n]o small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be ensured to residents of both urban and rural communities.” Every annual postal service appropriations act adopted since 1985 has contained a provision stating “[t]hat none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the [current] fiscal year”

The effectiveness of the limitations placed on post office closings and consolidations by section 404(d) is not easily assessed. To date, the Postal Service has taken the position that section 404(d) applies only to post offices managed by a postmaster, not to branch post offices, stations, contract post offices, or other types of postal facilities. Although the Commission does not agree with this interpretation, see PRC Order No. 1480 (September 29, 2006), the Postal Service does not provide patrons with the same protections before closing such facilities. Even when section 404(d) applies, the Commission’s authority to review postal service decisions to close or consolidate post offices is limited to a review of the procedures used by the Postal Service to reach its decision; the adequacy of the record supporting the decision; and a determination of whether the decision was arbitrary, capricious, or otherwise contrary to law. Assuming the Commission were to find that a Postal Service

decision to close or consolidate post offices was legally flawed, the Commission could remand the matter to the Postal Service for reconsideration, but could not substitute its judgment for the Postal Service's judgment regarding the merits of the closure or consolidation.

The effectiveness of the limitations placed on post office closings and consolidations by section 101(b) and by the Postal Service appropriation acts is also open to question. Between 1984 and 2008, the number of post offices has been reduced by more than 2,000. Some of these closings almost certainly involved small post offices. There is no way to verify that any small post offices that were closed were closed for reasons other than that they were operating at a deficit, or that they were closed using funds other than those covered by the annual Postal Service appropriations. A further unknown is how many small post offices were not closed or consolidated because of the limitations of section 101(b) or the annual Postal Service appropriation.

Unlike post offices, conveniences such as collection boxes or automated postal centers are not governed by the limitations and review procedures of section 404(d), or by the limitations imposed by section 101(b) and the annual postal appropriation acts. In other words, the Postal Service's discretion over non-post office facilities is broad and without specific limitations.

Finally, consideration must be given to one further form of access to the postal system that is available in both urban and rural areas, namely, mail collection by letter carriers. In rural areas, this service includes not only collection, but the sale of almost all postal services, including providing stamps and weighing packages. These services have been provided for a considerable period of time, but appear to lack a specific statutory authorization or requirement, except perhaps for the annual postal appropriations language.

While this language is couched in terms of a “delivery” requirement, it could also be viewed as an access requirement by virtue of the fact that letter carrier deliveries necessarily create the opportunity for collection from postal patrons. If so, this access requirement would suffer from the same ambiguity as the delivery requirement.

The USO’s Delivery Obligation

Section 404(a)(1) *authorizes* the Postal Service to deliver mail and section 403(a) *requires* the Postal Service to deliver mail. However, neither these sections, nor any other section of title 39, prescribes the manner in which delivery must be made. The Postal Service therefore has the discretion to deliver by one or more of several modes: door delivery; curbside delivery; cluster box delivery; roadside mailboxes; post office box delivery; or general delivery.

The current version of the appropriations language referred to above provides that “six-day delivery ... shall continue at the 1983 level.” However, as discussed earlier, it is unclear just what Congress meant by “the 1983 level.”⁸ The Postal Service appears to view it as a general admonition not to alter its approach to providing delivery.

In short, the Postal Service exercises considerable flexibility in determining how it delivers the mail.

⁸ Several interpretations are possible. For example, the rider could be interpreted to mean that all cities, towns, and rural areas that received 6-day delivery at any time during 1983 must continue to receive 6-day delivery and that cities, towns, and rural areas that did not receive 6-day delivery in 1983 or were served for the first time after 1983 do not have to receive 6-day delivery service today. Another possible interpretation is that the same percentage of customers that received 6-day delivery in 1983 should continue to receive 6-day delivery today. As a result of demographic changes, under either interpretation, the actual addresses receiving 6-day delivery service could be substantially different today than it was in 1983.

The USO's Pricing Obligations

Sections 101 and 403 provide general rate parameters applicable to those products included in the USO. Section 101(d) requires that postal rates “be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.” Section 403(a), in turn, requires that the “rates and fees” charged by the Postal Service be “fair and reasonable.” Finally, section 403(c) proscribes “unreasonable discrimination among users” and “undue or unreasonable preferences to any such user” in “establishing classifications, rates, and fees” under title 39.

Operating within these general parameters are three types of special pricing requirements: reduced rate or no charge requirements;⁹ rate uniformity requirements;¹⁰ and inbound international mail rate requirements.¹¹

⁹ The reduced rate requirements are found in section 3626. In general, they cover In-County newspapers; Outside-County Periodicals of limited circulation; classroom and nonprofit publications; agricultural publications; nonprofit Standard Mail; and Library Mail. No charge rate requirements are contained in section 3404 for the blind and handicapped and in section 3406 for overseas voters.

¹⁰ Rate uniformity requirements apply to letters and to Library and Media Mail. With regard to letters, section 404(c) provides that “[t]he Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection ... [and that] ... [t]he rate for each such class shall be uniform throughout the United States, its territories and possessions.” As the Commission has previously ruled, this uniformity requirement is intended to preclude discrimination between similarly situated mailers, but does not necessarily preclude First-Class letters from being charged distance sensitive rates. PRC Op. R77-1 at 417-18; and PRC Op. MC95-1, ¶ 5087. Historically, reduced rates for local letters have occasionally been offered.

¹¹ Under the current Universal Postal Convention (UPC), the Postal Service is authorized to establish the terms of compensation for delivery of letter post items through negotiations with foreign post offices. The majority of inbound letter post and parcel post items from industrialized countries is covered by negotiated agreements. In the absence of such agreements, the Postal Service is generally obligated to accept compensation prescribed by the Universal Postal Union (UPU).

Superimposed on top of the foregoing rate requirements is the PAEA's "modern system of regulation." This system distinguishes between market dominant and competitive products. Market dominant products are subject to unique pricing constraints, including a price cap. Competitive products are subject to less stringent, albeit mandatory, rate criteria. Section 3622(d)(1)(E) of the PAEA permits the adjustment of rates for market dominant products to levels above the price cap for "either extraordinary or exceptional circumstances."

USO Service Quality

A number of statutory sections direct the Postal Service to provide quality postal service. However, none of these provisions impose substantive and enforceable service quality standards.¹² The PAEA did add requirements that service standards be developed for all market dominant products and that the Commission annually review service performance.

The statutory sections that place requirements on letter mail are also quite general.¹³ While these directives and goals are important, they do not constitute quality standards.

Only two statutory sections approach what can be considered service quality standards that could be applied to support the USO. Section 3661

¹² For example, section 403(a) requires the Postal Service to provide "adequate and efficient postal services;" section 101(a) states that the Postal Service "shall provide prompt, reliable, and efficient services;" and section 3661(a) directs the Postal Service to "develop and promote adequate and efficient postal services." These broad formulations can serve a hortatory purpose, but do not lend themselves to enforcement.

¹³ Section 101(e) directs the Postal Service to "give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail." Section 101(f) requires that transportation methods "designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations."

provides that “[w]hen the Postal Service determines that there should be a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal ... to the Postal Regulatory Commission requesting an advisory opinion on the change.” While this section has the potential for fostering service quality, its principal shortcoming is that it is the Postal Service that decides whether it is required to file a proposed change with the Commission. This section has been invoked only 5 times in 38 years by the Postal Service. Furthermore the Postal Service remains free to implement such changes as it finds appropriate, regardless of the Commission’s opinion.

The second statutory provision providing an enforcement mechanism applicable to service quality standards is section 3691. That section was enacted as part of the PAEA and requires the Postal Service to promulgate “modern service standards,” establish achievement goals, and annually report performance as required by Commission reporting requirements. The Commission must determine whether the Postal Service is in compliance with the quality standards and whether remedial actions are required in the event of non-compliance determinations. This system is currently being developed in the context of ongoing rulemaking proceedings.¹⁴

Enforcement of the Universal Service Obligation

Section 3662 of title 39 authorizes “interested persons” to file complaints with the Commission when they believe the Postal Service is not operating in conformance with chapter 36 requirements applicable to rates, classes, and services, as well as section 101(d) (which requires the apportionment of costs on

¹⁴ See PRC Order No. 140 (November 25, 2008); and PRC Order No. 104 (August 22, 2008).

a fair and equitable basis); section 401(2) (which authorizes the Postal Service to adopt, amend, and repeal rules and regulations not inconsistent with title 39); section 403(c) (which prohibits the Postal Service from making any undue or unreasonable discrimination among users of the mails or from granting any undue or unreasonable preference); section 404a (which, among other things, prohibits the Postal Service from adopting any rule or regulation which precludes competition or establishes terms of competition unless it demonstrates that it does not create an unfair competitive advantage for itself or an entity that it funds); or section 601 (which relates to the letter monopoly).

In 1971, the Commission adopted rules of practice and procedure which generally limit complaints to matters with a substantially nationwide impact. On August 22, 2008, the Commission issued a notice of proposed rulemaking in Docket No. RM2008-3 which proposes rules that would establish a new two-track system for processing complaints. One track would be for more formal, legal complaints. The other track would be for more informal rate or service inquiries or disputes. The proceedings in Docket No. RM2008-3 are still in progress.

The Postal Monopoly

The PAEA made several important changes to the postal monopoly.

Repeal of 39 U.S.C. 601(b)

The PAEA repealed 39 U.S.C. 601(b), which was invoked by the Postal Service during the 1970 New York City postal strike to authorize the carriage of mailable matter out of the mails, and again in 1974 to suspend the postal monopoly with respect to certain mailable items covered by the Postal Service's comprehensive definition of "letter" in 39 CFR 310.1(a). It appears that the repeal of section 601(b) was prospective and its removal from the U.S. Code

does not, by itself, abrogate any of the Postal Service's prior actions under this section.

Addition of a New 39 U.S.C. 601(b)

The PAEA added a new section 601(b) to title 39. The new section adds (1) a new price limit exception to the postal monopoly; (2) a new weight limit exception to the postal monopoly; and (3) a new grandfather exception to the postal monopoly.

The new price limit exception is contained in 39 U.S.C. 601(b)(1). It provides that a letter may be carried out of the mails when "the amount paid 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."

The new weight limit exception is set forth in 39 U.S.C. 601(b)(2). It provides that a letter may be carried out of the mails when "the letter weighs at least 12 ½ ounces."

The new grandfather exception has been added as 39 U.S.C. 601(b)(3) and provides that a letter may be carried out of the mails when "such carriage is within the scope of services described by regulations of the United States Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2005) that purport to permit private carriage by suspension of the operation of this section (as then in effect)."

The effect of the grandfather provision is to exclude from the postal monopoly all items for which carriage out of the mail was permitted as of July 1,

2005. As of December 19, 2006, the statutory basis of the letter monopoly was provided by the Private Express Statutes¹⁵ and chapter 6 of the Postal Reorganization Act.¹⁶ The relevant rules, regulations, policy statements, and practices of the Postal Service governing the letter monopoly were title 39, subchapter E, parts 310 and 320 of the Code of Federal Regulations;¹⁷ the *Official Opinions of the Assistant Attorneys-General for the Post Office Department*;¹⁸ the *Official Opinions of the Attorneys-General of the United States Advising the President and Heads of Departments in Relation to Their Official Duties*;¹⁹ *Digests of Decisions of United States and Other Courts Affecting the Post-Office Department and Postal Service*;²⁰ the Post Office Department's legal manual, *Postal Laws and Regulations*; and *the Private Express Statutes*.²¹

¹⁵ The Private Express Statutes were codified as part of the United States Criminal Code and consist of 18 U.S.C. sections 1693 (carriage of mail generally); section 1694 (carriage of matter out of mail over post routes); section 1695 (carriage of matter out of mail on vessels); section 1696 (private express for letters and packets); section 1697 (transportation of persons acting as private express); and section 1698 (prompt delivery of mail from a vessel).

¹⁶ Chapter 6 of the Postal Reorganization Act is entitled *Private Carriage of Letters* and contains six sections: 39 U.S.C. section 601 (letters carried out of the mail); section 602 (foreign letters out of the mails); section 603 (searches authorized); section 604 (seizing and detaining letters); section 605 (searching vessels for letters); and section 606 (disposition of seized mail).

¹⁷ Title 39, subchapter E is entitled *Restrictions on Private Carriage of Letters*. Subchapter E includes part 310, Enforcement of the Private Express Statutes (sections 310.1 to 310.7); and part 320, Suspension of the Private Express Statutes (sections 320.1 to 320.9).

¹⁸ The legal opinions of the Assistant Attorneys General were first issued in 1872 following enactment of the postal code of 1872. The Post Office Department first published the legal opinions of the Assistant Attorneys General in 1905. It ended the practice of publishing legal opinions after 1951.

¹⁹ The Opinions of the Attorney General determine the government's position regarding postal laws when there is a public dispute.

²⁰ These digests were first compiled and published in 1905 as part of the 1902 edition of *Postal Laws and Regulations*.

²¹ A pamphlet first published by the Post Office Department in 1934. Several editions were subsequently published. The fourth edition was published in January 1952, and was retitled *Restrictions on Transportation of Letters*.

As a practical matter, the postal monopoly, as applied on December 19, 2006, now has the authority of statutory law. In effect, the Postal Service's administrative determinations, suspensions, and regulations have been adopted by Congress as part of its formulation of the postal monopoly.

The practical effect of this statutory recognition has far-reaching consequences. For example, the adoption of section 310.3(e)(1) of the Postal Service's regulations (which had established an expanded prior-to-posting exception to the postal monopoly) effectively limits the postal monopoly to delivery to the addressee.

Changes to Rulemaking Authority

The PAEA also made three changes to title 39 that affect the relevant rulemaking authority of the Postal Service and the Postal Regulatory Commission. First, section 401(2) has been amended to limit the authority of the Postal Service to adopt, amend, and repeal rules. Such rules must be "*necessary in the execution of its functions under this title and such other functions as may be assigned ... under any provisions of law outside of this title* [emphasis added]." As formulated, this section appears to deny the Postal Service the authority to revise or manipulate the scope of the postal monopoly laws because they are found in title 18 of the U.S. Code, not in title 39.

Second, the PAEA has amended section 404(a) of title 39 to prevent the Postal Service from establishing any rule or regulation that has the effect of precluding competition or establishing the terms of competition unless it can demonstrate that neither it nor any entity funded by the Postal Service will gain an unfair competitive advantage. This provision also prevents the Postal Service from seeking to extend the bounds of the postal monopoly or otherwise create

further advantages not already afforded to it by the postal monopoly as adopted and confirmed by the grandfather provisions in 39 U.S.C. 601(b)(3).

Third, the PAEA has added a new section 601(c) to title 39. That new section provides that “[a]ny regulations necessary to carry out this section [*i.e.*, section 601] shall be promulgated by the Postal Regulatory Commission.” This section gives the Commission important new powers to ensure that the postal monopoly is implemented in a manner that is consistent with Congress’ intent. It is in this connection that the history of the postal monopoly may yet be of importance in administering the future implementation of the postal monopoly.

The Current Mailbox Monopoly

As of December 19, 2006, the statutory basis of the mailbox monopoly was provided by the 1934 mailbox statute,²² and by section 403 of the Postal Reorganization Act.²³ The pertinent rules and regulations governing the mailbox monopoly on December 19, 2006, were set forth in part 508 of the Domestic Mail Manual.²⁴ The PAEA made no changes to the mailbox monopoly.

Historical Development of Universal Service, the Universal Service Obligation, and the Postal Monopolies

The foundation of the American postal system was laid by Great Britain during the colonial period. Current postal monopoly statutes are directly descended from 17th century English postal laws. The English Parliament

²² 18 U.S.C. 1725 (postage unpaid on deposited mail matter).

²³ 39 U.S.C. 403. While section 403 does not expressly identify the Postal Service’s monopoly over mailboxes, it has been judicially interpreted to authorize adoption by the Postal Service of Domestic Mail Manual (DMM) regulations governing the mailbox. *Rockville Reminder Inc. v. U.S. Postal Service*, 480 F.2d 4 (2nd Cir. 1973).

²⁴ The Domestic Mail Manual is a regulation of the Postal Service. 39 CFR 211.2 (2006).

extended the postal monopoly law to the American colonies in 1710. The English law provided a template for American colonial postal laws and established the conceptual framework within which today's postal monopoly laws apply in the United States. Appendix B at 36-47 and 64-66; and Appendix D at 40-45 and 68-76.

The Beginnings of the American Postal System: 1780s through the 1830s

The colonial postal system consisted of a series of relay stations, or "posts," along a "post road." In a "horse post," the postal stations kept horses for riders carrying letters between towns. A "foot post" relied upon walking messengers. Letters were carried by riders or messengers in a pouch called a "mail." Carriage was on a regular scheduled basis between public places, such as inns, in different cities and towns. Few, if any, structures dedicated exclusively to post office operations existed at the time and there was, in general, no collection or delivery beyond the terminal post offices. Postage was paid by the addressee.

During this period, the term "letter" referred to a message recorded by hand on a single sheet of paper. Correspondence on two sheets of paper was called a "double letter," and on three or more sheets, a "triple letter." Envelopes were not used. Multiple letters or letters with enclosures were tied together in small bundles called "pacquets."

Contrary to our modern conception, a "newspaper" was a single piece of paper with printing placed on both sides by a manual press. Publishers of newspapers would frequently prevail on post riders to carry their newspapers "out of the mail."

The first American post office was established in 1775 by the Second Continental Congress. Benjamin Franklin was the first Postmaster General. As Postmaster General, he was given the authority to designate a line of posts “from Falmouth in New England to Savannah in Georgia, with as many cross posts as he shall think fit.” The Postmaster General also had the authority to appoint deputies who served as local postmasters. Local postmasters were paid a percentage of the postage they collected.

The postal system established by the Continental Congress carried letters between cities. Those intercity letters were occasionally delivered to local addresses by messengers appointed by the local postmaster. Addressees paid 2 cents for the services of the messenger in addition to postage on the item they received. No other local collection or delivery was provided.

Following America’s Declaration of Independence from England, Congress, acting pursuant to the Articles of Confederation, formally established the new Nation’s post office by adopting the Ordinance of October 18, 1782 (Ordinance), which was modeled on the English Postal Law of 1710.

As a forerunner of “universal service,” the Ordinance declared that “communication of intelligence from one part to another of the United States” was “essentially requisite” to the “safety as well as the commercial interest thereof.”

Despite vigorous debate, newspapers were excluded from the mail. However, the Postmaster General was authorized to permit post riders to carry newspapers out of the mail. While the Ordinance was not adopted as a revenue measure, it was a major source of revenue through the enactment of the Postal Act of 1792. Like its English antecedents, the Ordinance contained monopoly provisions, as well as exceptions to the monopoly.

The United States Constitution was adopted on September 17, 1787. Article I, Section 8, of the Constitution gave Congress the authority to establish “Post offices and Post roads.” In a significant change from the 1782 Ordinance, the 1792 Act shifted authority to designate post roads and post offices from the Postmaster General to Congress. Section 1 of the Act established the initial post roads. Not surprisingly, citizens soon began petitioning Congress for new post routes and post offices. Between 1792 and 1874, the statutory description of post roads grew from 2 to 354 pages.

By contrast, section 3 of the 1792 Act gave the Postmaster General the power to appoint deputy postmasters “at all places where such shall be found necessary.” The deputy postmasters were to keep offices (*i.e.*, post offices) for the purpose of performing their duties. Implicit in the Postmaster General’s authority to establish post offices appears to have been the power to close post offices. This implicit authority was made explicit in an 1861 congressional act and was confirmed almost 100 years later by the Postal Code of 1960.

The first post offices, like their colonial predecessors, occupied leased space in inns, hotels, mercantile exchanges, and other buildings. It was not until the Civil War that Congress authorized the construction of post office buildings.

Because of their perceived importance, newspapers were admitted to the mail for the first time in 1792. The Postmaster General was given the power to authorize their carriage both in and outside of the mails. The importance attached to newspapers was further reflected in the fact that the 1792 Act permitted each printer of newspapers to send one copy of his newspaper to each and every other printer of newspapers for free. The maximum postage rate for all newspapers sent through the mail was 1.5 cents. By contrast, the maximum letter rate was 25 cents for a single letter, 50 cents for a double letter, 75 cents

for a triple letter, and \$1.00 per ounce for each packet weighing at least one ounce. As a consequence, there was little personal correspondence. Most letters were sent by merchants.

Although the 1792 Act, like the 1782 Ordinance, was not intended as a revenue measure, it was nevertheless expected to generate substantial revenues for the new government. In fact, because of the rising costs of the expanding system, the new postal system generated only modest revenue surpluses for several decades following passage of the 1792 Act.

Finally, in a noteworthy departure from its English antecedents, the 1792 Act prohibited the opening of mail in order to spy on citizens and made the unauthorized opening of mail punishable by fine and/or imprisonment.

The primary monopoly provision, contained in section 14 of the 1792 Act, prohibited the carriage by “any person” of “letter or letters, packet or packets, other than newspapers” Section 14 also prohibited “any person” from establishing a postal system by “setting up any foot or horse post, wagon, or other carriage, by or in which any letter or packet shall be carried for hire, on any established post-road, or any packet, or other vessel or boat” Exceptions were granted for special messengers.

Section 12 of the 1792 Act established a monopoly over inbound international letters that was applicable to shipmasters, but not passengers, on arriving vessels. The monopoly did not extend to outbound letters or packets.

The Postal Act of 1794 made several noteworthy additions and changes to mail service. First, it expressly authorized the Post Office Department to continue appointing local messengers to deliver to addressees located near a

post office. The 1794 Act also authorized persons to drop a letter at a post office for later pick up by the addressee. The postmaster received 1 cent for each drop letter. Although such so-called “drop letters” were permitted, they were outside the mail. These authorizations remained unchanged until passage of the 1825 Postal Code.

Finally, the 1794 Act authorized magazines and pamphlets to be admitted to the mail for the first time, albeit in only those situations in which “the mode of conveyance, and the sized of the mails, will admit of it” Rates for magazines and pamphlets were higher than newspaper rates, but substantially lower than letter rates.

The 1794 Act made several changes to the postal monopoly. It expressly excluded magazines and pamphlets together with newspapers from the monopoly’s reach. It also eliminated the prohibition against private carriage by individuals. This left in place only the prohibition against the establishment of private postal systems.

Five years later, in the Postal Act of 1799, Congress revised the principal monopoly provisions. The scope of the monopoly was expanded slightly to include not only private postal systems operating on “post roads,” but private postal systems on “any road adjacent or parallel to an established post road.”

In addition, section 7 of the 1799 Act, which specified postage rates, suggested that the term “packet” might include a small package, not just a bundle of letters, by limiting the obligation of a postmaster to accept packets to those weighing no more than 3 pounds.

In the Postal Act of 1815, Congress extended the postal monopoly by requiring that masters of steamboats that traveled between locations where post

offices had been established deliver all “letters and packets” to the local postmaster after docking. In the Postal Act of 1823, Congress extended the postal monopoly to cover not just travel between locations at which post offices were located, but travel on “all waters on which steamboats regularly pass from port to port. This result was accomplished by declaring all such waters to be “post roads.”

The Postal Act of 1825 replaced all prior postal laws with a revised version that was codified as a general postal code. Among the changes made by the 1825 Code was the separation of pamphlets into two classes: periodical pamphlets (which included magazines), and non-periodical pamphlets (small books). Controversies over the appropriate classification of mailable matter were generated by large rate differentials between newspapers and periodicals. Since books were required to pay letter rates, they were, as a practical matter, priced out of the market.

Shortly after the enactment of the 1825 Code, New York City merchants learned of increased European cotton prices and sent orders by mail contractors outside of the mail. Postmaster General McLean was outraged and advocated a new “mandate”: speed, namely that the Post Office Department must convey newspapers as rapidly as letters. This became known as the “Gospel of Speed.” To carry out this mandate, the Post Office Department urged Congress to authorize express mail. Congress refused.

Having failed to receive congressional authorization to provide express mail, Postmaster General McLean vowed to prevent contract carriers from transporting orders out of the mail. During this period, one of the first federal court decisions regarding the scope of the postal monopoly was issued. The issue before the court was whether the postal monopoly prohibited a contractor

engaged by the Post Office Department to transport mail, had violated the postal monopoly by also carrying packages containing so-called “executions,” which appear to have been some type of legal or financial instrument. The court ruled that “packets” containing these executions were not “letters” and their carriage was not prohibited by the postal monopoly.²⁵

The Foundations of Modern Postal Service: 1840s through the 1880s

During the first half of the 19th century, several important developments converged that would produce changes in both the nature of postal service and the statutory framework within which the Post Office Department would operate. Those developments included improvements in transportation, the growing needs of commerce, the growth of transportation by rail and steamboat which made possible the emergence of private express companies, and the advent of the “cheap postage” movement in Great Britain. This same period saw the birth of so-called penny posts that provided new and desirable postal services at the local level. Appendix B at 48-51 and 65-72; Appendix C at 89-96; and Appendix D at 45-46 and 76-78.

Local collection and delivery of mail by the Post Office Department was slow in developing. Through 1825, most of the Post Office Department’s mail service was between cities. Neither *ad hoc* delivery service authorized by local postmasters, nor arrangements for drop letters were considered postal services, nor were letters handled in these ways deemed to be “in the mail.” The widespread collection of drop letters by citizens made the post office a common meeting place to socialize or to discuss business.

²⁵ *United States v. Chaloner*, 1 Ware 214, 25 F.Cas. 392, 393 (D. Me. 1831).

By around 1825, the demand for post office boxes (which facilitated the handling of drop letters) had begun to increase.²⁶ Around this same time, New York City's postmaster agreed unofficially to collect letters of certain merchants and deliver them to the post office. Official authorization to use letter carriers to collect and deliver local drop letters was given by the Postal Act of 1836.

By the 1840s, so-called penny posts had inaugurated home delivery, street collection boxes, pre-payment by adhesive stamps, special delivery, and local parcel post.²⁷ These services proved to be so popular that in 1842, Postmaster General Wickliffe bought the City Despatch Post in New York City.

Also by 1840, public pressure for sharply reduced letter rates produced major changes in the British postal system. High letter rates had generated widespread dissatisfaction and evasion of those rates by transmitting letters out of the mail. The British government responded by making a major overhaul in rate structures and levels. Letter postage rates were reduced by almost 75 percent. This led to a surge in mail volume. These changes in Great Britain did not go unnoticed in the United States. Demands for postage reform and widespread evasion of the postal monopoly laws increased.

Whereas merchants and newspaper publishers had organized private expresses to transmit important commercial information and news, the impact of those activities on the postal service had been relatively limited. The new private express companies did not attempt to establish postal systems comparable to

²⁶ In 1825, the New York City Post Office had approximately 900 post office boxes. By 1850, the number of boxes had increased to more than 3,000. Appendix B at 49.

²⁷ During the 1840s, there were at least 140 private local posts in the United States. *Id.* at 50.

the Post Office Department's relay stations on post roads. Instead, they availed themselves of the transportation services available from railroads and steamboat companies that were part of the Industrial Revolution. Companies like Wells Fargo and the forerunner of American Express dispatched employees on railroads and steamboats with valises full of letters and packages.

The Post Office Department responded to these developments by entering into contracts for mail transportation which prohibited the carrier from carrying any "mail-matter" (not just letters) out of the mail, or knowingly transporting any person who carried "mail-matter" out of the mail. In a legal opinion, the United States Attorney General concluded that the Postmaster General could use the contracting authority to prevent mail contractors from carrying newspapers, magazines, and pamphlets.

During this period, the Post Office Department also sought to enforce the postal monopoly by prosecuting alleged offenders. Between 1841 and 1844, there were arrests and trials of over 100 carriers for alleged violations of the postal monopoly. These prosecutions were largely unsuccessful. The failure of these prosecutions contributed to the effort by the Post Office Department to obtain legislation addressing the practices of private express companies.

The Postal Act of 1845: Cheap Postage and the Private Express Statutes

Responding to the success of English postal reforms, Congress passed the Postal Act of 1845. The Act reduced rates for letters and introduced low rates for circulars, handbills, and advertisements. Rates for so-called "drop letters" were doubled to discourage private expresses from transporting intercity letters to a post office for collection by local addressees. Subsidies were eliminated for stagecoaches.

The passage of the 1845 Act greatly increased volumes of personal mail as Congress and the people realized that mail could be used for personal correspondence, not just for news or business correspondence.

The 1845 Act transformed the postal monopoly from a model directed at postal systems composed of relay stations to a model based upon geographic places served by the Post Office Department. It also introduced the concept of “regular carriage.”

At the heart of the 1845 Act were the monopoly provisions which proscribed the establishment and use of private expresses operating between places regularly served by post offices, as well as the transportation by common carrier of persons acting as private expresses. The monopoly covered “letters, packets, or packages of letters, or other matter properly transmittable in the United States mail, except newspapers, pamphlets, magazines and periodicals”²⁸

Finally, the 1845 Act established a new statutory exception: “carriage of mail by private hands without compensation.”

Aftermath of the 1845 Act

Public pressure for reduced postage rates continued following passage of the 1845 Act. Appendix B at 65-72. In 1851, Congress again made substantial

²⁸ “[M]ailable matter” and “matter properly transmittable by mail” were defined by section 15 of the 1845 Act as “all letters and newspapers, and all magazines and pamphlets periodically published, or which may be published in regular series or in successive numbers, under the same title, though at irregular intervals, and all other written or printed matter whereof each copy or number shall not exceed eight ounces in weight, except bank notes, sent in packages or bundles, without written letters accompanying them; but bound books, of any size, shall not be held to be included within the meaning of these terms.”

cuts in letter postage rates.²⁹ These cuts eliminated the cross-subsidies for newspaper rates that had been possible because of the higher letter rates. After 1851, subsidies for newspapers were funded from the public treasury. From the perspective of the Post Office Department, cheaper postage proved to be an important defense against the private express companies.

By 1851, it had also become obvious that the Post Office Department would not break even. Beginning in 1851 and continuing until 1870, subsidies were provided by appropriations from the general treasury. The postal monopoly protected revenue (even if the Post Office Department did not break even).

Also in 1851, the United States Supreme Court held in the case of *United States v. Bromley*, 53 U.S. (12 How.) 88 (1851) that an “order for goods, folded and directed as a letter, is clearly mailable matter, and a conveyance of it, as charged, is a violation of the law.” Opinions differ over how the court’s holding should be interpreted. One interpretation is that the court’s holding should be interpreted to mean that an “order for goods” constituted a “letter.” Another interpretation is that at most the court held that an “order for goods” constituted “mailable matter” under the Act, but not a “letter.” The difference between these interpretations became important over 100 years later in litigation over the scope of the postal monopoly.

By 1859, the Post Office Department had established local delivery systems in fourteen cities. In 1860, the Postmaster General moved aggressively to take over postal services in major cities. At his request, Congress allowed the Post Office Department to cut its charge for local delivery service in half. He also

²⁹ Postal Act of 1851, Act of Mar. 3, 1851, ch. 20, sec. 10, 9 Stat. 587. The 1851 Act also authorized the Postmaster General to designate “post routes” within cities. *Id.*

ordered that all streets, lanes, and avenues within the city limits of Boston, New York, and Philadelphia were “post routes” and advised private posts that, as a result, they were precluded from providing local service.

In an effort to enforce the Postmaster General’s order, the government filed suit to enjoin a penny post named Blood’s Despatch from providing local postal services. The court, in *United States v. Kochersperger*, 26 F.Cas. 803 (E.D. Pa. 1860), ruled that local postal service was not within the postal monopoly as it then existed.

In his 1860 annual report, the Postmaster General called for legislative action to overturn the decision in *Kochersperger*. In doing so, he implied that a postal monopoly over local services was justified by the need to use profits from some postal services to subsidize others. In the 1861 Post Office Department appropriations bill, Congress overturned the court’s decision and made the 1827 ban on establishing foot posts and horse posts on “post roads” applicable to local “post routes” designated by the Postmaster General under the 1851 Act. However, it was not until 1883 that the last two private penny posts were finally eliminated as the result of legal actions brought against them by the government.

It should be noted that the 1861 appropriations bill did not expand the Postmaster General’s authority to provide local delivery services comparable to those of the penny posts. That authority came later with the passage of the Postal Act of 1863, in which Congress authorized “free city delivery” in major

cities.³⁰ The 1863 Act made several other important changes in postal service possible by authorizing the Postmaster General to establish branch post offices, collection boxes, and delivery services, and to make letter carriers salaried employees. The 1863 Act also established three classes of mail: letters, regular printed matter, and miscellaneous matter. Rates for letters were established by law, while rates for local newspapers, periodicals, and circulars were negotiated by local postmasters with publishers. In 1864, the Post Office Department was authorized to provide postal money orders.

Enforcement of the Monopoly by Search and Seizure

The Post Roads Act of 1852 gave the Post Office Department search and seizure authority with respect to any letters carried anywhere throughout the United States. Section 5 of the 1852 Act is the source for 4 of the 13 postal monopoly sections that appear in the current version of the U.S. Code: 18 U.S.C. 1699; and 39 U.S.C. 604-606. Appendix C at 96-100.

The Stamped Envelope Exception to the Postal Monopoly: Foundation for Administrative Definitions of the Postal Monopoly

Weight-based rates, first introduced by the Postal Act of 1845, made the use of envelopes both feasible and popular. In the same Post Roads Act of 1852 that gave the Post Office Department the search and seizure authority, Congress authorized the Postmaster General to sell letter envelopes with “postage stamps ... printed or impressed thereon.” Private carriers were authorized to convey and deliver such envelopes notwithstanding any prohibition under other laws. This

³⁰ In 1865, free city delivery became mandatory in cities with a population of over 50,000. between 1865 and 1890, Congress passed a series of acts which eventually authorized the expansion of free city delivery to cities and towns with at least 10,000 residents or from post offices with annual revenues of at least \$10,000. *Id.* at 52-53.

latter exception to the postal monopoly laws did not authorize private carriage of letters in ordinary envelopes with postage stamps.

Responding to various allegations of abuse, Congress authorized the Postmaster General to suspend the stamped envelope exception. The suspension authority was subsequently codified as 39 U.S.C. 601(b) and later played an important role in the postal monopoly regulations adopted in 1974 by the Postal Service. Appendix C at 100-02.

Monopoly Over Outbound International Mail

It was not until the mid-1840s that the Post Office Department began outbound international mail services of any significance. In 1845, Congress authorized the Post Office Department to contract with American ships for international transportation of mail. In that same act, Congress made it unlawful for passengers to transport “any letter, packet, newspaper, or printed circular or price current, (except newspapers in use, and not intended for circulation in the country to which such vessel may be bound,) on board the vessels that may hereafter transport the United States mail” This was the first time international passengers had been subjected to the postal monopoly laws.

In 1864, the Postmaster General requested that Congress prohibit all private carriage of outbound international letters in order to protect the Post Office Department’s revenues. Congress obliged by giving the Post Office

Department a monopoly over outbound international “letters or letter packets.” This provision is currently found in 39 U.S.C. 602.³¹ Appendix C at 102-05.

The Postal Code of 1872. Shortly after the end of the Civil War, a special commission was appointed by President Andrew Johnson to revise and codify all of the statutes of the United States. In 1872, President Grant signed into law the Postal Code of 1872. The codification did not purport to change the substance of existing postal laws.

The Revised Statutes of 1875. The 1872 Postal Code was re-enacted in the Revised Statutes of 1875 as part of a general revision and codification of the entire body of United States statutes. The provisions of the 1872 Code were divided between title 9, the Post Office Department, and title 46, Postal Service. Title 46 contained the postal monopoly provisions. These are the current postal monopoly statutes, with only minor stylistic changes and reorganization within the U.S. Code. Appendix C at 109-18.

Public Acceptance of the Postal Monopoly. By the mid-1890s, widespread public sentiment against big business and private monopolies had developed in the United States. Private monopolies were perceived as contrary to the public interest because they increased prices by decreasing, or threatening to decrease, the availability of goods and services. In stark contrast, the public generally viewed the postal monopoly as having the salutary effect of decreasing prices by increasing volume. It permitted the Post Office Department to “act for

³¹ This prohibition on private carriage of outbound international letters was partially removed by the Postal Service’s adoption in 1986 of 39 CFR 320.8, which suspended the operation of the Private Express Statutes with respect to international remailing consisting of “the carriage by private firms of shipments of letters, addressed to persons outside the United States, entirely outside of the United States Mails to foreign countries where the letters are deposited into the mails of foreign postal administrations.”

all without acting against any.”³² Even the Post Office Department’s critics accepted the postal monopoly as necessary to accomplish the task of delivering the mail on a national basis. The Post Office Department was viewed as both a big business *and* a public service.

The Emergence of Universal Service, the Evolution of the Letter Monopoly, and the Adoption of the Mailbox Monopoly: 1890 through the 1950s

From the 1890s to the 1950s, the concept of universal service began to take shape. Appendix B at 53-64 and 72-77; and Appendix D at 46-47. Congress adjusted the postal monopoly statutes, but, with one major exception, made no major changes. That exception was the enactment in 1934 of the Mailbox Monopoly. Aside from this, the biggest legal development was the assumption by the Post Office of the authority to interpret the postal monopolies by issuing legal opinions and regulations.

Universal Service. In 1896, “rural free delivery” (RFD) was introduced as an experimental program that provided mail deliveries to a mailbox located along a public road, not to the door of the recipient. In 1902, RFD service was made permanent. In general, deliveries were made daily, although the Post Office Department took the position that it could reduce deliveries to 3 days per week if there was inadequate demand. The geographic scope of RFD was not defined by statute. It was expanded by the Post Office Department in response to citizens’ requests for service.³³ Included in the 1917 postal appropriations bill

³² Appendix D at 61, quoting C.C. Nott, “Monopolies,” *International Review*, 1 (May 1874): 382, 383.

³³ As RFD service expanded, the Post Office Department began to close unneeded small fourth-class post offices. Appendix B at 56.

was a provision stating “[t]hat rural mail delivery shall be extended so as to serve, as nearly as practicable, the entire rural population of the United States.”³⁴ This provision appears to have been the forerunner of 39 U.S.C. 403(a)’s direction to the Postal Service that it “serve as nearly as practicable the entire population of the United States.”

In 1911, the Post Office Department introduced a Postal Savings Bank. It was used extensively during the Great Depression in response to bank failures. The bank was terminated in 1966.

In 1912, Congress authorized an experimental program to serve villages—locations that were too small to be deemed cities, but not covered by RFD. Village delivery was made permanent in 1916. The postal service was never required to deliver to all residents of a village. Over time, service to many villages was converted into city delivery service.

During 1912, Parcel Post service was introduced when Congress expanded fourth-class mail to include parcels. The original weight limit for parcels was 11 pounds, but was later increased to a range of 50 to 70 pounds depending upon the distance the parcel was sent.

Between 1917 and 1938, a number of postal services were introduced or modified to meet changing needs and circumstances. In 1917, Congress

³⁴ Act of July 28, 1916, ch. 261, sec. 1, 39 Stat. 412, 423-24. In a colloquy on the Senate floor, the sponsor of this provision, Senator Hardwick, clarified that the provision was intended only as an “expression of a general policy” and that in observing that policy, the Postmaster General was “limited, of course, so far as practical effects go, to the amount of money we [*i.e.*, the Congress] give him for this purpose.” The other limitation imposed on the Postmaster General was that in carrying out the policy, he “could not discriminate; that he must treat every section of the country fairly; that he must treat all sections of the Republic alike” *Id.* at 59.

imposed higher rates for the advertising content of second-class publications. In 1925, Congress required that weight be used to distinguish between third- and fourth-class mail and that within third-class, a higher rate be imposed on advertising circulars. In 1925, Air Mail service was introduced, but did not, as a practical matter, become broadly available until 1928 with the establishment by the Postmaster General of a 5-cent rate for letters weighing one-half ounce or less. In 1928, Congress adopted bulk pound rates for third-class mail, including advertising circulars, and created a preferential rate for library books. Acting pursuant to congressional authorization, President Roosevelt established preferential rates for books in 1938.

The Letter and Mailbox Monopolies

Early Interpretations of the Letter Monopoly. The 1872 Postal Code authorized the Postmaster General to appoint an Assistant Attorney General. The Assistant Attorney General soon began issuing opinions on postal law for internal use. Those administrative interpretations were compiled in the Post Office Department's legal manual, called the Postal Laws and Regulations (P.L.&R.), which was updated periodically. Appendix C at 106-27.

The Letter Monopolies Prior to Posting Exception. In 1878, the Assistant Attorney General issued an opinion letter ruling that the collection of letters with proper postage and their carriage and delivery to a post office railway mail car violated the postal monopoly. The following year, Congress added a new exception to the postal monopoly in a postal appropriations act of 1879 covering such activities. This was the fifth statutory exception to the postal monopoly and is currently found in 18 U.S.C. 1696(a). Appendix C at 127-31.

The Letter Monopoly and Railroad Mail. By the 1890s, the railroads had emerged as an integrated national transportation system with operations closely

connected to those of telegraph companies, hotels, and restaurants built along their right-of-ways. As a result, railroads carried a constant stream of documents related to both their internal operations and their business arrangements with other companies.

The Post Office Department viewed so-called “railroad mail” as a violation of the postal monopoly. Its position was supported by a series of opinions by the Post Office Department’s Assistant Attorney General which addressed various railroad mail issues. These interpretations were reflected in a Post Office Department pamphlet entitled *Orders and Decisions Relative to Railroad Mail Matter Compiled by the Second Assistant Postmaster General* (Feb. 6, 1897). That pamphlet was cited as authority for the opinions issued by Assistant Attorneys General through at least 1911.

The impact of the *Railroad Mail* pamphlet went beyond the railroad industry. Between 1901 and 1910, it was relied upon by Assistant Attorneys General to rule that a variety of types of “non-railroad mail” were “letters” covered by the postal monopoly. Appendix C at 132-45.

The Letter Monopoly and the Criminal Code of 1909. In 1909, the penal laws of the United States were consolidated into the first penal code. Nine postal monopoly provisions were re-enacted in the 1909 criminal code. With one exception, the re-enactment was purported to make only stylistic changes and “no changes of consequence.” The exception was the adoption of a new statutory exception to the prohibition against the carriage of letters and packets by common carriers. That exception was for “letters of the carrier,” and was the sixth and final exception to the postal monopoly. In 1948, the postal monopoly’s penal provisions were re-enacted into the second criminal code and set forth in title 18 of the U.S. Code. Appendix C at 141-43.

Opinions of the Post Office Department Solicitors. The first formal compilation of judicial decisions regarding postal laws was published by the Post Office Department in 1905 and was entitled *Digest of Decisions of United States and Other Courts Affecting the Post-Office Department and Postal Service*. The *Digest* was revised in 1925 and a second supplemental volume was published in 1928. The opinions of Assistant Attorneys General and Solicitors³⁵ of the Post Office Department were not included in these publications.

The legal opinions of the Assistant Attorneys General were also published for the first time in 1905. Publication of these opinions was important because it began a process of establishing administrative postal law. In 1952, the Post Office Department stopped publishing legal opinions.

Prior to the 1930s, the legal opinions of the Assistant Attorneys General and Solicitors were seldom cited as a public legal authority. That changed during the Great Depression. In July 1934, the Office of the Solicitor published a pamphlet entitled *The Private Express Statutes*. It contained the text of the postal monopoly laws and an interpretation of the postal monopoly without any legal citations. This pamphlet was revised and republished in 1937 and 1940.

A second publication, the *Digest of Decisions of United States and Other Courts Affecting the Post Office Department and the Postal Service* originally published in 1905, was republished in 1934 and, for the first time, cited opinions of the Assistant Attorneys General and Solicitors as legal authority. A final revised and updated version of the *Digest* was published in 1939. Appendix C at 146-83.

³⁵ In 1914, the position of Assistant Attorney General was retitled *Solicitor*.

The Mailbox Monopoly

As mail volumes fell during the Great Depression, the resulting shortfall in revenues led the Postmaster General to request Congress to increase postage for First-Class Mail. Congress also considered other revenue enhancing mechanisms, including a restriction on access to residential mailboxes by anyone other than the Post Office Department.

The restriction on access to mailboxes appears to have first been introduced in 1907 in regulations adopted for rural free delivery service. The purpose was apparently to simplify and regularize the work of rural carriers, whose duties included the collection of money left in mailboxes and the application of postage to outgoing mail. In section 733 of the 1924 edition of the P.L.&R., rural carriers were ordered to remove mailable matter without postage from rural mailboxes.

In January 1934, as mail volumes and postal revenues continued to plummet, Postmaster General James Farley, who viewed the widespread use of private messengers by utility companies, municipalities, department stores, and other establishments as a threat to the Post Office Department's financial position, ordered letter carriers to remove circulars, handbills, and similar material from mailboxes and to hold these items until postage was paid.

To confirm the legality of the Postmaster General's actions, Congress enacted the legislation that became the mailbox monopoly. As enacted, the mailbox monopoly went much further than the RFD regulations by applying the mailbox monopoly nationwide and by punishing violators with criminal penalties.

The scope of the mailbox monopoly is also broader than the scope of the postal monopoly. Whereas, in general, the postal monopoly applies only to

"letters and packets," the mailbox monopoly applies to "any mailable matter such as statements of accounts, circulars, sale bills, or other matter, on which no postage has been paid"

The constitutionality of the mailbox monopoly provided for in 18 U.S.C. 1725 was upheld by the Supreme Court in *United States Postal Service v. Council of Greenburg Civic Associations*, 453 U.S. 114 (1981).

Regulations implementing the mailbox monopoly were adopted by the Postal Service in its Domestic Mail Manual. Domestic Mail Manual provisions are considered regulations of the Postal Service by virtue of 39 CFR 211.2.

In 1973, the court in *Rockville Reminder, Inc. v. United States Postal Service*, 480 F.2d 4 (2d Cir. 1973) rejected a challenge to the Postal Service's mailbox monopoly regulations when it upheld the regulation that prohibited the attachment of a hook to the outside of rural mailboxes for the purpose of hanging a plastic bag containing advertising material. The court based its ruling not on the mailbox monopoly statute as set forth in 18 U.S.C. 1725, but on the provisions in 39 U.S.C. 101 which direct the Postal Service to "maintain an efficient system of collection, sorting and delivery of the mail nationwide." 480 F.2d at 8-9.

As of December 19, 2006, the day before the PAEA became law, the mailbox monopoly regulations implemented the mailbox monopoly by (1) designating certain letterboxes and other receptacles to which the criminal prohibitions of 18 U.S.C. 1725 apply; (2) designating certain letterboxes and receptacles to which the criminal prohibitions of 18 U.S.C. 1725 do not apply; (3) exempting certain concerns (newspapers) from the criminal prohibitions on certain days of the week (Sunday); and (4) declaring that "no part of a mail

receptacle may be used to deliver any matter not bearing postage." Appendix C at 162-69.

Limitation of the Special Messenger Exception to the Letter Monopoly.

One month after enacting the mailbox monopoly, Congress reduced the scope of the special messenger exception to the postal monopoly. Thereafter, special messengers could carry no more than 25 letters per "occasion." Appendix C at 169-70.

Expansion of the Stamped Envelope Exception to the Letter Monopoly. In March 1936, Congress amended the stamped envelope exception which had permitted private carriage of envelopes that had postage embossed by the Post Office Department. As amended, the language authorizing the Postmaster General to suspend the stamped envelope exception was revised to read as follows: "But the Postmaster General may suspend the operation of this section *or any part thereof* upon any mail route where the public interest may require such suspension [emphasis added]." In the 1970s, the Postal Service interpreted the italicized language to permit it to suspend the postal monopoly. Appendix C at 172-80.

Development of Postal Monopoly Regulations. The first edition of the United States Code of Federal Regulations appeared in 1938. The Post Office Department's regulations appeared in title 39, and cited the 1932 P.L.&R. and the postal monopoly statutes as authority.

The second edition of the United States Code of Federal Regulations was published in 1949. Postal monopoly regulations appeared as section 91 of title 39. As in previous editions of the P.L.&R., the postal monopoly regulations were made up of a recitation of statutory provisions.

In 1954, the Post Office Department established a completely revised set of regulations. The postal monopoly was contained in part 42 of title 39. Those regulations did not merely recite the applicable statutory text. Instead, they set forth a broad formulation of the Post Office Department's interpretation of the postal monopoly statutes as reflected in *Restrictions on Transportation of Letters*, a retitled fourth edition of the pamphlet *The Private Express Statutes* that had been adopted 2 years earlier in 1952 and included citations to case law and Solicitor's opinions drawn from the last edition of the *Digest*. The fifth and final edition of *The Private Express Statutes* was issued in 1967 and was known as "Publication 111."

The Statutory Basis of the Universal Service Obligation: the Postal Policy Act of 1958 and the Postal Code of 1960

The Postal Policy Act of 1958

The Postal Policy Act of 1958 grew out of the debate over postal rates that erupted after World War II. Appendix B at 81-111; and Appendix D at 47-49. During the war, wages for postal employees had been raised without any increase in postage rates resulting in deficits that the Postmaster General sought to address with proposed increases in postage.

In March 1953, the Senate adopted a resolution that created an Advisory Council to investigate postal rates and policies. On January 18, 1954, the Advisory Committee issued a report that found that the Post Office Department was "fundamentally a public service," recommended the adoption of a national postal policy, and recommended further that "[a]ny loss of revenue due to preferential rates ... [and] ... [a]ny expenditures which can be justified only on a national welfare basis ... should be reimbursed from the general funds of the Treasury." The Post Office Department strongly disagreed with the conclusions

of the Senate's Advisory Council and prepared its own counter report in which it concluded that postage rates should cover costs.

It was not until May 1958 that Congress and the Eisenhower Administration reached a compromise agreement on a postal rate policy which became the Postal Policy Act of 1958. Included in the Postal Policy Act of 1958 was the first formal declaration of a national postal policy. That declaration was set forth in section 103 and included an assertion that the Post Office Department is a "public service." Section 103 is the direct ancestor of current sections 101 and 403 of title 39, as well as the ratemaking and classification principles in current section 3622.

The Postal Policy Act of 1958 also incorporated the following concepts: (1) postal costs for certain services were deemed to be public service costs and, as such, should be paid by public funds;³⁶ (2) overall postal revenues should be approximately equal to overall costs; (3) First-Class rates should pay more than a proportionate share of institutional costs; and (4) the relationship between rates for different classes of service should reflect considerations identified in section 103(c) of the Postal Policy Act of 1958.

While these determinations were extremely significant, they did not bind the Post Office Department, since it was Congress that continued to have the authority to establish postal rates. At most, the Postal Policy Act of 1958 established a series of non-binding, albeit extremely significant, guidelines for future rates.

³⁶ The services deemed to be public services included free mail for the blind, reduced rates for nonprofit mail and certain periodicals, losses incurred in operating small post offices and in providing star-route services, losses incurred in providing nonpostal services or special services, and additional costs for international air transportation rates established by the UPU.

Postal Code of 1960

In 1960, the postal laws were codified as title 39 of the U.S. Code. This was the first codification of the postal laws since the Postal Code of 1872 was re-enacted in 1879 as titles 9 and 46 of the Revised Statutes. The 1960 codification was itself not intended to make changes in substantive law.

The 1960 Code contained a number of provisions that affected universal service:

- Sections 2301 to 2305 re-enacted with only minor stylistic changes sections 102 through 105 of the Postal Policy Act of 1958.
- Section 701 continued the Postmaster General's authority, originally conferred by the Postal Act of 1792, to establish, discontinue, and consolidate post offices.
- Part VI of the U.S. Code covered, among other subjects, delivery and transportation services. With respect to delivery, section 6001 authorized and required "city delivery service for the free delivery of mail, as frequently as the public business may require" Section 6002 authorized the Postmaster General to "establish village delivery service for the free delivery of mail" Section 6005, required the Postmaster General to "maintain a rural delivery service for the free delivery of mail serving as nearly as practicable the entire rural population of the United States."
- Section 6106 authorized the Postmaster General to "discontinue service on a post road or part thereof when, in his opinion—(1) the postal service can not safely be continued; (2) the revenues can not be collected; (3) the laws can not be maintained; or (4) the public interest so requires."

In 1962, Congress modified the public service cost provisions of the Postal Policy Act of 1958 by clarifying how losses included in the public service cost were to be calculated; by adding the costs of rural service to the list of public

services; and by changing the amount of star-route and small post office costs to be included in the public service cost.

Provisions governing the letter monopoly were set forth in U.S. Code sections 901 and 902. These sections complemented the criminal provisions in sections 1693 through 1699 of title 18 of the U.S. Code.

While the 1960 U.S. Code was not intended to make substantive changes in postal law, section 501(1) did expand the rulemaking authority of the Postmaster General to "prescribe rules and regulations that he deems necessary to accomplish the objectives of this title [*i.e.*, title 39]" It can be argued that this expansion of rulemaking authority gave the Postmaster General power not previously granted over the postal monopoly.

The Passage of the Postal Reorganization and Salary Adjustment Act of 1970

The Postal Reorganization and Salary Adjustment Act of 1970 (PRA) was enacted during 1970. It made a number of important changes in postal law. Passage of the PRA was preceded by the issuance of a report by a Presidential Commission during 1968 and by a work stoppage in 1970. Appendix B at 120; and Appendix C at 200-01.

The Kappel Report of 1968

During 1967, President Johnson established the President's Commission on Postal Organization. The Commission was chaired by Frederick R. Kappel, a former chairman of American Telegraph and Telephone Company. Appendix B at 112-15.

The Commission's "Kappel Report" challenged the long-standing view that postal service was a public service, not a business, and asserted that postal service revenues needed to cover the costs of unprofitable services were not cross-subsidies, but part of the Post Office Department's overall cost of service.³⁷ The Kappel Report referred to this relationship between profitable and unprofitable services in terms of "universal service" (a phrase that had been previously used in the telecommunications' industry). The Kappel Report did, however, recognize an exception for revenue shortfalls that resulted from special rates, such as rates for charitable organizations. These shortfalls could properly be subsidized by the government as subsidies of the users who paid those special rates. The Kappel Report supported continuation of the postal monopoly.

Administrative Suspension of the Letter Monopoly's Stamped Envelope Exception—the 1970 Postal Strike

During March 1970, wildcat strikes by letter carriers in New York City threatened to turn into a national strike. Before the labor dispute could be resolved, the Postmaster General issued an unprecedented order pursuant to the suspension authority under the stamped letter exception to the postal monopoly. The order was issued to "suspend the operation of paragraphs (1) through (6) of 39 U.S.C. 901(a)." This action was later cited by the Postal Service to justify the permanent suspensions of the postal monopoly statutes in the revised postal monopoly regulations of 1974. Appendix C at 200-05.

³⁷ President's Commission on Postal Organization, *Towards Postal Excellence* (June 1968) at 50 (Kappel Report).

Enactment of the PRA

The PRA was enacted on August 12, 1970. It replaced the Post Office Department with the United States Postal Service (Postal Service), an independent establishment within the executive branch. It also established for the first time a rudimentary USO. The elements of that USO appear in several different sections of title 39. Appendix B at 115-31.

In converting the Post Office Department from an executive branch department to an independent establishment within the executive branch, Congress imposed general duties on the new Postal Service. These duties are set forth in section 403 of title 39 and can be viewed as forming part of a USO. Some of these duties can be traced directly to policy guidelines set forth in section 103 of the Postal Policy Act of 1958. By incorporating these latter provisions into section 403, Congress essentially transformed non-binding policy guidelines into binding duties applicable to the Postal Service. At least one of the duties contained in section 403 can be traced to a 1916 appropriations act, *i.e.*, the requirement that the Postal Service “serve as nearly as practicable the entire population of the United States”

In addition to the general duties set forth in section 403, the PRA added a statement of overall policy principles in section 101 of the PRA. These overall principles were derived from the Postal Policy Act of 1958 and, like the general duties in section 403, can be viewed as part of a USO.

The PRA also added several new USO principles with no prior antecedents in postal law, such as section 403(b)(1) (the requirement that the Postal Service provide an efficient nationwide system of collection, sorting, and delivery of mail); section 403(c) (the prohibition against undue or unreasonable discrimination among users of the mail); section 403(a) (the obligation to receive,

transmit, and deliver throughout the United States, its territories and possessions); section 101(b) (the prohibition against closure of small post offices solely for operating at a deficit); section 3623(d) (the requirement to provide a uniform rate for all letter classes; section 3623(d) (the requirement to maintain a class of mail for letters sealed against inspection; and section 3622(b)(3) (a requirement that the rate for each class or type of mail cover attributable costs).

Whereas the Postal Policy Act of 1958 provided for a single form of subsidy, the public service subsidy, the PRA provided for two types of subsidy—a public service subsidy and a revenue foregone subsidy. The public service subsidy was set forth in PRA section 2401(b). That section provided for a gradual reduction of the public service subsidy first authorized by the Postal Policy Act of 1958 to 5 percent of the 1971 appropriations level by fiscal year 1984. For fiscal year 1985 and all succeeding fiscal years, the Postal Service was authorized to reduce or entirely eliminate the subsidy if it were to find that “the amounts ... are no longer required to operate ... in accordance with the policies of [title 39].”

The revenue foregone subsidy was set forth in PRA section 2401(c). It authorized appropriations for revenue foregone by virtue of preferred rates for certain diplomatic corps mail (section 3217); mail for the blind and handicapped (sections 3403-05); certain second-class mail (sections 4358-59); certain third-class mail (section 4452); controlled circulation publication mail (sections 4421-22); and certain fourth-class mail (section 4554). Section 3626 provided for 5- and 10-year transition periods during which the Commission was to decide whether preferential rates should be continued for the specified types of controlled circulation publication mail, second-class, third-class, and fourth-class mail.

*The Continuing Development of the Universal Service Obligation
Following Passage of the PRA*

The Statutory USO: 1971-2006

PRA Amendments of 1976. Enactment of the PRA did not prevent serious problems from arising. Postage rates continued to rise, as did postal deficits. Appendix B at 134-90; and Appendix D at 78-79. Mail volume and service quality declined. In July 1975, the Postal Service responded by producing a staff study, *The Necessity for Change*, which, although it did not discuss “universal service” or a “universal service obligation,” *per se*, addressed problems directly related to those concepts. The study concluded that the Postal Service had only two long-term options: (1) return to the Post Office Department model with an explicit recognition that postal service was a public service that required government subsidies; or (2) move the Postal Service in the direction of behaving like a business that tailors its services to market demand, including, perhaps, the ultimate elimination of the postal monopoly. In either event, the obligations of the Postal Service needed to be clarified.

In September 1976, Congress passed the Postal Reorganization Act Amendments of 1976. In relevant part, the amendments:

- Established a temporary moratorium on service reductions;
- Added a new factor to be considered in Commission rate cases, namely, “the educational, cultural, scientific, and informational value to the recipient of mail matter;” and
- Imposed statutory procedures for closing and consolidating post offices which provided for appeal to the Commission.

The centerpiece of the 1976 PRA Amendments was the creation of the Commission on Postal Service.

The Commission on Postal Service issued its report during March 1977. The report did not use the terms “universal service” or “universal service obligation.” Nevertheless, it made a number of recommendations bearing on universal service.³⁸ None of these recommendations were enacted by Congress.

Public Service Subsidies and the Annual Postal Appropriations Language. During the 1980s, Congress reduced the annual appropriations for the so-called public service subsidy provided for by section 2401 of the PRA. That subsidy had been intended to prevent less frequent mail deliveries and the closure of small town post offices.³⁹

Beginning in 1980, congressional appropriations bills and committee reports expressly directed the Postal Service not to reduce the frequency of mail delivery or to consolidate or close small post offices. Since 1984, Congress has included its annual postal appropriations language in every Postal Service appropriations bill. In its present form, that proviso requires that mail for the blind and for overseas voting shall be free; that 6-day delivery and rural delivery “shall continue at not less than the 1983 level,” and that none of the funds provided for in the annual appropriations act shall be used to consolidate or close small rural or other small post offices.

³⁸ The recommendations included reduction in mail delivery from 6 to 5 days per week; establishment of dependable and timely delivery as the primary service objective; movement away from cost-based rating principles; statutory confirmation of the four major mail classes and the prohibition of shape-based or cost-based classification systems; elimination over 10 years of preferential postage rates; and the adoption of rules that would make the closure of post offices more difficult.

³⁹ The Omnibus Budget Reconciliation Act of 1981 (OBRA) reduced the annual public service appropriation to zero in 1984. For years after 1984, the annual appropriations process has left PRA section 2401’s annual public service appropriation of \$460 million unchanged. Since 1984, the Postal Service has elected not to apply for this \$460 million subsidy.

Since the late 1980s, the House and Senate appropriations committees have also adopted the practice of including in their reports specific substantive directions to the postal service covering such subjects as the use of rental trailers, the assignment of rural post routes to post offices, and the number of post offices that are to be maintained in specific cities.

Revenue Foregone: Free and Reduced Rates for Preferred Classes. The provisions in section 3626 of the PRA requiring the phased increase in rates for certain preferred classes of mail have been amended several times. In 1974, Congress extended the transitional period for the phased increase. Since 1976, Congress added additional types of mail to the preferred mail classes.⁴⁰ The Postal Service is authorized to charge postage for all such mail if Congress fails to provide appropriate revenue foregone subsidies.

In 1993, Congress enacted the Revenue Foregone Act which eliminated most revenue foregone subsidies.⁴¹ Also included in the Revenue Foregone Act was a requirement to create reduced rate mail classes for certain types of mail.⁴² These latter classes were subject to rate increases over a 6-year period to cover attributable and one-half of institutional costs recovered from similar regular rate mail.

Universal Postal Convention. The United States is a signatory to the UPC and various other international agreements governing international postal

⁴⁰ Those types of mail were certain publications of colleges; universities; agricultural and marine associations; state wildlife agencies; and mail related to overseas absentee balloting.

⁴¹ Exceptions were made for a small subsidy for free mail for the blind and overseas balloting mail; a subsidy until FY 2035 to cover the costs of phasing in new rates during transition periods; and a subsidy for FY 1991-1993.

⁴² The types of mail were In-County newspapers, qualified nonprofit mail, and Library Mail.

services. In 1999, a universal service obligation was added to the UPC that has been retained and will remain in effect until December 31, 2009.⁴³ The current provisions relevant to the Postal Service's USO appear in Articles 1 to 3 and 12 of the current Convention.⁴⁴

The Postal Service persuasively contends that an explicit definition of "universal service" is not required in United States law in order to satisfy the United States' obligations under the UPC. The Postal Service asserts that title 39 of the U.S. Code (as supplemented by Postal Service regulations in the United States Code of Federal Regulations and Postal Service publications otherwise having the force of regulations) sufficiently sets forth the scope of postal services and meets the requirement for quality and affordable prices "within the framework of [U.S.] national postal legislation or by other customary means."⁴⁵

⁴³ On January 1, 2010, the 2004 UPC is to be superseded by the 2008 UPC. The 2008 UPC contains the same universal service obligation.

⁴⁴ Article 1 of the UPC defines the term "universal service" as "the permanent provision of quality basic postal services at all points in a member country's territory, for all customers, at affordable prices." Article 2 obliges UPC signatories to identify "the operator or operators officially designated to operate postal services and to fulfill the obligations arising from the Acts of the Union." Article 3 requires member countries, including the United States, to

(1) ensure that all users/customers enjoy the right to a universal postal service involving the permanent provision of quality basic postal services at all points in their territory, at affordable prices.

(2) set forth, within the framework of their national postal legislation or by other customary means, the scope of the postal services offered and the requirement for quality and affordable prices, taking into account both the needs of the population and their national conditions.

(3) ensure that the offers of postal services and quality standards will be achieved by the operators responsible for providing the universal postal service.

⁴⁵ Universal Postal Convention Article 3:2.

The Postal Service notes that the requirement in Article 3 that “all users/customers” receive universal postal service “at all points in their territory” is qualified by the further language in Article 3 that provides that the scope, quality, and price of universal service “tak[e] into account the needs of the population and their national conditions.” As so interpreted, the Postal Service asserts that the requirements of Article 3 are met by providing postal service “as nearly as practicable [to] the entire population of the United States.” 39 U.S.C. 403(a).

One other aspect of international mail service requires comment. The 2004 UPC established a new system of delivery rates called “terminal dues” for letter post items weighing up to 4.4 pounds. Essentially, this system uses two schedules of charges. One schedule applies to letter post items sent between industrialized countries. The second schedule applies to letter post items sent to or received from developing countries. Terminal dues apply by default when there is no bilateral agreement between countries.

When the Postal Service delivers an inbound international letter to an addressee located in the United States, it charges a foreign postal administration for the delivery of that item at either the rate established by a bilateral agreement or at the applicable UPC rate. Depending upon the rates that apply to each such inbound letter piece, the Postal Service will either reap a profit or incur a loss. Any such loss could be viewed as a cost of providing universal service.

Rates for the delivery of inbound parcel post, called “inward land rates,” are also set by the UPU and serve as a default rate absent a bilateral agreement.

Administration of the Universal Service Obligation: 1971-2006

Geographic Scope of Universal Service

During this period, the universal service obligation was affected by important administrative actions. Appendix B at 190-219.

Express Mail. The Commission held in a general rate case that the uniform rate requirement of section 404(c) does not require Express Mail to be provided nationwide.⁴⁶ The appropriate test is whether the failure to make Express Mail available throughout the United States constitutes undue discrimination under sections 403(c) and 403(b). Any limitation on availability of Express Mail service must be reasonable.

Parcel Post—Alaskan Bypass Mail. In another general rate case, Docket No. R90-1 (see also R94-1), the Commission held that the extra cost of air transportation of bypass mail carried by air transport should be considered institutional cost because these extra costs were universal service costs (*i.e.*, costs incurred only because of the Postal Service's USO). PRC Op. R90-1. This decision was subsequently affirmed in *United Parcel Service, Inc. v. United States Postal Service*, 184 F.3d 827, at 841-43, 337 U.S. App. D.C. 247, at 261-63 (D.C. Cir. 1999).

⁴⁶ PRC Op. Docket No. R77-1 at 417-18.

Range of Universal Service Products

The Postal Service proposed, and the Commission recommended, elimination of several long-standing services when there was insufficient need to continue to provide them.⁴⁷

Access

Establishment of Post Offices. Section 403(b)(3) establishes a duty to establish postal facilities and section 101(a) establishes a duty to provide “prompt, reliable, and efficient services to patrons in all areas” In *Tedesco v. U.S. Postal Service*, 553 F.Supp. 1387 (W.D. Pa. 1983), the court held that the PRA does not create private right of action for alleged service inadequacies. The court therefore dismissed a complaint filed by citizens who sought to have a post office established in their township. The Postal Rate Commission subsequently dismissed an administrative complaint on the basis of its discretionary policy of forbearance noting that it did not “view it as our function to routinely interfere in substantially what amounts to operating decisions of the Postal Service.”⁴⁸

Post Office Closings. Section 101(b) requires a “maximum degree of effective and regular services to rural areas, communities and small towns where post offices are not self-sustaining” and prohibits post office closings solely for operating at a deficit.

Section 404(d), as amended, requires that the effect on the community of a post office consolidation or closing, as well as the effect upon service, must be considered by the Postal Service in making any such decision. Subsection (d)

⁴⁷ For example, Special Delivery, initiated in 1885 was terminated in 1996. Appendix B at 196-97.

⁴⁸ PRC Order No. 512 (July 12, 1983) at 6.

also gives the right to have the Postal Service's decision reviewed by the Commission.

In addition, since 1985, appropriations acts have precluded use of appropriated funds to consolidate or close small rural and other small post offices. Since 1986, Postal Service rules on post office closings have stated that the statutory procedures in section 404(d) apply only to closings of post offices with a postmaster. The Commission has disagreed with that interpretation of the statute, and has stated its position that statutory procedures apply whenever the only retail facility serving a community is closed. In 2002, the Postal Service's *Transformation Plan* requested Congress to repeal administrative notice and appeal procedures. Congress did not grant that request. Instead, Congress clarified the procedure for filing such appeals by enacting section 1006 of the PAEA, which amended section 404(b) of title 39.

Public Collection Boxes. In response to a complaint, the Commission issued a report finding that the Postal Service had eliminated Sunday collection and outgoing mail processing in 1988, and had failed to seek an advisory opinion from the Commission under 39 U.S.C. 3661. The Commission found further that by not indicating holiday collection times accurately, the Postal Service had effectively denied holiday collection and processing services, and that the Postal Service did not have studies of what services were needed by the public. The Postal Service took the position that "no policy basis exists to require any particular level of outgoing holiday service."

In 2002, a complaint was filed alleging that the Postal Service was not providing adequate and efficient collection services by virtue of a number of shortcomings, such as its failure to follow its own collection schedules and the removal of collection boxes needed by mailers. The Postal Service refused to

provide data on the locations and collection times of mailboxes, and the case was effectively suspended.⁴⁹

Delivery of Universal Services

The Postal Service experimented with a cluster box delivery program for delivery in residential neighborhoods between 1967 and 1975. Congress suspended the program as part of the Postal Reorganization Act Amendments of 1976. The program was reinstated on a permanent basis in 1981.⁵⁰ The Postal Service has taken the position that its cluster box program was not “a change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis” and that it did not need to seek an advisory opinion under 39 U.S.C. 3661.

In at least two instances during the 1970s, Postal Service regulations to deny door delivery or curbside delivery, attacked by opponents as arbitrary and capricious, were upheld by federal trial courts as reasonable.⁵¹

In a mail classification case,⁵² the Commission found it inequitable for the Postal Service to deny non-city mail recipients, ineligible for carrier delivery, a free post office box when city mail recipients were given free delivery. The

⁴⁹ In a subsequent case brought under the Freedom of Information Act, the court held that post office names, addresses, telephone numbers, hours of operation, and final collection times does not constitute information of a commercial nature, is not proprietary, and should be available to the public. *Carlson v. U.S. Postal Service*, 504 F.3d 1123, 1130 (9th Cir. 2007).

⁵⁰ By 1997, 1 in 10 deliveries (other than to post office boxes or general delivery) was to a cluster box. General Accounting Office, *U.S. Postal Service: Information About Restrictions on Mailbox Access*, at 10 (May 1997) as cited in Appendix B at 223, note 529.

⁵¹ *Parsons v. United States Postal Service*, 380 F.Supp. 815 (D.C.N.J. 1974); and *Grover City v. U.S. Postal Service*, 391 F.Supp. 982 (C.D. Cal. 1975).

⁵² PRC Op. MC96-3 as cited in Appendix B at 209, note 498.

Commission suggested that the Postal Service reconsider its position. In a subsequent rate proceeding, the Postal Service agreed to provide free post office boxes to those customers ineligible for carrier service.

Prices of Universal Services

Classes, Subclasses, and Rate Categories. The PRA delegated to the Postal Service and the Commission the authority to classify and establish rates for mail. It was assumed by both the Postal Service and the Commission that the Commission lacked jurisdiction over international mail.

In delegating these authorities to the Postal Service and the Commission, Congress imposed certain limitations and provided certain policy guidelines. Within these parameters, the Postal Service and the Commission had the authority to exercise considerable discretion.

The only general requirement was that “each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type ... plus that portion of all other costs of the Postal Service reasonably assignable to such class or type.” 39 U.S.C. 3622(c)(2).

In addition, the PRA imposed specific requirements on certain categories of mail, including letters (uniform rates, sealed against inspection); Media Mail (uniform rates); Library Mail (uniform and reduced rates); In-County newspapers (reduced rates); and nonprofit mail (reduced rates).

Uniform Rate Rule for Letters. In 1978, the Commission was presented with the question of whether the rates for Express Mail could vary with distance transported. The Commission ruled that Express Mail was a class of mail different from the type of letter communication covered by the uniform rate rule in

section 404(c) of the PRA. The Commission determined that Express Mail could be used to transmit not only traditional letter communications, but other types of mailable matter as well.⁵³ In reaching its conclusion, the Commission observed that section 404(c)'s uniform rate rule might not preclude distance sensitive rates for First-Class letters.⁵⁴ In a subsequent 1996 case, the Commission again stated its view that the uniform rate rule in section 404(c) did not preclude distance-sensitive letter rates provided those rates had proper cost and volume support.⁵⁵

Quality of Universal Services. Sections 403(a) and 3661(a) of the PRA state that postal services must be “adequate and efficient.” Section 3661(b) requires the Postal Service to seek a Commission advisory opinion before making service changes “which will generally affect service on a nationwide or substantially nationwide basis” In a 1975 case, the Postal Service was

⁵³ PRC Op. R77-1 at 419.

⁵⁴ *Id.* at 418. The Commission based its observation on the fact that section 404(c) speaks only in terms of “uniform” rates, unlike section 3683 (which covers books, films, and other materials), which requires “uniform” rates that “shall not vary with the distance transported.” The difference in the language used in these two sections suggests that the uniformity requirement in section 404(c) was not intended to proscribe distance-sensitive rates for letter mail, but to require that the rates for letter mail be made available on identical terms throughout the United States whether or not those rates are distance sensitive.

⁵⁵ PRC Op. MC95-1, ¶¶ 5087 *et seq.*

enjoined from making certain changes until the Commission was given the opportunity to issue an advisory opinion.⁵⁶ Since 1975, the Postal Service has applied for only five advisory opinions.⁵⁷

Protection of the Users of Universal Services. Section 3662 authorized interested parties to file complaints with the Commission if they “believe the Postal Service is charging rates which do not conform to the policies set out in [title 39] or ... [they] believe that they are not receiving postal service in accordance with the policies of [title 39].” The Commission could only offer advisory opinions on complaints.

The right of postal customers to challenge Postal Service regulations or their application on the merits or to seek judicial enforcement of universal service rights is unclear. While some lower courts have entertained lawsuits challenging Postal Service regulations, at least one federal appellate court has rejected such private rights of action except in cases in which unlawful discrimination has been alleged.⁵⁸

⁵⁶ *Buchanan v. United States Postal Service*, 508 F.2d 259 (5th Cir. 1975).

⁵⁷ Docket No. N75-1 (Retail Analysis Program for Facilities Deployment); Docket No. N75-2 (changes in First-Class Mail and air mail); Docket No. N86-1 (proposed change in the collect-on-delivery service); Docket No. N89-1 (changes in First-Class delivery standards); and Docket No. N2006-1 (plan to improve mail processing and transportation networks). In Docket No. C2001-1, the Commission concluded that the Postal Service had unlawfully failed to seek an advisory opinion.

⁵⁸ *Currier v. Potter*, 379 F.3d 716 (9th Cir. 2004), *cert. denied sub nom. Seattle Housing and Resource Effort v. Potter*, 545 U.S. 1127 (2005). While the court in *Currier* refused to entertain an action challenging Postal Service regulations on the merits, it did recognize the right to challenge those regulations on constitutional grounds due to section 403(c)'s prohibition of unlawful discrimination. Thus, the decision in *Currier* does not appear to undermine cases like *Egger v. U.S. Postal Service*, 436 F.Supp. 138 (W.D. Va. 1977) that proceed on a theory of undue discrimination.

The Continuing Development of the Postal Monopolies Following Passage of the PRA

Board of Governors' Report on the Postal Monopoly

While the PRA did not make any changes in either the postal or mailbox monopolies, section 7 of the Act directed the Postal Service's Board of Governors to analyze and report on the need for a postal monopoly. The Governors submitted their report, *Restrictions on the Private Carriage of Mail*, to Congress on June 29, 1973. The Governors opposed any change in the postal monopoly statutes, but did recommend that the postal monopoly regulations be revised "to make the applicability of the Private Express Statutes much more clear."⁵⁹ Appendix B at 186-90.

1974 Comprehensive Monopoly Regulations

On the same day that the Board of Governors submitted its report on the postal monopoly to Congress, the Postal Service issued a completely revised set of postal monopoly regulations. Appendix C at 190-98. Final regulations were adopted on September 13, 1974 as parts 310, 320, and 959 of title 39 of the United States Code of Federal Regulations.

The new regulations took a different approach to the postal monopoly. By the time the PRA was enacted, the Post Office Department had acknowledged that "[f]or practical purposes ... the Government monopoly may be said to extend only to 'letters.'" The scope of the monopoly was therefore determined by the

⁵⁹ In support of their position, the Board of Governors asserted that the long-standing uniform rate policy that was continued by section 3623(d) of the PRA [currently 39 U.S.C. section 404(c)] "creates competitive opportunities for skimming the cream of those postal operations that are most attractive from a business standpoint." Notwithstanding the potential opportunities for cream skimming, the Postal Service asserted that "uniform nationwide rates for letter mail should not be lightly discarded" because of the potential for complications and confusion for citizens, increases in regulatory red tape, and political pressures for various rate and service changes.

definition of the term “letters” as used in the monopoly statutes. In the new regulations, the Postal Service provided its own broad definition of the term “letter” in 18 CFR 310.1(a), and then narrowed the definition by exercising authority it claimed under 39 U.S.C. 601(b) to suspend the monopoly for certain types of mailable items. The items covered by the suspension of the monopoly were identified in part 320 of the United States Code of Federal Regulations.⁶⁰

In addition to the foregoing provisions, the new regulations made other important changes to the postal monopoly. Section 310.3(e) expanded the prior to posting exception provided for in 18 U.S.C. 1696(a) to permit unlimited transportation prior to posting. This, it can be argued, undermined the intercity transportation monopoly that had been established by the Private Express Statutes in 1845 and effectively limits the postal monopoly to final delivery.

Additionally, as a condition to operating under the suspension authorizing the carriage of certain data processing materials, carriers were required by 39 CFR 320.3(d) to register with the Postal Service, allow postal inspectors access to shipments, and keep certain records.

Court Review of the Monopoly. In *Associated Third Class Mail Users v. United States Postal Service*, 600 F.2d 824 (D.C. Cir. 1979), the court rejected a challenge by an association of direct mailers to inclusion of wholly printed

⁶⁰ This general scheme was supplemented with several additional refinements. First, the statutory exemptions for cargo letters, letters of the carrier, letters carried by private hands without compensation, special messengers, and carriage prior or subsequent to mailing were incorporated into section 310.3 of the regulations. Second, in a footnote to the definition of “letter” in section 310.1(a), the Postal Service acknowledged that several of the items that it had expressly identified as outside the definition of “letter” might arguably be “letters” under the monopoly statutes. The Postal Service therefore provided that these items would, alternatively, be deemed excluded from the monopoly by virtue of suspensions.

advertisements under the definition of “letter” promulgated by the Postal Service in its 1974 regulations. Appendix C at 205-13.

Since 1979, only seven judicial opinions have considered the postal monopoly, none of which have analyzed the scope of the monopoly. Appendix C at 223-25. Three cases have rejected the claim that Congress lacked the authority to establish a postal monopoly. Two cases (including one of the foregoing) have assumed the validity of the 1974 postal monopoly regulations. The remaining three cases have interpreted statutory exceptions to the postal monopoly.

1979 Amendment to the Postal Monopoly Regulations

Five years after adopting its general revision of the postal monopoly regulations, the Postal Service proposed additional changes, some of which were considered controversial. On September 11, 1979, the Postal Service adopted only the non-controversial changes including exclusions from the definition of “letter” for certain out-sized or odd-shaped tangible objects bearing messages, such as signs, tombstones, and automobile tires. New suspensions were also adopted for intra-university letters and letters related to cargo transported by international ships. Appendix C at 218-19.

Administrative Suspensions for Urgent Letters and International Remail

In 1979 and again in 1986, the Postal Service issued new and important suspensions for urgent letters and so-called “international remail.” The urgent letter suspension was issued on July 9, 1979. Appendix C at 214-17.

On August 19, 1986, the Postal Service adopted a new rule that permitted international remail. International remail involves the use of a private carrier to

transport mail from one country to another where the mail is tendered to a post office for forwarding and delivery to either domestic or international destinations. The desire to remail international mail arose, in part, because international postal service from the United States to other countries was considered by some mailers to be substantially inferior to service available from international express companies. Appendix C at 219-21.

1994 Amendments to the Criminal Code

In 1994, the fines for violation of the postal monopoly were increased substantially as part of a general effort to bring various parts of the criminal code into harmony. Specific fines for violation of the postal monopoly were replaced by referencing fines in other sections of the criminal code. However, for unknown reasons, the penalty for establishing a private express was not updated. Appendix C at 223-24.

The Postal Accountability and Enhancement Act of 2006

On December 11, 2002, the President issued an executive order establishing the President's Commission on the United States Postal Service.⁶¹ The Commission's mission was "to examine the state of the United States Postal Service, and to prepare and submit to the President a report articulating a proposed vision for the future of the ... Postal Service and recommending the legislative and administrative reforms needed to ensure the viability of postal services." On July 31, 2003, the Commission submitted its report, *Embracing the Future: Making the Tough Choices To Preserve Universal Mail Service*.

⁶¹ Exec. Order No. 13,278, 3 CFR 256 (2003).

A little over 3 years after the issuance of the Commission's report, the PAEA was signed into law by President Bush on December 20, 2006. The PAEA made no changes to the basic statutory provisions affecting the USO. It did, however, make changes to the postal monopoly and to provisions relating to the postal monopoly. Specifically, the PAEA created new statutory exceptions for letters charged more than 6 times the price of a First-Class stamp; letters weighting more than 12-½ ounces; and for "grandfathered" situations (*i.e.*, situations governed by the prior Postal Service policies and regulations. Finally, the PAEA vested the Commission with exclusive authority to adopt substantive regulations affecting the postal monopolies. See 39 U.S.C. 401(2) (2000). Appendix B at 220-45; and Appendix C at 234-50.

Universal Service Obligation and Monopoly Laws in Other Countries

Many industrialized countries have made significant modifications to the structure and administration of universal service obligations and monopoly rules governing postal operators in recent years, with the intent of introducing competition to improve efficiency and customer choices while maintaining or improving service levels. In Europe, the Directive on Postal Services adopted by the EU in 1997 was a significant driver of these changes, as it established a minimum definition of universal postal services, and began a phase-out of all postal monopolies by 2010 (with some minor exceptions) for member countries.

This chapter examines the recent history of changes in the monopolies and universal service obligations for the EU as a whole, as well as the United Kingdom, Germany, Sweden, The Netherlands, Australia, New Zealand, and Canada. In addition to differences in the specific terms of the monopolies and universal service obligations, the mechanisms of ensuring the provision of universal postal services vary among the countries. Most impose requirements directly on the incumbent post by statute, regulation, licensing, or contract. In contrast, Germany's system allows the opportunity for the market to provide universal service, with the potential for regulatory intervention if the market fails to provide adequate service. To date, the regulator has deemed it unnecessary to take action to ensure universal service.

The effects of the regulatory changes on each postal system's service quality, prices, and profitability are also discussed. Most of the examined countries have maintained or improved service quality, reduced nominal or inflation-adjusted prices for bulk mail, and maintained profitability. Some countries have experienced retail price increases and difficulties maintaining profitability, requiring adaptations by the operators and, in one case, the imposition of a regulatory cap on retail prices.

European Union

In the late 1980s, the European Commission began a survey of the delivery services sector in the EU. The result was the 1992 "Postal Green Paper," which found that postal services varied widely in quality and efficiency among EU countries, that postal administrations were often handicapped by unnecessarily extensive public sector monopolies, and that most postal administrations produced significant losses. The EU adopted Directive 97/67/EC, the Directive on Postal Services (Postal Directive), in 1997 and amended it in 2002 and 2006. The main objectives of EU postal policy became to improve the quality of service and to facilitate the internal market for postal services.

The Postal Directive established a minimum definition of universal postal services and a maximum scope for the postal monopoly in all EU countries. It obliges the governments of Member States, not specific postal operators, to ensure universal service. Imposing a "universal service obligation" on postal operators is but one option to this end. Other options include relying on competition to provide universal service without state interference and public contracts. The maximum monopoly permissible for EU countries (the "reservable area") was defined using weight and price thresholds. The 2002 and 2006 amendatory directives reduced these thresholds three times before requiring an

end to all remaining postal monopolies at the end of 2010 (with some minor exceptions). The Postal Directive also sought to harmonize regulatory practice in EU countries with respect to authorization of postal operators, access to the postal network, tariff principles and the transparency of accounts, quality of service, and harmonization of technical standards.

In most areas, the Postal Directive established a unified community framework for postal services which left Member States considerable discretion to adapt national postal law to different national circumstances. Consequently, approaches to liberalize postal markets and effects on universal service differ among EU countries. While the overall effect of postal reform in the EU was clearly positive, it is difficult to identify the exact role of liberalization as compared to other elements of postal reform (*e.g.*, performance targets, enhanced transparency, corporatization, and privatization). Elaborating on the impact of market opening, the European Commission noted: “Meaningful competition in the letter post market has yet to develop. . . . However, the mere prospect of market opening has created considerable momentum within the postal sector and is likely to further generate changes (*e.g.*, operationally and customer focused). There seems to be broad agreement that postal services do not constitute natural monopolies. Competition is not an end in itself, but a means to promote innovation, investment and consumer welfare.”

In only one area does the Postal Directive directly set out quality standards for universal service: routing time targets for international mail between EU countries. For such mail, the Postal Directive further requires that terminal dues should be transparent and non-discriminatory as well as cost-oriented and related to the quality of service achieved. This has forced EU postal operators to depart from the Universal Postal Union (UPU) terminal dues in favor of multilateral agreements that are better aligned with the cost of delivering

incoming mail and adjusted for the delivery times achieved in the destination country. Since adoption of the first Postal Directive in 1997, routing time performance⁶² has improved dramatically for both international and domestic mail.

United Kingdom

The current Postal Services Act in Great Britain was enacted in 2000. The Postal Services Act dissolved the British Post Office and transferred its assets to a new company, Royal Mail Group plc, organized under normal corporation law, but with all shares owned by Government.

The Postal Services Act created the Postal Services Commission (Postcomm) as a regulator for the postal services sector. Postcomm was granted broad regulatory powers that include authority to set detailed standards for universal service and to determine the scope of liberalization. According to the statute, Postcomm's objectives are, in order of priority: (1) to ensure the provision of universal service; (2) to further the interests of users of postal services by promoting effective competition; and (3) to promote efficiency and economy on the part of postal operators.

Postcomm has ensured universal service by attaching a USO and specific standards for universal services to Royal Mail's license. Service standards include routing time requirements and the obligation to deliver and collect mail every day. A uniform tariff is required for single-piece mail, but Royal Mail may charge non-uniform tariffs for most bulk mail products.

⁶² For purposes of this chapter, the term "routing time" means all applicable end-to-end measures of service performance.

As of 2003, Postcomm liberalized the bulk mail segment by granting licenses to several operators to provide delivery of bulk mail while Royal Mail retained a monopoly to deliver non-bulk letters. In addition, Postcomm requested Royal Mail to grant downstream access at substantial discounts, an approach similar to the U.S. worksharing model. Following introduction of downstream access in 2004, consolidators captured a significant market share and processed approximately 10 percent of total UK mail volume in FY 2006/2007. The market was fully liberalized as of January 2006. Despite full liberalization in 2006, end-to-end competition is virtually nonexistent. In FY 2006/07, alternative end-to-end operators delivered less than 0.2 percent of total mail volume.

In late 2007, the British government charged an “independent review panel” with a comprehensive review of the postal services sector. In its preliminary conclusions, this panel noted overall positive effects of competition. Royal Mail’s quality performance is “at record levels.” Large businesses “have seen clear benefits from liberalization: choice, lower prices and more assurance about the quality of the mail service.” However, the panel also found no significant benefits from liberalization for smaller businesses and domestic consumers and considered that universal service was endangered by the weak performance of Royal Mail. There appears to be public concern over the reduction in the number of Royal Mail retail outlets.

The review panel expressed concern that Royal Mail “is less efficient than its competitors and many of its European counterparts.” It is expected that changes to the governance and commercial flexibility of Royal Mail will be at the heart of the recommendations of the independent review.

Germany

In reforming the postal sector, Germany has pursued two important strategies. First, in 1994, the postal administration was corporatized into a joint stock company (Deutsche Post AG (Deutsche Post)) organized under the same corporate law as a private company. The German government has gradually reduced public ownership in Deutsche Post to 31 percent (as of 2008) and has announced plans to further reduce its ownership in the near future. Second, in 1997, a new regulatory framework for postal services was adopted. The telecommunications regulator was given responsibility for the postal sector, and the postal monopoly was replaced by a licensing requirement for letter mail. The postal regulator was made responsible for ensuring universal service and regulating postage rates by appropriate orders. As a transitional measure, the new law granted Deutsche Post an “exclusive license” for the carriage of lightweight letters. This exclusive license ended at the end of 2007.

German postal law does not impose an obligation to provide universal service on a specific operator. The legislation assumes that universal service will generally be provided by all operators in the market jointly. The law also provides a procedure to ensure the universal service by regulatory intervention in cases where universal service is not provided by the market. In such case, the regulator can ensure universal service either by issuing orders directed to a dominant postal operator or by contracting with postal operators through a public tendering procedure. To determine when intervention will be necessary, the regulator closely monitors compliance of the market with legal standards for the universal service. Standards for universal service are determined by an ordinance issued by the government with the approval of the legislature. These standards relate to the minimum number of retail outlets, daily collection and delivery, and routing time targets for non-bulk mail. Up to the present, the regulator considers that universal service has been provided adequately by the

market and has not deemed it necessary to take any action to ensure universal service.

Between 1998 and 2007, several hundred private operators have entered the German mail market to compete with Deutsche Post. This was possible because the regulator granted special licenses for value-added services, e.g., for guaranteed overnight delivery. Most entrants operated only locally, as they were able to meet the license requirements only within a small area of operations. Following repeal of the remaining monopoly at the end of 2007, some private operators expanded their operations, and many local operators cooperated with local operators of other areas to achieve full national coverage. In 2007, competitors had achieved a combined market share of 10.4 percent of volume.

The initial market opening in Germany appears to have had a positive impact on universal service. German mail volumes have continued to grow. Routing time performance of the incumbent has been consistently high and above regulatory targets. The size of the incumbent's retail network has remained relatively constant, but about 80 percent of post offices were transformed into contract agencies since the mid 1990s. Starting from a high level in the 1990s, prices have decreased slightly for private customers and more substantially for business customers. Following privatization, Deutsche Post has enjoyed substantial commercial flexibility and has been able to cut costs considerably while achieving a high level of profit. The incumbent's universal service was the most profitable area of its business. The German regulator monitors universal service permanently. It has found no indications that universal service was at risk at any time and no need for external funding to maintain universal service.

The initial success with postal liberalization in Germany has, however, been called into question by the German government's imposition of a minimum wage requirement on the postal sector effective January 1, 2008, the date on which the mail market was completely liberalized. As of January 1, 2008, all providers of mail services are required to pay as a minimum wage, the wages contained in the agreement between the union representing postal workers and the employers' association, the largest member of which is Deutsche Post. While a lower court has declared the wage requirement to be null and void, that decision is currently on appeal. In the meantime, one competitor has filed for bankruptcy and it is unclear whether two others will remain in the market.

Nevertheless, the German experience with liberalization has been colored by allegations that Deutsche Post's exemption from the Value Added Tax (VAT) has distorted competition to the disadvantage of potential market entrants, such as TNT Post. Recently, the German government has proposed a revision in its VAT regulation that would arguably eliminate Deutsche Post's exemption. TNT Post has objected to the proposal as inadequate.

Sweden

In 1993, Sweden became the first country in the world to abolish entirely the postal monopoly. In 1994, the postal administration (Sweden Post) was corporatized as a joint stock company, but remained state owned. In the same year, the postal regulator, Swedish Post and Telecom Agency (PTS), was established.

The incumbent Sweden Post is obliged to provide universal services. This obligation is included in the license granted to Sweden Post. The Swedish Postal Services Act sets out a broad definition of universal service which includes, *inter alia*, a routing time target for First-Class letters, a requirement to

collect and deliver 5 days per week, and a requirement to maintain a public retail network for postal services. Uniform tariffs are required only for single-piece items.

Fifteen years after full market opening, Sweden Post still dominates the Swedish postal market. In 2007, about 90 percent of total mail volume was delivered by Sweden Post. The only important competitor, CityMail, started operations in 1991. Today, CityMail is owned by Norway Post, the public operator of Norway. CityMail is specialized in delivering computer-generated (*i.e.*, pre-sorted) bulk mail to recipients located in Sweden's largest cities, delivering to a little over 40 percent of all Swedish households. CityMail delivers mail only two times per week. It thus competes with the economy bulk mail service offered by Sweden Post, but not with First-Class Mail.

After liberalization, the incumbent Sweden Post has continued to provide universal service. Routing time performance improved considerably in the 1990s and has remained at high levels. Sweden Post has transformed the post office network by replacing more than 80 percent of traditional post offices with contract agencies. These changes were perceived very negatively by customers during a transition period, but customer satisfaction with the access to postal services improved in subsequent years, as customers have recognized benefits from the longer office hours of contract agencies. In the first years following liberalization, Sweden Post increased retail tariffs significantly while introducing price reductions for business customers. A regulatory price cap was introduced to prevent further increases in public tariffs. For bulk mail customers, prices have dropped considerably and quality has improved, in particular for mail to areas served by CityMail. After a period of mediocre profitability in the 1990s, and despite falling mail volume in the new millennium, Sweden Post has reported solid profits margins of around 5 percent in the last 5 years.

In summarizing the Swedish experience with postal liberalization, the regulator PTS has concluded “full competition in the letter market has not affected the universal service provider’s ability to provide a profitable nation-wide postal service at reasonable prices.” To the contrary, “competition has furthered improvements in quality and efficiency.”⁶³

The Netherlands

The Netherlands was the first European country to privatize its postal administration. In 1989, the Dutch postal and telecommunications administration was transformed into a private company organized under normal corporate law, Koninklijke PTT Nederland (KPN), that was owned 100 percent by the government. In 1994, KPN was listed on the Amsterdam Stock Exchange, and the government sold 30 percent of its shares. In 1995, the Dutch state sold a further 25 percent of KPN. In 1996, KPN acquired the Australian express company TNT. The postal activities, including TNT, were separated from KPN in 1998 in a “demerger,” and the new postal company was named TNT Post Groep N.V. (TPG). TPG was listed on stock exchanges in Amsterdam, London, Frankfurt, and New York. In 2006, TPG was fully privatized when the Dutch government sold the last of its shares, and the company was renamed TNT N.V.

In 1997, the regulator, Independent Post and Telecommunications Authority (OPTA), was established. OPTA’s responsibilities in the postal sector are limited to monitoring whether TNT’s provision of universal services meets the legal requirements. The competent ministry, not the regulator, has set a price cap for the public tariff for non-bulk letters. This ministry has also issued a license to TNT that includes an obligation to provide universal service. Specific

⁶³ PTS: “The liberalized Swedish postal market. The situation 14 years after the abolition of the monopoly.” March 2007, p. 7.

USO standards in the Netherlands relate to a minimum set of letter and parcel services that must be offered, the operation of a public retail network, a routing time target, and the obligation to collect and deliver mail 6 days per week. A uniform tariff requirement relates only to single-piece mail; non-uniform tariffs may be charged for bulk mail.

In 2000, delivery of direct mail (addressed advertising) was opened to competition, but a monopoly on correspondence was maintained. Subsequently, competition has evolved in the direct mail market. Two entrants have built up nationwide delivery networks and deliver direct mail twice per week. OPTA estimates that in 2007 entrants delivered about 14 percent of all addressed mail. Full market opening was announced by the Dutch government for 2008, but has been postponed. At present, the timing for the final step of liberalization is uncertain (but must occur before the end of 2010 according to the EU Postal Directive).

Following privatization and gradual liberalization, TNT has improved and maintained very high service levels. The post office network has been restructured by introducing contract agencies. TNT's retail prices have increased largely in line with consumer prices, but prices for bulk mail have declined slightly as a result of competition. For business customers, competition in the direct mail market has led to increased choice. TNT and its competitors today offer a wider range of services, *e.g.*, different routing times from overnight to a cheap 6-day service. The incumbent TNT operates very profitably in the competitive environment. There are no indications that competition has had any negative impact on service levels or on the financial viability of TNT.

Australia

Australia Post was corporatized with the Australian Postal Corporation Act of 1989. The postal administration was transformed into the “Australian Postal Corporation,” a government business or “state enterprise,” with the government as its sole shareholder. The Australian Competition and Consumer Commission, an independent statutory authority under the Trade Practices Act, has some regulatory functions in the postal sector, particularly with regard to tariff regulation, transparency of regulatory accounts, and monitoring undue cross-subsidy between competitive and reserved services.

By statute, Australia Post is charged with two missions: (1) an obligation to perform its functions as far as practicable “in a manner consistent with sound commercial practice,” and (2) a mission to abide by a “community service obligation,” a notion similar to the concept of universal service in other countries. Australia Post’s commercial mission implies an obligation to make profits and pay dividends to the public owner. In the last 10 years, annual dividends paid by Australia Post to the government have amounted to more than 5 percent of annual revenues. Specific standards for the community service obligation include a minimum set of services that must be offered, rules for the public retail network, universality of service, a routing time target, and an obligation for daily delivery. Australia Post is required to charge uniform tariffs for all universal services.

In the early 1990s, there were political discussions about introducing competition into the postal sector, but the idea was not pursued. (Similar discussions took place at the same time in New Zealand which led to a complete repeal of the postal monopoly.) In 1994, the reserved area was reduced to include only letters weighing less than 250 grams and charged less than 4 times

the basic stamp price. Intracorporate mail and outbound international mail are liberalized.

Reduction of the monopoly weight and price limits in 1994 has not led to noticeable competition in mail delivery. Therefore, no immediate impact of market opening on the universal service can be identified. Australia Post has been operating profitably for many years, and there are no indications that the commercial objectives of Australia Post have had a negative impact on universal service. By contrast, the coverage of home delivery was increased, routing time is consistently at high levels, and prices have increased less than the Consumer Price Index.

New Zealand

More than any other industrialized country, New Zealand treats the collection and delivery of documents and small parcels as a normal commercial activity. The Postal Services Act of 1988 repealed the postal monopoly and imposed common carrier-like obligations on all postal operators, including New Zealand Post. A "postal operator" is any person in the business of transporting "any form of written communication, or any other document or article" for less than NZ\$ 0.80 (61¢ U.S.) per item. Each postal operator must file a basic registration form with the government. New Zealand Post does not receive a public subsidy or payments from a universal service fund. There is no postal regulator although postal operators are subject to normal business regulation. New Zealand is a member of the Universal Postal Union and signatory to the Universal Postal Convention.

Statutory obligations imposed on postal operators are designed to protect the rights of senders and receivers. For example, each postal operator must identify items that it carries by means of a "postal identifier," an indicator like a

traditional postmark. Postal operators are forbidden from opening postal items or divulging their contents "without reasonable excuse." Postal operators must notify addressees if a postal article is opened and explain the reasons for doing so. Undeliverable items must be returned to the sender.

The Postal Services Act does not require either New Zealand Post or postal operators generally to maintain "universal service." Nonetheless, the government, as owner, obliges New Zealand Post to provide universal service in accordance with a contract, called a "Deed of Understanding" (Deed). In the Deed, New Zealand Post has agreed to provide a specified minimum level of national services. There are no rate standards, price caps, or accounting regulations. New Zealand Post is required to publish a quarterly report giving limited information about discounted or non-standard contracts.

Postal reform in New Zealand has been highly successful by most measures, but not wholly free of difficulty. After the government's 1988 decision to corporatize the post office and terminate the public service subsidy, New Zealand Post closed one-third of its post offices. Despite public outcry, Parliament concluded that provision of postal services by agencies such as bookshops and dairies was acceptable. In 1995, New Zealand Post abolished a long-standing charge for home delivery of mail in rural areas and lowered its First-Class stamp price. New Zealand Post has substantially increased volumes and productivity since 1990. It has been profitable every year with revenues exceeding expenses by an average of 10 percent. New Zealand Post has met, and often substantially bettered, the minimum service criteria set in the Deed of Understanding.

Canada

The postal law in Canada is the Canada Post Corporation Act of 1981 (CPCA). The CPCA established Canada Post Corporation (Canada Post). Although denominated a "corporation," Canada Post is essentially a department within the government of Canada. There is no independent postal regulator in Canada. Canada is a member of the Universal Postal Union and signatory to the Universal Postal Convention.

The universal service obligation established by the CPCA is set out in general terms. The CPCA does not use the term "universal service." It declares that one of the objects of Canada Post is to "operate a postal service for the collection, transmission and delivery of messages, information, funds and goods." The CPCA declares that Canada Post shall "have regard to" several factors in maintaining "basic customary postal service" including "the desirability of improving and extending its products and services," the need to provide "a standard of service that will meet the needs of the people of Canada and that is similar with respect to communities of the same size," and the security of mail. Canada Post is obliged to charge rates that are "fair and reasonable and consistent so far as possible with providing a revenue . . . sufficient to defray the costs."⁶⁴ In December 1998, the government approved a "policy framework" which established overall and financial objectives for Canada Post and capped increases in the basic postage rate at two-thirds of the Consumer Price Index.

The CPCA grants Canada Post a monopoly over "collecting, transmitting and delivering letters." The most important exception is for urgent letters, defined as letters transmitted for a fee equal to or greater than 3 times the regular rate for

⁶⁴ Canada Post Corporation Act § 19(2).

a domestic 50 gram letter. Canada Post, with the approval of the government, has defined the term “letter” to mean “one or more messages or information in any form, the total mass of which, if any, does not exceed 500 g, whether or not enclosed in an envelope, that is intended for collection or for transmission or delivery to any addressee as one item.”⁶⁵ The regulation excludes from this definition several types of items and letters carried under certain conditions.

In April 2008, the government established an independent advisory panel to conduct a strategic review of Canada Post. The terms of reference established four principles which limit the scope of the review: (1) Canada Post will not be privatized and will remain a Crown corporation; (2) Canada Post must maintain a universal, effective, and economically viable postal service; (3) Canada Post is to continue to act as an instrument of public policy through provision of postal services; and (4) Canada Post is to continue to operate in a commercial environment and is expected to attain a reasonable rate of return on equity. Public comments were submitted in September 2008. The advisory panel's report is due in December 2008.

⁶⁵ Letter Definition Regulations, SOR 83-481 at § 2.

Economics of the Universal Service Obligation and the Postal Monopoly

Sections 701 and 702 of the PAEA require the Commission to estimate the costs of the Universal Service Obligation and the value of the existing monopoly. The first section of this chapter reviews the approaches taken to these same tasks in other countries.

Other countries have taken two basic approaches—the “net avoided cost approach” and the “profitability approach.” The first approach focuses primarily on the financial effect of eliminating services whose revenues do not cover their avoidable costs. The second approach compares profit levels under the status quo to profit levels under a “what if” scenario in which one element of either the USO or the monopoly is changed. The focus shifts to imagining how a profit-maximizing postal operator would respond to all aspects of the new commercial environment. Consistent with most of the academic literature, the recent analytical work done in other countries, as well as the Postal Service’s study of these topics, the Commission evaluates changes to the Postal Service’s current Universal Service Obligation and its current monopoly protections in terms of their impact on Postal Service profits.

The second section of this chapter describes the Commission’s analytical method. It explains that, wherever possible, the Commission uses the profitability approach to analyze one change at a time. It compares the profit

impact of each change to the profits earned under the current set of USO burdens and monopoly protections.

The third section of this chapter develops specific estimates of the financial burden of the USO using the profitability approach. These calculations of the financial burden of the USO estimate the change in net income that would occur if a particular USO element were eliminated, regardless of whether the Postal Service is making or losing money under current USO and monopoly policies. In this part, the Commission observes that easing the Postal Service's USO burdens would have the effect of improving net income.

The fourth section of this chapter explains how the Commission separately calculates the value of the letter mail monopoly and the value of the mailbox monopoly. In addition to the "profitability approach," the Commission applies the "entry pricing" concept. This concept makes assumptions about what the costs of a private entrant would be, what discount it might offer, and what volume response it could expect, if it were allowed to deliver mail wherever it could make a profit. Because other countries generally assume that monopoly protections will be phased out, few have analyzed the value of the monopoly. For that reason, this chapter does not discuss efforts in other countries to place a value on monopoly protections.

The opportunity cost of retaining the letter and mailbox monopolies in terms of foregoing the potential benefits of innovations that might be generated

by an active, competitive market also is not estimated in this report.⁶⁶ Supporting material for each of these parts can be found in Appendix F.

Efforts to Calculate the USO Abroad

Introduction

The concepts used to calculate the costs of a Universal Service Obligation were first developed in the 1990s. Since 2000, empirical efforts have been made in a number of developed countries to quantify the cost of these obligations in the postal sector. There are nine relevant examples of methods used to calculate the cost of USO mandates. Eight are from European countries, and one from Australia. This chapter summarizes these methods and results.

It should be emphasized that only a few of these efforts were undertaken to quantify the amount of compensation that governments should pay to postal operators to cover the cost of the USO. They were undertaken primarily to guide public policy toward deregulating postal markets, by assessing whether Universal Service Obligations would impose substantial costs on the incumbent operator or its competitors in a deregulated market.

The methodologies adopted to calculate USO costs followed one of two broad approaches. Most of the earlier efforts follow the Net Avoided Cost approach. This approach uses accounting costs to assess whether the revenues generated by individual postal products, product groups, or “mail paths,” cover their costs.⁶⁷ Most analyses that apply this approach do not explicitly determine

⁶⁶ Properly, any such analysis also would attempt to quantify offsetting costs of potential market disruption.

⁶⁷ “Mail paths” are combinations of products, customer types (business or residential), and deposit or delivery areas (urban or rural).

a “reference scenario;” that is, they do not discuss explicitly how the postal operator would change service levels if the USO were eliminated. In these analyses, the cost of the USO is calculated as the sum of losses incurred by particular products, product groups, or mail paths. They implicitly assume that all products, product groups, or mail paths that do not cover their costs would be discontinued by the postal operator if there were no USO. Analyses applying the Net Avoidable Cost approach generally do not focus on how the postal operator would adjust to the absence of a USO mandate to maximize its profits.

The second approach is the “profitability approach.” The theoretical concept of the “profitability approach” was developed (separately) by Helmuth Crémer and John Panzar.⁶⁸ It asserts that the measure of the cost of the USO that is most relevant is the change in the level of profit that the operator could achieve if no USO were imposed.

This profitability approach requires the analyst to engage in a “before” and “after” analytical exercise. It identifies an element of the USO the postal operator would alter, or discontinue, in the absence of a USO. The “before” condition is the status quo. The “after” condition is the market environment without the specified element of the USO. The crucial task under this approach is to determine the level of service a profit-maximizing postal operator would provide if the USO were eliminated. To achieve clarity in this analytical exercise, it is necessary to identify what elements of the status quo have an important effect on the outcome so that they can be explicitly dealt with (explicitly held constant or

⁶⁸ See Crémer, H., Grimaud, A. and J.-J. Laffont (2000): “The Cost of Universal Service in the Postal Sector.” In: M.A. Crew and P.R. Kleindorfer (Hrg.): *Current Directions in Postal Reform*, Kluwer Academic Publishers, Boston, MA, S. 47-68; and J. Panzar (2001): “Funding universal service obligations: the costs of liberalization.” In: M.A. Crew and P.R. Kleindorfer (Hrg.): *Future Directions in Postal Reform*, Kluwer Academic Publishers, Boston, MA, S. 101-1.

changed, as appropriate) when profits under the “after” condition are calculated. The more recent analyses of the cost of the USO tend to follow the “profitability approach.”

A review of international USO costing methodologies leads to the conclusion that USO costs, if there are any, are likely to take three forms. Absent a USO, postal operators might increase profits by

- Reducing the frequency of delivery from five or six deliveries per week. The greatest incentive for reductions occur in areas with high unit delivery costs, *e.g.*, in the most rural areas.
- Reducing the number of postal offices, and substituting contract agencies for traditional postal offices.
- Eliminating “social” pricing. For example, postal operators might stop delivering mail to the blind without a charge. (Regular postage might be introduced for services for the blind, or free delivery could continue in return for a government subsidy.)

There have been few international efforts to model the reduction in profit caused by requiring that a uniform rate be charged nationwide for a standard postal service. This largely reflects the fact that many European postal operators are not barred from charging non-uniform rates to bulk mailers.

Nine international studies of USO costs are briefly summarized below. Although there is no bright line separating them, those that rely more heavily on Net Avoidable Cost concepts are discussed first, followed by those that rely more heavily on the profitability approach.

Studies Using the “Net Avoidable Cost” Approach

Belgium Postal Regulator. The Belgian Institute for Postal Services and Telecommunications calculates the cost of the USO as the aggregate loss of all universal service products, minus the aggregate profits from reserved products. It relies entirely on the product accounts of the postal operator. No reference scenario is explicitly developed to compare to the status quo. Fully distributed costs are used to estimate which costs could be avoided if the USO were relaxed.

No estimates using this approach have been published. Belgium has not compensated the Belgian Post for the USO, nor has it established a fund from which compensation could be paid.

Danish Competition Authority. The Danish Competition Authority (DCA) focuses on revenue and costs of regulated product groups. These product groups are defined, in part, by the area in which they are delivered (rural or urban). The cost of the USO is calculated as the aggregate loss of all universal service products minus profits from 10 product groups (five product groups each associated with either a rural or an urban delivery area). The model assumes that if there were no USO mandate, delivery would be discontinued wherever revenues do not cover costs. It does not consider reducing the frequency of delivery as a mitigating strategy.

The costs of the product groups in DCA’s model are those reported in the regulatory accounts of Post Danmark. Because these are fully distributed costs, they do not serve as a good proxy for avoidable costs. The study’s estimates are further weakened because they simplistically assume that all unprofitable product groups (*i.e.*, those delivered in rural areas) would be discontinued if there were no USO.

The DCA estimates that in FY 2005, the cost of the USO was 700 million DKR (\$149 million U.S.), or about 7 percent of Post Danmark's operating expenses.

United Kingdom/Postcomm. In 2001, to help prepare for the deregulation of postal markets in the EU, the postal regulator in the United Kingdom, Postcomm, assessed the costs and benefits of the current universal service provision. Postcomm's analysis used revenue and cost data for more than 20,000 mail paths (combinations of product and service location), supplied by Royal Mail. It calculated profits and losses at different levels of aggregation. At the most disaggregated level (individual mail paths), Royal Mail calculated long-run marginal costs, which Postcomm used as a proxy for avoidable costs. The data only allows "first round" cost and revenue effects to be considered, *i.e.*, the direct cost and revenue effects of discontinuing specific mail paths.

FY 1999/2000 total net avoided costs for unprofitable mail paths were calculated to be 81 million GBP (\$181 million U.S.), or about 1.5 percent of Royal Mail's operating costs (of its domestic mail and distribution business). At higher levels of aggregation (*e.g.*, at the product level) net avoidable cost estimates are significantly less.

Studies Using the "Profitability Approach"

United Kingdom/Frontier Economics. In October, 2007, Postcomm commissioned Frontier Economics to analyze the impact on Royal Mail of changing elements of the USO. In contrast to Postcomm's previous estimation of USO costs, summarized above, Frontier Economics calculated the profit impact of three important changes to Royal Mail's current USO on the company's profitability. These changes were (1) lower routing time targets for First-Class mail; (2) the end of Saturday delivery; and (3) the collapse of first- and

second-class service into a single 2-day service. In its “after scenario,” the model included explicit assumptions about the level of competition that Royal Mail would face as it freed itself from unprofitable services. This approach considered the cost effects of changes in Royal Mail’s operations and volumes (in its operational cost model), demand effects, and effects on Royal Mail’s market share.

Frontier Economics concluded that of all the universal service elements considered in its study, only the obligation to provide Saturday delivery imposes a significant constraint on Royal Mail.⁶⁹ The additional profits from abolishing Saturday service were estimated at 271 million GBP, or approximately 4 percent of operating costs.

Australia. Australian law requires that Australia Post periodically publish the cost of the “Community Service Obligation” (CSO). Australia defines the CSO as the part of the USO that would not be provided by commercial companies under prevailing conditions. This aspect of the analysis resembles the “profitability approach.” Australia Post quantifies the CSO by estimating the revenues foregone and the costs that would be avoided by discontinuing unprofitable “mail paths.”

Australia Post estimates losses incurred by retail facilities (after hypothetically discontinuing unprofitable mail paths) and adds them to the CSO. In FY 2005/2007, the cost of the CSO accounted for about 2.5 percent of total operating expenses. This loss was funded by internal cross-subsidy.

⁶⁹ For example, it concluded that Royal Mail would offer First-Class service (1-day delivery) to meet the competition of likely entrants even in the absence of a USO requiring it.

Denmark/Copenhagen Economics. The Danish Chamber of Commerce commissioned the firm Copenhagen Economics (CE) in 2007 to estimate the cost of the USO to the incumbent, Post Danmark. CE's approach has three main elements. The study followed the "profitability approach" because it focused on the market conditions that the operator would face in the absence of the USO mandate and the operator's likely response to those conditions.⁷⁰ It identifies services or service elements that Post Danmark would provide at lower service levels, or discontinue, in absence of the USO; it estimates the revenues that Post Danmark would lose if it reduced or discontinued those services; and it estimates the incremental costs of the elements of the USO that it thinks would restrict the commercial flexibility of Post Danmark.

CE focuses on those elements of the USO which, in CE's view, unduly restrict the commercial flexibility of Post Danmark. Generally, these are service elements that Post Danmark would have no business need to provide in a deregulated environment. CE concludes that if there were no USO, Post Danmark would likely stop providing nationwide Saturday delivery and would charge for services for the blind.

Acknowledging that the data available from Post Danmark are limited, CE estimates the FY 2007 costs avoided and the revenues foregone by eliminating Saturday delivery, and the cost of providing free services for the blind were 10 million DKK (\$32 million U.S.). This was 1.5 percent of Post Danmark's operating costs in 2007. CE argues that this USO cost was offset, to a degree,

⁷⁰ The study quantifies "first round" revenue effects only. Longer-term effects, however, were considered in developing what CE considers to be a "realistic" alternative business model.

by unquantified benefits derived from its status as the designated universal service provider.

France/La Poste. La Poste uses a version of the “profitability approach” to calculate the USO cost of accessing the system through retail post offices (its “branch network”). It econometrically models the costs and revenues of what it imagines would be the profit-maximizing “commercial” branch network it would operate in the absence of any USO obligation. La Poste competes with other financial companies. The econometric model partly reflects this by estimating the probability that demand will shift to an adjacent La Poste retail facility office, or to a competitor. It calculates the cost of the USO as the net cost of building out the branch network to meet the specific density requirements defined by the USO.⁷¹ La Poste has not published any results from its calculations of these extra costs of its branch network, nor has it estimated the cost of other aspects of the USO.

Norway/Norway Post. According to Norwegian law, if Norway Post provides evidence that the incremental costs of USO services exceed their revenue, the government can purchase these services from Norway Post. It did this for several years before 2005. Norway Post has been using a model to calculate what an appropriate government subsidy of its USO costs would be.

Norway Post’s approach is to determine what a plausible strategy would be for it to follow in the absence of the USO, in particular, what “strategic” service level it would provide. The strategic service level is determined by profit-

⁷¹ La Poste’s analysis involves an additional step that serves a different purpose. The cost difference between the hypothetical “USO” branch network and the current one is considered to be the cost of meeting the requirements of regional planning. It does this because La Poste is subject to regional planning requirements as well as the universal service obligation. Compensation for the cost of meeting regional planning requirements takes the form of tax reductions, while the cost of the USO is subsidized internally by the reserved services.

maximizing considerations, focusing on frequency of delivery, number of mobile retail offices, and service to remote islands.

Norway Post constructs an “after” scenario in which there is no USO. It concludes that there would be localized reductions in service quality, primarily with regard to frequency of delivery. It assumes that these cutbacks in service for a few areas would have only a negligible effect on sales. For the same reason, it concludes that the potential benefits resulting from providing service nationwide would not be significantly impaired.

For 2005, Norway Post reported a net loss from providing unprofitable postal services of 253 million NOK (\$50 million U.S.), or about 2.3 percent of total operating costs.

Switzerland/Swiss Post. Swiss Post calculated the USO burden associated with three USO activities: retail (“acceptance and sales”); local transportation (“transport from and to the retail outlets”); and delivery (the time spent traveling the delivery route without making any stops). The fixed costs of the first and second activities are assumed to be driven by the number of retail outlets in the branch network. Swiss Post interprets the third activity as the fixed cost of delivery, driven by the number of delivery points.

Swiss Post constructed an “after” scenario for its retail and transportation activities. In it, Swiss Post assumed that it would operate 500 outlets instead of about 2,000 outlets. Swiss Post assumed that all current demand (and thus all variable costs) would shift to the 500 remaining retail outlets. It viewed the cost of the USO as only the fixed cost that the closed offices would have incurred. With respect to delivery costs in the “after” scenario, Swiss Post assumed that it would serve only 70 percent of Swiss households. It included only the fixed route

costs of serving the unprofitable 30 percent of households in USO delivery costs. This approach estimated USO costs in FY 2007 to be 500 million CHF (\$460 million U.S.), or nearly 8 percent of Swiss Post's operating costs.

The Swiss regulator rejected Swiss Post's method of estimating the USO cost of transportation and delivery, but accepted the model for calculating USO costs incurred by the retail network. The regulator adjusted the hypothetical profit-maximizing retail network upward to 1,700 outlets. It assumed that 1,000 of those retail facilities would be contracted out.

The USO cost estimated for the FY 2007 retail network approved by the regulator was 200 million CHF (\$184 million U.S.), which was approximately 3 percent of Swiss Post's operating costs.

Methods of Estimating the Cost of the USO and Postal Monopoly

This section explains the profitability approach the Commission uses to estimate the cost of the USO requirements imposed on the Postal Service and the value of the letter and mailbox monopolies that it enjoys. Focusing on Postal Service profits makes it possible to directly measure the *burden* of the USO and the *market value* of its monopoly position. This approach calculates the amount of profit that the Postal Service would *gain* if it were relieved of its USO burden, or the amount that it would *lose* if one or both of its monopoly protections were removed. In each case, this exercise directly measures the *opportunity cost*, in dollars, of the policy under review.

Because our preferred methodology calculates *changes* in Postal Service profits, it typically requires estimates of those profits in two distinct operating environments—the one before and the one after the policy alternative under review is put in place. These comparisons will usually treat the current

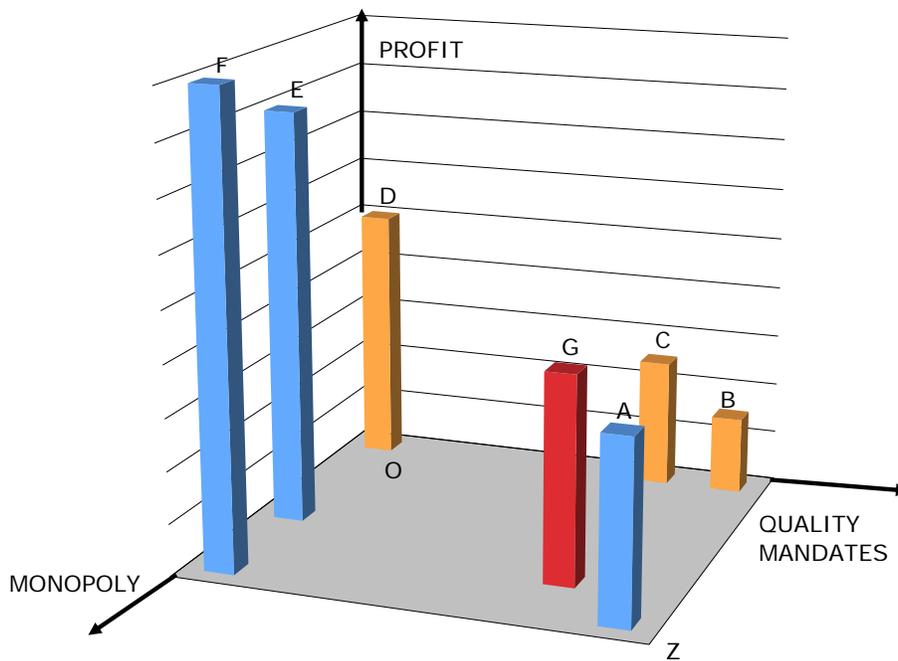
operations of the Postal Service as the baseline. In other words, the policy alternative under review will be evaluated relative to the status quo. Since it is pivotal to the preferred approach, great care is taken to identify the precise status quo being analyzed. The historical and legal analysis in this report focuses on what are, and are not, appropriately regarded as the Postal Service's current USO requirements and monopoly protections. Without clearly defining these features of the current postal landscape, it is not possible to evaluate the impact of removing them.

This report defines the status quo to include the current regulatory environment. Specifically, it includes the system of price cap regulation mandated by the PAEA and implemented by the Commission. The Commission considers it unlikely that Congress would eliminate price cap regulation while retaining the Postal Service's monopoly position, at least in the near or middle term. Therefore, the price cap regulation itself is treated as a given in almost all of the policy alternatives evaluated as part of the Postal Service's USO.

Much of the analysis of this chapter distinguishes the profit effect of making changes to the USO from the profit effect of making changes in the monopoly protections that the Postal Service currently enjoys. This report calculates a dollar value for each combination of USO and monopoly elements and estimates the level of profits that the Postal Service would earn in the resulting environment. An example would be keeping the current USO burden while retaining only the mailbox aspect of the Postal Service's monopoly. Changing only one dimension (USO burden or monopoly protection) while holding the other constant makes it possible to precisely define the before and after conditions needed to evaluate the policy change under review.

Figure 1 illustrates this approach graphically. This figure is a three dimensional map of the “profit landscape” in which the Postal Service finds itself. The profit landscape it depicts is stylized, rather than realistic, primarily because it depicts the profit impact of only one of almost a dozen possible elements of the USO. It is meant to illustrate the concept of isolating the profit impact of various elements of the Postal Service’s monopoly and USO by changing only one element at a time. It does not attempt to graphically quantify the actual profit impact of any individual elements.

Figure 1.



In Figure 1, the origin (O) represents the Postal Service without either monopoly protections or USO mandates. The level of profit earned by operating

under these conditions is D.⁷² Z represents the status quo, in which the Postal Service enjoys both the letter and mailbox monopolies, and bears the burden of all current USO service mandates. The level of profit earned by operating under status quo conditions is A. Investigating the profit impact of relaxing the USO mandates or eliminating monopoly protections can be visualized as working one's way back from A to D. Moving along only one axis at a time makes it easier to understand what profit impact each change would have.

The "Quality" axis depicts USO mandates, represented here only by frequency of delivery. A point all the way out from the origin on the "Quality" axis represents the status quo (6-day delivery) without any monopoly protections. Profits under this circumstance are shown by the height of B. As one moves toward the origin along the "Quality" axis, USO mandates ease and profits rise. This reflects the lower costs of providing less frequent service. A point part way back toward the origin would represent 5-day-per-week delivery (C). Here, profits are higher than at B where the USO is more stringent. The profit impact of moving from 6- to 5-day delivery is the difference in height between B and C. Going all the way back to the origin represents the elimination of the USO delivery mandate. Here, profits rise further (to D). The profit impact of moving from the current delivery frequency of 6 days per week to 3 days per week is the difference in height between B and D.⁷³

⁷² Depicting positive profits at D reflects an assumption that under normal economic conditions the Postal Service would be profitable if there were no monopoly protections and no service mandates, largely because there are substantial scale economies in the delivery function that it could exploit.

⁷³ Where there is no USO mandate and no monopoly protection, the Commission assumes that competitive pressure would require the Postal Service to maintain a delivery frequency of at least 3 days per week.

The “Monopoly” axis depicts monopoly protections. A point all the way out on this axis would represent the Postal Service with both the letter and the mailbox monopolies, but no USO burden. The profit corresponding to this circumstance is F. As one moves inward toward the origin on the “Monopoly” axis, monopoly protections are eliminated. Profits can be expected to fall, since there is more competitive pressure to keep prices down and service levels up. Moving part way toward the origin on the “Monopoly” axis represents the Postal Service with the protection of the letter monopoly, but not the mailbox monopoly. Profits under this condition are represented by E.⁷⁴ The difference in height between F and E represents the profit impact of the mailbox monopoly only (since USO burdens have not changed). Similarly, the difference in height between F and D represents the profit impact of eliminating both the letter and the mailbox monopolies. This difference measures the combined value of these monopolies to the Postal Service.

It is apparent that the point at which the Postal Service’s profits will be highest is the left corner of Figure 1, where both monopolies are retained, but there is no USO. The point at which the Postal Service’s profits will be lowest is the right corner of Figure 1, where there is no monopoly, but the entire USO is retained. Partial easing of monopoly protections, combined with partial easing of the USO burden, would be depicted by a vertical line in the interior of the map whose height reflects the net effect on profit of a reduced monopoly and an eased USO. As an example, Figure 1 depicts an environment in which there is a letter mail monopoly only and 5-day delivery (G).

⁷⁴ The small reduction of profits depicted at E is compatible with the Commission’s conclusion that the value of the mailbox monopoly is much less than the value of the letter monopoly.

As noted, the “profitability approach” consists of carefully evaluated “before” and “after” scenarios in which both the new environment and its profit impact are hypothesized. It is often true that many operational differences can be expected to take place moving from the “before” scenario to the “after” scenario. In these instances, it is useful to decompose the change in postal profits into its components. For example, by definition, the USO cost of reducing delivery frequency from 6 to 3 days per week can be divided into two effects: saved costs and foregone revenues. These, in turn, can consist of distinct price, volume, and quality effects. Separately analyzing these effects makes it clear what assumptions are being used to calculate the “after” results. For example, separately analyzing the price and volume effects of reducing the frequency of delivery makes it clear what assumption is being used about the elasticity of volume with respect to frequency of delivery (the response of mailers to less frequent delivery).

The Postal Service’s USO includes not just service quality mandates (such as delivery frequency) but uniform pricing provisions as well. While these may seem to be a substantially different type of constraint on Postal Service operations, they can be evaluated using the same basic approach. The cost of the uniform pricing constraint is measured by the increase in Postal Service profits that would result from its removal.

“Uniform pricing” is used to describe two related, but distinct, types of restrictions. The first, and most general, interpretation is that a uniform rate must be charged nationwide for a particular class of mail, regardless of where it originates or destines. This condition is reflected in the Postal Service’s current pricing of First-Class Mail. However, this kind of uniformity actually might not be required by law in the United States. The second, less restrictive interpretation, is that prices are allowed to vary by distance, but in a consistent way, regardless

of where the mail originates or destinates. For example, if the Postal Service were to introduce “local” and “non-local” rates, uniform pricing would require that the two rates be the same throughout the country.

When analyzing either of these versions of the uniform pricing constraint, one must analyze the profit effect of removing that constraint by carefully specifying the condition of the market that is assumed to pertain after the constraint is removed. As discussed above, most of the Commission’s analyses of USO costs are carried out assuming that USO constraints are removed from the status quo condition. It should be clear that the effect on profits of removing the uniform pricing constraint would be relatively small in such a situation. If the uniform pricing constraint were removed, the Postal Service would likely choose to adjust prices so as to bring them more in line with costs. It would also likely choose to better exploit differences in the elasticity of demand among the now separated markets. Such marginal pricing changes could be expected to yield only modest improvements in profit where the letter monopoly remains in place and there is little threat of “cream skimming” by competitors. However, because the status quo is assumed to prevail in all respects but price uniformity, any price adjustments must continue to satisfy the original revenue cap.

The situation is conceptually quite different when attempting to measure the costs imposed by the uniform price mandate after the monopoly has been eliminated. In that situation, entrants into the market can be expected to engage in “cream skimming” by undercutting the Postal Service’s uniform price in low-cost areas, secure in the knowledge that the Postal Service could not compete without lowering price in the (unthreatened) high-cost areas as well. The result is a substantial reduction in profitability because the Postal Service would not be free to selectively match the entrant’s price in low-cost areas.

Estimates of the Current Level of the USO in the United States

Scope of the Analyses

In the United States, there has been little previous discussion, let alone agreement, on the elements that are part of the postal “USO.” In contrast, in Europe there have been many policy analyses, quantitative estimates, governmental directives, and actual legislation concerning the postal USO. This analysis identifies USO elements from the specific requirements that are contained in relevant statutory language. In addition, it examines elements Congress might be expected to include if it were to explicitly define a postal USO. The following summarizes the assumptions that lie behind the Commission’s approach to defining the USO.

The Commission interprets “universal” to mean something that applies to virtually every person or address, with the exception of extreme cases such as addresses that can not be accessed by road, water, or rail. The Commission interprets “service” to mean an aspect of postal service that affects persons or businesses acting as senders or recipients. This would include access to counter service; mode; frequency; speed and reliability of delivery; the range of products offered; conditions of mailability; and responsiveness of the Postal Service to complaints.

The Commission interprets “obligation” to mean what is currently required of the Postal Service by statute. “Obligation,” in the Commission’s view, also includes requirements that are implied by statute. However, for purposes of discussion, obligations specifically established by statute are referred to in this chapter as “hard” USO mandates. Requirements that are implied by current Postal Service practice, or by common practice abroad, are viewed as basic

service features. The Commission refers to these requirements as “soft” USO mandates.

Profit Impact of the USO

This section describes each “hard” and each “soft” USO element examined by either the Commission’s contractor, GMU, or the Postal Service’s contractor, IBM. It analyzes how its elimination would have affected Postal Service profits in FY 2007, applying the methods described above in the second section. The profit impact of each element is summarized in Table 1.

Table 1.			
Profit Increase from Eliminating Selected USO Mandates			
(FY 2007 \$ billion)			
Mandate	PRC	GMU	IBM
Reducing Delivery from 6 Days to 5 Days	1.930 ¹	—	3.504
Reducing Delivery from 6 Days to 3 Days	—	5.200	—
Nonprofit Mail Discounts	1.150	1.150	1.100 (FTC) ²
Unzoned Media/Library Rates	0.063	0.063	—
Losses on Market Dominant Products	0.448	0.448	0.500 (FTC) ²
Measuring Service Performance	—	0.182	—
Maintaining Small Post Offices	0.586	0.586	0.588 to 1.433
Alaska Air Subsidy	0.107	0.107	0.100
Uniform Rates for First-Class Mail	0.130	0.130	—
Uniform Rates for Standard Mail	—	—	1.400 (low entry)
Requiring Direct Delivery to All Addresses	—	0.101	—
Requiring Six-Day Delivery to All Addresses	—	0.001	—
TOTAL	4.414	7.968	7.192 to 8.037

¹ GMU estimate.

² Federal Trade Commission estimate adopted by IBM.

The Commission's estimates of the profit impact of the USO are summarized in the left column of Table 1. In large part, they reflect the research conducted under a Commission contract by a consulting team assembled by GMU. GMU's assumptions concerning what a profit-maximizing Postal Service would do absent a particular USO mandate differs from those of the Commission in some respects, as do its views as to what might be considered "soft" USO mandates. For these reasons, GMU's estimates of the profit impact of the USO are separately presented in the center column. GMU's analyses are described in detail in Appendix F. GMU calculates the profit impact of each USO element, following the method illustrated in Figure 1. Profits under the status quo are calculated and then compared to profits without the USO element under review, leaving all elements of the monopoly in place.

Because each calculation requires a "before" and "after" profit calculation in which the USO is changed and the reaction of market participants to that change must be predicted, the accuracy of the calculation depends on the validity of a set of assumptions about what will take place under hypothetical conditions. Accordingly, the Commission's and GMU's estimates are best thought of as illustrations of the profit consequences of systematically varying key assumptions, rather than having found "the answer" to the question, "What will eliminating this service element save the Postal Service?" The Commission recommends that data supporting key model inputs, such as the reaction of large mailers to changes in service, be developed before the results of this analysis are relied on in making decisions that affect the USO.

The Postal Service contracted with IBM to prepare estimates of the profit impact of the USO as the Postal Service interprets it.⁷⁵ Several elements identified by IBM are comparable to those identified by the Commission and GMU. IBM's estimates of their profit impact are presented in the right column in Table 1. IBM's analyses, like those of GMU, follow the "profitability approach." IBM asserts that analyzing the profit impact of the USO is necessarily "forward looking" due to the need to predict how the postal environment would be altered if particular elements of the USO were eliminated. IBM emphasizes that its estimates are driven by multiple assumptions about future market conditions and responses to those conditions. Accordingly, in IBM's view, each estimate should be viewed as an indication of the profit consequences of making key assumptions about the dynamics of the postal market. It should not be viewed as a definitive estimate of the profit impact of eliminating a particular element of the USO. See, e.g., IBM Report at 14.⁷⁶

Generally, the results in Table 1 represent, in the judgment of each study's authors, the most reasonable estimate of the increase in Postal Service profit that would occur if a particular element of the USO were eliminated while the rest of the postal environment is held constant⁷⁷ (what the authors denominate their "base case"). Dashes in Table 1 indicate that the study's authors either did not calculate or do not endorse an estimate for the USO element listed.

⁷⁵ See IBM, Quantitative Analysis of the Universal Service Obligation: Final Report, October 10, 2008, (IBM Report) at <http://www.usps.com/postallaw/universalpostalservice.htm>.

⁷⁶ Due to data, time, and resource limitations, both the GMU and the IBM studies rely more on algebraic analysis than formal econometric modeling. For that reason, their results should be regarded as first-cut estimates.

⁷⁷ IBM's estimate of the profit impact of eliminating uniform pricing for Standard Mail is an exception. It estimates what the impact would be under a partially liberalized environment in which competitors would be authorized to deliver Standard Mail.

Frequency of Delivery

Every year since 1984, Congress has inserted language in the Postal Appropriations Act requiring the Postal Service to maintain delivery on both city and rural routes at or above 1983 levels. As stated in the previous section on methodology, the USO cost of this requirement is the effect that it would have on the profits of the Postal Service if it were a profit-maximizing institution. To make this calculation, it is first necessary to identify what the minimum frequency of delivery would be for a postal operator that has a letter and mailbox monopoly and a mandate to deliver all letters to all addresses in the country. This minimum is a matter of judgment given the current state of research in delivery economics. The method for calculating cost of the delivery frequency element of the USO would be the same regardless of the minimum frequency of delivery.

It is the Commission's judgment that a minimum frequency of delivery for a postal operator that is obligated to provide universal coverage of delivery addresses is 5 days per week. This would be true of business routes because frequency of delivery is generally a priority for businesses. It should also be true of residential routes as long as bills, remittances, and date-specific advertising remain major sources of revenue.⁷⁸ Without at least 5-day delivery, it would be difficult for the mail to remain an attractive channel for communications of this kind. For that reason, the Commission concludes that 5-day delivery would be the minimum frequency that an operator providing universal coverage would offer in the absence of a delivery frequency mandate. Accordingly, the Commission accepts as most reasonable an estimate developed by GMU that reducing the

⁷⁸ If a competitor without an obligation to provide universal delivery coverage obligations were to enter the market, it might deliver fewer days per week. City Mail delivers to about half the addresses in Sweden one-and-a-half days per week or every third business day. Sweden Post delivers 5 days per week as do several other European posts.

frequency of delivery from 6 to 5 days would have increased the Postal Service's FY 2007 profits by \$1.930 billion (or 2 percent of the Postal Service's total costs). See Table 1.

After considering these same factors, GMU concludes that the minimum frequency of delivery for a provider of universal delivery service would be 3 days per week. GMU does, however, recognize that cutting the frequency of delivery in half would significantly impair the value of such service and result in a more substantial drop off of volume than would occur under a 1-day reduction. Accordingly, assuming that delivery frequency would be reduced to 3 days per week if the frequency-of-delivery mandate were eliminated, GMU's base case estimates that Postal Service profits in FY 2007 would increase by \$5.200 billion (about 6.7 percent of the Postal Service's total costs). See Table 1.

GMU concludes that the cost of delivery would be reduced roughly in proportion to the number of delivery days that are eliminated. This follows from the fact that almost half of the costs of delivery are a function of the number and spacing of delivery points in the network (which are essentially fixed in the short run) rather than the volume of mail delivered. GMU notes that if delivery were cut from 6 to 5 days per week, volume on the remaining days would increase by 20 percent. Under the 3-day scenario, volume would increase by 50 percent. It concludes that the primary adjustment that the Postal Service would make to accommodate volume increases of this size would be to increase the number of routes, in order to maintain a standard delivery-carrier workday of eight hours. GMU concludes that the number of new routes would be roughly proportional to the increase in volume throughout the network.

GMU recognizes that reducing delivery frequency would degrade the value of delivery service and therefore result in a loss of volume. Positive

contribution from the volumes lost must be deducted from the costs saved by less frequent delivery to produce an estimate of the net increase in profit resulting from the avoidance of fixed delivery costs. GMU did not have at its disposal market survey data from which the response of mailers to reduced frequency of delivery could be quantified. It therefore assumes a simple profile of volume losses as a function of delivery frequency, and estimates the sensitivity of net profits to losses in volume. It assumed that reducing delivery from 6 to 5 days per week would reduce volumes by a modest 2 percent, but that further decreases in frequency would reduce volume by 3 percent for each eliminated day. These assumptions have no evidentiary basis, and the Commission recommends that the Postal Service undertake a study of the elasticity of demand of mailers, in particular, large-volume mailers, with respect to changes in the number of delivery days so that accurate estimates can be developed using this model.

These results are shown in the first three rows of Table 2 below. Comparing column 3 with column 4, it can be seen that about one-third of the fixed delivery costs that would be saved by reducing delivery days are offset by revenues lost as a result of reduction in demand. The last two rows of Table 2 show the sensitivity of net profits to reduced volume under alternative assumptions about reduced demand under the 3-day delivery scenario (a 6 percent volume loss, and a 10 percent volume loss). Column 4 shows the net increase in Postal Service profits.

Table 2.				
Reduction in Net Profits from Assumed Volume Losses (FY 2007)				
Delivery Days Per Week	Volume Loss %	Contribution Loss (\$ billion)	Cost Savings (\$ billion)	Savings as Percent of Total Costs
5	2.0	0.58	1.93	2.5
4	5.0	1.46	3.56	4.6
3	8.0	2.33	5.20	6.7
3	6.0	1.75	5.78	7.5
3	10.0	2.91	4.62	6.0

There is little empirical support for, and therefore great uncertainty surrounding, estimates of how much volume would be lost in response to various reductions in the frequency of delivery. Therefore, it is useful to consider how much lost volume it would take to entirely offset the increased profits from reducing the frequency of delivery. Using the same analysis, volume losses that completely offset gains in net profit from reducing the frequency of delivery were calculated for 5, 4, and 3 delivery days. They appear in Table 3 below.

Table 3.			
Volume Losses that Would Offset All Gains in Net Profit from Reducing the Frequency of Delivery			
Delivery Days	Cost Savings (\$ billion)	Savings of Percent of Total Cost	Percent Volume Loss Required to Offset All Gains in Profit
5	2.51	3.3	8.6
4	5.02	6.5	17.2
3	7.53	9.8	25.8

Note: Average contribution/piece = 13.7 cents; \$1 billion = 7,284 mil pieces or 3.43 percent of total volume.

Whether a profit-maximizing Postal Service would choose 3-day delivery if it had no frequency mandate depends on how likely it is that cutting delivery to 3 days would produce volume losses approaching 25 percent. GMU regards volume losses of this magnitude very unlikely, and therefore embraces 3-day delivery as its base case for calculating the costs of the USO frequency mandate.⁷⁹

As Table 1 shows, IBM estimates that reducing the frequency of delivery from 6 to 5 days per week would increase Postal Service profits by \$3.504 billion, substantially more than the \$1.930 billion that GMU estimates. Like GMU, IBM assumes that the fixed costs of the curtailed delivery day would be avoided as the volume on the curtailed day shifts to the remaining delivery days.

About \$1 billion of the \$1.5 billion difference arises from different assumptions about the volume-variable portion of delivery costs. Where GMU assumes that delivery costs that are not fixed are a linear function of volume (rise at a constant rate with volume), IBM assumes that they rise much more slowly than volume—50 percent more slowly on city routes and 15 percent more slowly on rural routes. It has determined these percentages judgmentally.

IBM supports these assumptions by asserting that there are “economies of density” in the delivery function. Economies of density means that some activities that serve a route take a fixed amount of time, and that the cost of the fixed activity is spread over more pieces as the number of pieces increases. The example that IBM cites is the time that it takes a carrier to deviate from his route

⁷⁹ The Commission, however, continues to regard 5-day delivery as the most realistic response by a profit-maximizing Postal Service to the absence of a delivery frequency mandate.

to access a delivery point. IBM notes that going to and from an address takes the same amount of time no matter how many pieces of mail a carrier takes to it. IBM Final Report at 40. IBM believes that such fixed delivery activities make up a large proportion of what the Commission and the Postal Service have identified econometrically as volume-variable delivery costs. This implies that a large percentage of the volume that shifts to remaining delivery days can be “absorbed” without increasing the level of volume-variable costs.

The Commission agrees that important components of street delivery time are fixed, or nearly fixed, with respect to volume, and that access time is probably one of the most important of these components. In the Commission’s view, however, the fixed components of street delivery are largely accounted for in the estimate that serves as the starting point for IBM’s analysis—that carrier costs overall (on city routes) are about 52 percent volume variable and 48 percent fixed.

This proportion is determined, in part, by econometrically modeling how carrier time on the street varies with volume. The one activity that can be intuitively identified as fixed (“network travel”) has been segregated from other street time before street time is econometrically modeled. Other street activities that are relatively unaffected by changes in volume, such as accessing addresses, have already lowered the variability that serves as the starting point for IBM’s analysis—the overall city delivery carrier variability of 49 percent. Therefore, to the extent that “economies of density” exist in the delivery function due to activities such as accessing addresses, they have already been accounted for in the modeled results that aggregate to 49 percent variability.

What has not been explicitly recognized by either GMU or IBM is that models used to find the volume variability of individual products for pricing

purposes solve a different problem than the one posed by changing the frequency of delivery throughout the network. The first modeling approach is designed to measure the effect on costs of adding the next piece of volume. This is measured to provide the basis for an economically efficient price signal that can guide the buying decision of the mailer. Changing the frequency of delivery throughout the network involves not just huge increments of volume, but also a basic reconfiguring of the delivery function to deal with huge increment of volume.

This calls for a very different model—one that concerns itself with major changes in total workload and how the processing and delivery functions would be reorganized to meet them. Delivery activities that are fixed over infinitely small changes in volume may not remain fixed in the new environment. Delivery activities that vary linearly over very small ranges of volume may become curvilinear in the new environment, and may increase or decrease at the margin.

GMU contemplates how delivery costs that are volume variable over small ranges of volume might behave over the large ranges of volume that are involved in the reduced-delivery-frequency scenario. It remains essentially agnostic by assuming that the volume-variable costs change at a constant marginal rate. IBM, on the other hand, is confident that volume-variable costs would decline quickly at the margin. The notion of “economies of density” (the spreading of overhead) is not adequate to explain a prediction of such a dramatic change in cost behavior, since economies of density can imply falling, constant, or rising costs at the margin, depending upon whether the resource being analyzed (such as a carrier case) is under-utilized, fully utilized, or over-utilized. Assuming that marginal costs (not average costs) decline as volume rises is the equivalent of assuming that the efficiency with which mail is sorted and delivered by carriers not only rises, but accelerates, as volume increases.

In order to be comfortable with the conclusion that “economies of density” in the delivery function accelerate as volume increases, the Commission would need to see whether this conclusion can be verified by an appropriate econometric model that is corroborated by either operational experience or intuition. Apart from economies of density, the Commission is not aware of any engineering, operational, or other consideration that would lead one to expect such a large change in the direction of marginal costs under the reduced-frequency-of-delivery scenario.

Models of volume-variable carrier delivery time that the Commission and the Postal Service had relied on in the past analyzed the variability of this time by the functions performed. For example, the carrier sorts the mail and pouches it in the office before going out on the street (labeled “in-office” time). This time was assumed to vary almost in direct proportion to volume. In-office time was very similar to “elemental load time.” This was the label given to the activity of stopping at a delivery point, sorting through the mail pouch for items for that address, and loading the items in the mailbox. Econometric models of “elemental load time” found that it, like “in-office” time, varied almost in direct proportion to volume. There is no obvious reason that handling mail a piece at a time or a bundle at a time would become easier and faster as volume increases. The time required to perform the remaining carrier functions (which consist of traveling to the route, on the route, or between delivery points) was found to vary with the number of routes, the number of delivery points accessed, or not to vary at all. These actions tend to take the same amount of time regardless of volume. The time that carriers spend performing these functions depends primarily on the number of times that they must repeat them. There is no intuitive reason to suspect that any of these functions would be performed more quickly or efficiently as rising volume increases the number of times they must be repeated.

GMU's estimate of the profit impact of reducing the frequency of delivery from 6 to 5 days does not rest on the premise that the direction of marginal costs would change dramatically. In addition, it recognizes that reduced frequency of delivery would have the effect of reducing volume and net revenue that would partially offset the fixed costs saved. For these reasons, the Commission regards GMU's estimate that profits would increase by \$1.93 billion if delivery were reduced from 6 to 5 days per week as more realistic than IBM's estimate of \$3.504 billion.

IBM offers an alternative scenario for reducing the frequency of delivery that adds needed sophistication to the research in this area. It concludes that the Postal Service would maximize profits by varying frequency of delivery to equalize volume across 3-digit ZIP Code days. Because volume is distributed unevenly across ZIP Codes, IBM finds that equalizing volume would require 6-day delivery to 40 percent of ZIP Codes; 5-day delivery to 30 percent of ZIP Codes; 4-day delivery to 24 percent of ZIP Codes; 3-day delivery to 4 percent of ZIP Codes; and 2-day delivery to 1 percent of ZIP Codes. IBM estimates that tailoring delivery frequency to ZIP Code volume would increase profits by \$200 million compared to eliminating 1 delivery day from every ZIP Code.⁸⁰ Equalizing volume at the 5-digit ZIP Code or even the route level is likely to yield an even greater profit impact. This suggests that accounting for geographic differences is potentially important in assessing both the burden of the USO and the value of the monopoly.

⁸⁰ See *Report on Universal Postal Service and the Monopoly*, October 2008, Appendix C at 44 (IBM Final Report).

*Discounts for Nonprofit Categories of Mail*⁸¹

The table below lists the six categories of mail in the Postal Service Mail Classification Schedule that have legislatively-mandated preferred rates, along with their for-profit counterparts.

Table 4.		
Preferred Rate Categories		
Class	Nonprofit Category	Corresponding For-Profit Category
Periodicals	Within County	Regular Rate
Periodicals	Nonprofit	Regular Rate
Periodicals	Classroom	Regular Rate
Standard	Nonprofit	Regular
Standard	Nonprofit ECR	ECR
Packages	Library Rate	Media Mail

The discounts that are mandated in the statute are 5 percent for nonprofit and classroom periodicals⁸² and library rate, and 40 percent for

⁸¹ The discounted categories are technically referred to as “preferred” because not all the mailers eligible to use these discounts are nonprofit organizations. The vast majority, however, are nonprofit organizations; therefore, we use the term “nonprofit” here.

⁸² Nonprofit and Classroom Periodicals do not receive a discount on their advertising pounds.

standard nonprofit and standard ECR.^{83 84} A profit-maximizing post would raise the price of nonprofit categories to the level of their corresponding categories were it not for the statutory obligation to provide the discounts. The gain in profits by the Postal Service if it were to raise these prices is the USO cost of the legislatively mandated preferred rates. The total increase in profits from eliminating the discounts after taking into account the elasticity effects is \$1.15 billion in FY 2007. Virtually all of the gain comes from Standard nonprofit regular and ECR. A complete description of the analysis is contained in GMU's Appendix F, section 3, analysis 2.

Uniform Rate with Respect to Distance Required for Media Mail/Library Mail

The Media Mail and Library Mail subclasses consist largely of books. They have a statutory restriction that requires their rates to be uniform with respect to distance.⁸⁵ This is in contrast to the zoned rate structure of all the other package classes. Total FY 2007 revenue for Media/Library Mail was

⁸³ 39 U.S.C. 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

(2) For the purpose of this subsection, the term "regular-rate category" means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its preferred status as compared to the postage for the most closely corresponding regular-rate category mailing.

⁸⁴ In-County received a discount of half the markup of regular rate in the Docket No. R2006-1 proceeding. This was *de minimis* because regular rate received just a one percent markup.

⁸⁵ 39 U.S.C. 3683 (uniform rates for books, films, other materials).

\$445 million. Total contribution to institutional costs was a negative \$38 million.⁸⁶ GMU estimated zoned rates would have increased Postal Service profits by \$63 million. A complete description of the analysis is contained in GMU's Appendix F, section 3, analysis 3.

Losses on Market Dominant Products

A profit-maximizing Postal Service would raise prices on loss-making market dominant products to at least break even. If allowed, the Postal Service might choose to achieve the same end by reducing the quality of the product, and hence its cost. Alternatively, the Postal Service could discontinue the loss-making product. For purposes of this analysis, we shall assume that there is a USO that prevents the Postal Service from taking any of these remedial steps.

The Postal Service had four loss-making domestic market dominant products in 2007: In-County and Outside County Periodicals, single-piece Parcel Post and Media/Library Mail. Had the first rate increase under the PAEA gone into effect prior to the beginning of FY 2007, it would have been possible for the Postal Service to eliminate the losses on the two parcel subclasses by using the flexibility allowed under the price cap rules. Under the PAEA price cap, the losses in FY 2007 from the two subclasses that make up the Periodical class could not have been eliminated. Therefore, the FY 2007 loss of \$448 million by Periodicals was made necessary by current statutory obligations. Consequently, the negative contribution made by them should be included with the costs of the USO. While portions of inbound International Mail were unprofitable, they are in a class that was profitable overall. Accordingly, those losses are not part of the cost of the USO. See Appendix F, section 3, analysis 4.

⁸⁶ See PRC FY 2007 Annual Compliance Determination at 24.

Measuring Service Performance of Market Dominant Products

Section 3691(b) of the PAEA requires the Postal Service to provide “a system of objective external performance measurements for each market dominant product” unless the Commission approves of an internal measuring system. GMU observes that without this statutory obligation, a profit-maximizing Postal Service might not choose to measure service performance. Under this reasoning, the cost of the service measurement system should be added to the cost of the USO. In an informal briefing of Commission staff, the Postal Service provided \$182 million as an upper bound on the estimated annual cost of operating such a system. GMU accepts that estimate, noting that it is the only one available. See Appendix F at 25.

The Commission concludes that a properly defined USO would not include these costs. In the Commission’s view, the USO should encompass the cost of service-related activities that a profit-maximizing Postal Service would not undertake if there were no legal requirement (express or reasonably implied) to do so. The service performance monitoring systems that the Postal Service has now, and is in the process of developing, do not meet this test.

The Postal Service is already operating its External First-Class Mail (EXFC) service measuring system covering single-piece First-Class Mail. Because there was no legal requirement to maintain this system prior to the PAEA, it is reasonable to presume that the Postal Service initiated this system, and continues to maintain it, out of institutional self interest. It serves the business purpose of maintaining the Postal Service “brand” with mailers, the public, and Congress by demonstrating the quality of its flagship product. It also serves the management purpose of monitoring the efficiency of its network operations on a local and national level.

It is true that the PAEA requires a performance monitoring system for all market dominant products. The Postal Service, however, is scheduled to implement its Intelligent Mail Barcode (IMb) program in the coming year. That program is expected to provide a means of monitoring the service performance of most market dominant products. It is significant that the Postal Service began developing the IMb program several years before the PAEA was adopted. The Postal Service promotes the program as one that will add considerable commercial value to the mail that participates in it because it will enable the mailer to monitor the progress of its mail through the system in real time. The IMb program should prove valuable to Postal Service management as well because it enables it to track mail in fine detail as it is processed and transported through the network, thus facilitating both operational diagnostics and cost tracing.

Maintaining Small Rural Post Offices (CAG K&L Offices)

Under section 403(a)(3), the Postal Service is required "to establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services." In developing rural free delivery services in the early 20th century, Congress substituted rural carrier services for the services of small post offices in many rural areas. Since FY 1985, Congress has added language to annual appropriations to the Postal Service that prohibits it from using funds in the appropriations bill to close or consolidate small rural and other small post offices. This does not appear to bar the Postal Service from using other funds to close or consolidate small post offices, and the Postal Service has in fact closed or consolidated hundreds of small post offices since 1985.

The process of substitution of rural carrier services for rural post office services has been going forward throughout much of the Nation for decades, and since Congress has not expressly barred the Postal Service from closing small and rural post offices, GMU assumes that the Postal Service could fulfill its obligation to maintain "ready access to essential postal services" by providing rural carrier service wherever such service is consistent with "reasonable economies of postal operations." Because Congress has traditionally championed maintaining postal facilities in rural areas, there is reason to believe that it would forbid closing these post offices if it were to adopt an explicit USO. For this reason, GMU treats the costs of maintaining these post offices as part of the USO.

GMU defines small post offices using Postal Service revenue generation categories. It considers cost of operation to be greater than revenues in the bottom two revenue tiers (those in Cost Ascertainment Groups K and L) and therefore candidates for closing. Virtually all of the approximately 9,200 CAG K through L post offices have counter transaction costs and post office box operations costs (per box) that are much higher than at larger offices. They typically have just one employee providing retail services to customers and filling post office boxes. Cost savings could be achieved by closing these offices and transferring their functions to other operations.⁸⁷

To calculate the added profit of closing these post offices, GMU starts with the cost of operating them, and deducts amounts for the cost of replacement delivery and widow services and the revenue foregone from box rental. It

⁸⁷ For example, a 1982 General Accounting Office study suggested that closing 7,000 of these offices could save almost \$400 million at that time.

estimates that closing CAG K and L offices would add \$0.586 billion to Postal Service profits.

IBM, the Postal Service's contractor, also recognizes that maintaining small post offices might be considered part of the USO. It, too, focuses on revenue levels to define what post offices would be candidates for closing absent the USO. It considers post offices in Cost Ascertainment Groups H through L as candidates for closing, a larger set than GMU considered. It assumes that the postmaster's salary and the cost of building maintenance and depreciation could be saved if each of these post offices were closed. It also assumes that the window and delivery functions could be transferred to other post offices without cost or revenue consequences. It considers three scenarios. In Scenario 3, it estimates that closing all CAG H through L offices would add \$1.433 billion to the Postal Service's profits. IBM Final Report at 51. In Scenario 2, it then narrows this set of candidate offices to those that have only a minor amount of window service or mail handling hours in addition to the postmaster's hours. It estimates that closing only these offices would add \$0.943 billion to the Postal Service's profits. *Id.* Finally, in Scenario 1, IBM narrows the set of candidate offices to those that have no window or mail handling hours, just the postmaster's salary. It estimates that closing only these offices would add \$0.588 billion to the Postal Service's profits.

The GMU method for estimating added profits would seem to be more realistic than that of IBM. GMU's analysis adjusts the gross savings from closing post offices by specifically calculating and deducting the cost of replacement services and the amount of lost revenue. Its estimate is based on a smaller set of candidate offices (those in CAGs K and L) that is more comparable in size to the offices included in IBM's Scenario 1. GMU's estimate of \$0.586 billion of

added profit is almost identical to IBM's Scenario 1 estimate (\$0.588 billion). That pair of virtually identical estimates appears to be the most reliable.

Alaska Air Subsidy

The cost of domestic Alaska air transportation was about \$115 million in FY 2007.⁸⁸ Air transport is used in Alaska to transport all Postal Service products to remote locations that can not be reached by road or water. All of this cost is variable. The Commission, in a series of decisions from Docket No. R90-1 through Docket No. R2006-1, concluded that part of the domestic Alaska air transportation expense for parcels, a surface transportation product, should be considered to be institutional rather than attributable on the grounds that it is a USO to serve areas that otherwise could not be reached by Parcel Post service. In Docket No. R2006-1, the Commission estimated the institutional portion to be \$107 million. If this cost had been an explicit part of the USO in FY 2007, its cost would be about \$107 million.

Uniform Rates for First-Class and Standard Mail

GMU calculates the additional profit that the Postal Service would earn if it were to eliminate the requirement (under a plausible interpretation of section 404(c) of the PAEA) that rates for First-Class Mail not vary with distance. GMU notes that if the First-Class Mail rates could vary with distance while the monopoly letter and mailbox monopolies remain intact, the Postal Service could be expected to offer dropship discounts for bulk First-Class Mail similar to those that it offers for Standard Mail. GMU assumes that this would increase profits by diverting a significant amount of low-margin dropshipped Standard Mail to high-

⁸⁸ See PRC Library Reference PRC-LR-07-02 in Docket No. ACR2007.

margin dropshipped First-Class Mail. It also assumes that the discounts offered for dropshipping would cause some single-piece First-Class Mail to convert to dropshipped First-Class Mail, and would cause some additional growth in First-Class Mail volume due to its own-price elasticity.

Applying the volume and revenue forecasting model last made available in Docket No. R2006-1, GMU estimated the profit impact of offering First-Class Mail SCF dropship discounts of 1.0 cents, 1.5 cents, and 2 cents, which mirror discounts now offered for dropshipping Standard Mail to the SCF. It concludes that a discount in the mid-point of that range (1.5 cents) would generate \$130 million in additional profit. The detailed analysis is in the Appendix F to this report.

IBM analyzes the profit impact of having to charge a geographically uniform rate for Standard Mail in an environment where Standard Mail is not subject to the letter or the mailbox monopoly.⁸⁹ IBM assumes that competition would emerge for the delivery of Standard ECR Mail and dropship Standard Regular Mail in ZIP Codes where volumes and revenues were sufficient to allow an entrant to make a profit by charging at least 10 percent less than the Postal Service.

In such an environment, IBM observes, charging geographically uniform rates would make it difficult for the Postal Service to protect its Standard Mail

⁸⁹ The basis for treating geographically uniform Standard Mail rates as part of the USO is unclear. First-Class Mail satisfies the long-standing requirement, now preserved in section 404(c) of the PAEA, that there be a class of letter mail sealed against inspection with a uniform rate throughout the United States. The Postal Service currently offers rates for Standard Mail by distance (dropship discounts) but they vary in a uniform way throughout the country. IBM does not argue that applying dropship discounts in a uniform way throughout the country is legally required.

volumes from competitors. A competitor could “cream skim” the high-revenue routes knowing that the Postal Service could only match its discounted price by charging that matching price throughout its network. IBM estimates that allowing the Postal Service to match competitors’ geographic variations in price under a liberalized environment (in which other USO elements remained in force) would allow the Postal Service to earn \$1.4 billion more in profits than if it were to charge geographically uniform rates. IBM Final Report at 47.

The difference between GMU’s estimate of the added profit from allowing dropshipping of First-Class Mail (\$0.130 billion) and IBM’s estimate of the added profit from allowing geographic variation in Standard Mail rates (\$1.4 billion) is \$1.27 billion. This large difference primarily reflects different “after” scenarios underlying each estimate. IBM hypothesizes an “after” environment in which the monopoly does not exist, and competitors capture roughly one-third of the Postal Service’s Standard Mail volume in one-third of its ZIP Codes. GMU hypothesizes an “after” environment in which the letter and mailbox monopolies are intact, and the main effect of allowing rates to vary with distance is a modest migration of low-margin Standard Mail to high-margin First-Class Mail. If Standard Mail rates were allowed to vary geographically where there is no threat of entry due to the existence of the monopoly, added profits would move in the direction of those estimated by GMU from allowing dropship rates for bulk First-Class.

Delivery to All Addresses Who Involuntarily Receive No Delivery

There are currently 1.365 million “free” post office boxes for rural addressees in areas served by CAG H through L post offices that do not have the option of receiving their mail via home delivery. GMU observes that requiring delivery to these addressees unless the addressee chooses to receive post office box delivery could be regarded as a potential element of the USO, as it is in the

EU. Assuming a worst-case scenario in which all eligible addressees would choose street delivery, GMU estimates that the Postal Service profits would decrease by \$101 million if this were added to the USO. This cost would include the cost of providing retail transactions as well as 6-day-a-week delivery to newly provided stand-alone roadside boxes.

In its October 2008 Report on the Universal Postal Service and the Monopoly, at 27-28, the Postal Service argues that the position of the EU regarding a right to delivery-to-the-address is impractical in the United States due to its more varied geography and large areas in which population density is extremely low. It explains that management follows a policy of offering every residential customer one form of free delivery—carrier delivery, general delivery, or a no-fee post office box. It argues that no additional mandate is necessary.

The Commission agrees with the Postal Service that conditions in the United States make it operationally and financially impractical to mandate carrier delivery to every residential customer. Accordingly, it does not recommend that it be viewed as an element of the USO.

Six-Day Delivery for All But Those on Business Routes

Currently, 25,009 of the approximately 135 million residential delivery points receive delivery 3 days per week because they are exceptionally difficult to serve, such as those at the bottom of the Grand Canyon. GMU concludes that an explicit USO could reasonably require that all addresses (but those on 5-day-a-week business routes located in the central business district of large cities) receive delivery 6 days per week. The additional cost would be about \$900,000.

The Commission recognizes the financial and operational challenges that 6-day delivery to even the most difficult to serve addresses would impose on the

Postal Service, given the extremes that characterize America's geography. Accordingly, it does not recommend that 6-day delivery to these points be regarded as part of the USO.

Value of the Letter and Mailbox Monopolies

A working definition of the letter monopoly is that it covers non-expedited, addressed letter mail under 12.5 ounces and catalogs under 24 pages. The mailbox monopoly simply bars those other than the Postal Service from placing anything in the mailbox. This section estimates the value to the Postal Service of these monopoly restrictions, following the method illustrated in Figure 1. Profits under the status quo are calculated and then compared with profits without the monopoly element under review, leaving all elements of the USO in place. The analysis is that of the GMU consulting team. Any reservations or caveats that the Commission would apply to GMU's analysis are noted in this summary.

GMU estimates the value of the letter monopoly and the mailbox monopoly by first calculating a value for the two in combination, followed by a calculation of the value of the mailbox monopoly alone. It develops "entry pricing" models that predict the amount of Postal Service volume that an entrant would capture based on assumptions about the entrant's delivery costs and the prices relative to those of the Postal Service.

The GMU analysis is performed at the route level. It is based on assumed values for four key variables: volumes that an entrant could contest; the entrant's costs; the entrant's delivery frequency; and the discount that the entrant offers. GMU tests a range of values with respect to each variable in order to gauge its impact on the overall value of the combined monopolies. Selected values and their impacts are summarized in Table 5 below.

Table 5.			
Value of Letter and Mailbox Monopolies			
(\$ billions)			
	Low	Base Case	High
Mailbox Monopoly Only	0.06 ¹	1.33 ²	2.40 ³
Letter and Mailbox Monopolies Combined	0.20 ⁴	3.48 ⁵	7.10 ⁶

¹ Discount 20%, Delivery Days 6, Entrant's Cost Advantage 0%, Contestable Volume 50%.

² Discount 10%, Delivery Days 1, Entrant's Cost Advantage 10%, Contestable Volume 100%.

³ Discount 0%, Delivery Days 1, Entrant's Cost Advantage 30%, Contestable Volume 150%.

⁴ Discount 20%, Delivery Days 6, Entrant's Cost Advantage 0%, Contestable Volume 50%.

⁵ Discount 10%, Delivery Days 3, Entrant's Cost Advantage 10%, Contestable Volume 100%.

⁶ Discount 0%, Delivery Days 1, Entrant's Cost Advantage 30%, Contestable Volume 150%.

The first variable is the volume of contestable mail available. GMU assumes that an entrant must receive mail in a form that it could sort to delivery sequence more cheaply than the Postal Service (otherwise it would remain with the Postal Service).⁹⁰ GMU estimates that this is 26 percent (55.3 billion pieces) of all mail, shown by subclass in Table 6 below.

⁹⁰ GMU assumes that this would consist of 5-digit First-Class letters, Standard and ECR letters sorted to 5-digit or carrier route, carrier route flats, and DDU parcels—all received at the level of the destinating SCF or DDU. See discussion, Appendix F, section 4.

Table 6.	
Contestable Subclasses and Contestable Volumes	
Subclass	Contestable Volume (billions)
First-Class Presort Letters	10.0
First-Class Presort Cards	0.8
Periodicals	2.9
Standard Regular	13.3
Standard ECR	28.3
Parcel Post	0.2
TOTAL	55.5

Note: Total does not add due to rounding.

Its base case assumes that 100 percent of this contestable mail is captured by private entrants. Alternative cases assume 50 percent and 150 percent of contestable mail is captured.

The second variable is the potential entrant's delivery costs. Applying Commission cost models, GMU concludes that about half of a carrier's day is spent traveling between addresses on his route and that this time does not vary with volume, while the remaining half is spent on activities that vary directly with volume (such as sorting mail in the office or on the street). It reasons that a carrier can avoid fixed labor costs in proportion to the number of times per week he can avoid traveling his route. Each delivery day dropped avoids one-sixth of the costs of delivery. Since other costs vary in proportion to volume, GMU reasons, a carrier could shift weekly volume to fewer delivery days without increasing those costs. Therefore, the fewer days an entrant delivers per week, the lower his costs will be relative to a Postal Service that is obligated to deliver mail 6 days per week. GMU assumes that in this economic environment an

entrant would choose to deliver mail only three times per week, giving it 50 percent fewer fixed costs, and 25 percent fewer total costs, than the Postal Service (all else being equal). Alternative cases assume 5-day and 4-day delivery, with fixed cost savings that are correspondingly less.

The third variable is an entrant's likely cost advantage not related to delivery frequency. This could arise, GMU assumes, either from paying hourly compensation rates below that of the Postal Service, or operating more efficiently. GMU's base case assumes that an entrant would have labor costs 10 percent below that of the Postal Service. Alternative cases assume zero, 20, and 30 percent lower labor costs.

The fourth variable is the entrant's price discount relative to the Postal Service's price. Its base case assumes that a price discount of at least 10 percent would be needed to capture customers. Alternative cases assume that the entrant charges discounts that are zero percent, and 20 percent of Postal Service prices.

GMU determines how many routes the entrant could serve at a profit, which allows it to determine the volume of contestable mail that the Postal Service would lose. It then recalculates Postal Service delivery costs at the new lower volumes, the reduction in revenue, and the resulting decrease in the Postal Service's profits.

Based on the values that GMU assumes for the four variables described above, GMU estimates that eliminating both monopolies would reduce the Postal Service's profits within the range of \$0.06 billion to \$7.10 billion. GMU believes that the most likely impact is produced by the mid-range of these values—\$3.48 billion.

The GMU analysis needs to be refined to model geographic and delivery characteristics of the network at the local level. By adding ZIP Code-specific data to the route-level data that GMU used, it could have associated the volumes, revenues, and costs of the routes analyzed with their geographic location. Adding data that would allow it to associate the routes analyzed with the processing facility that supplied it with mail would have enabled GMU to calculate the upstream costs of the overall profitability of specific routes by including the upstream cost of each route. This would have been a valuable refinement because the unit costs of the Postal Service's processing plants vary widely.⁹¹ Finally, geographically-specific data for routes would have allowed GMU to take into account local differences in real wages between the Postal Service and a potential entrant's carriers (indicated by local differences in the cost of living).

Geographically-specific data might also have allowed GMU to determine the degree to which profitable routes are scattered throughout the system, or clustered together by neighborhood, ZIP Code, or area. This is important because entry would only take place if there were a critical mass of routes (or more precisely addresses) that would be profitable to serve. The profitability of routes is a function of volume, and volume is primarily a function of the nature of the route (business or residential) and the income of the addresses served. It is plausible that business routes tend to be clustered with other business routes, and that the higher income neighborhoods tend to be clustered together. Consequently, skimmed routes would occur where geographic clustering allows a critical mass to form. To the extent that a number of skimmed routes are not in

⁹¹ See, e.g., *Do Differences in Facility Specific Mail Processing Unit Costs Have Implications for the Cost of the Universal Service Obligation?* Margaret Cigno, Diane Monaco and Matthew Robinson, Postal Regulation Commission. (Unpublished manuscript.)

areas that form a critical mass, GMU's model predicts entry where it is unlikely to occur and therefore overstates the value of the monopoly. Thus, GMU's results should be viewed as an upper bound on the value of the monopoly.

As discussed below, IBM modeled the value of the mailbox monopoly. Its model required analysis of the costs of delivery for both the Postal Service and potential entrants. IBM included geographic and delivery characteristics such as population, square miles, residential, and business delivery points. IBM Final Report at 27. With geographically-specific data at its disposal, it was able to take into account local differences in the profitability of routes in all three of the respects that GMU's analysis could not.⁹²

Separately Valuing the Mailbox Monopoly. The United States is unique in forbidding anyone but the postal authority to place items in the mailbox. See 18 U.S.C 1725. Some mail is outside the letter monopoly. (Periodicals, unaddressed saturation mail, catalogs over 24 pages, letters over 12.5 ounces, and parcels.) It is lawful for private parties to deliver this mail. Except for parcels, however, there is little competition for this mail, at least in part because private carriers may not place it the mailbox. To place a value on the mailbox monopoly, GMU estimates the decrease in Postal Service profits that would result from eliminating it while retaining the letter monopoly.

To do this, GMU modifies the key assumptions in the entry price costing model that it uses to calculate the profit impact of the combined letter and mailbox monopolies. To estimate the volume of mail that a private entrant could contest with the letter monopoly intact, GMU includes mail not covered by the

⁹² It is not clear if IBM took the first effect into account. It purports to have taken the second and third effects into account. *Id.* 25-26.

Private Express Statutes (Periodicals, Standard ECR, Parcel Post) that is feasible for a private entrant to sort to delivery point sequence, *i.e.*, saturation mail or carrier route mail that is dropshipped to the destinating SCF or DDU. GMU estimates this mail to be 23 billion pieces, shown by subclass in Table 7 below.

Table 7.	
Contestable Subclasses and Contestable Volumes	
Subclass	Contestable Volume (billions)
Periodicals	2.9
Standard ECR	19.9
Parcel Post	0.2
TOTAL	23.0

GMU notes that this contestable mail (23.0 billion pieces) is far less than the contestable mail where the letter monopoly is eliminated (55.3 billion pieces).

In its base case, GMU assumes that entrants would compensate for the smaller pool of contestable mail by reducing delivery frequency to 1 day per week, as existing private delivery companies do. GMU assumes that a 10 percent discount will be needed to induce mailers to shift to a private entrant. As in its base case analyzing the effect of eliminating the combined letter/mailbox monopoly, GMU assumes that the entrant's labor cost advantage over the Postal Service is 10 percent, and that entrants would capture 100 percent of the contestable mail on routes that are skimmed. These base case assumptions result in skimming on 51 percent of routes by private entrants, and a \$1.33 billion reduction in Postal Service profits. The least favorable and most favorable assumption in terms of entrants' profitability yield estimates that range from

\$0.06 billion to \$2.4 billion. This estimated profit impact is far less than the estimate for eliminating both the letter and mailbox monopolies (\$3.48 billion).

GMU adjusts its base case to reflect the likelihood that some mailers would be reluctant, for brand preference or other reasons, to use a private entrant if only the mailbox monopoly were eliminated. It reflects this likelihood by assuming that an entrant would capture 35 percent, and 70 percent, of contestable volume on skimmed routes. Under these alternative assumptions, eliminating the mailbox monopoly would have a dramatically smaller impact on Postal Service profits (reducing them by only \$0.19 billion, or \$0.76 billion, respectively).

IBM offers no estimate of the profit impact of eliminating the letter monopoly, by itself, or in combination with the mailbox monopoly. It does, however, estimate the impact of eliminating only the mailbox monopoly. Like GMU, IBM estimates the effect of diverting contestable mail to new entrants. Unlike GMU, IBM includes the effect of diverting Priority Mail and single-piece Parcel Post to existing competitors (such as UPS and FedEx). Unlike GMU, it also includes a “congestion effect.” IBM assumes that additional mailbox congestion will reduce Postal Service carrier productivity by 15 percent on skimmed routes and 5 percent on unskimmed routes (due to privately delivered equivalents of Priority and Parcel Post Mail).

IBM makes these additional baseline assumptions: new entrants would have network costs (fixed costs) that are one-fourth that of the Postal Service, they would pay wages that are 21 percent less than the Postal Service, and they would charge prices that are 10 percent below Postal Service prices. Under these assumptions, IBM estimates that new entrants would skim the routes of 25 percent of 3-digit ZIP Codes and capture 35 percent of the contestable mail in

each.⁹³ *Id.* at 37. Based on these assumptions, IBM estimates that eliminating the mailbox monopoly would reduce Postal Service profits by \$1.5 billion. *Id.* at 37-38.⁹⁴

Although IBM's base case estimate of the impact of eliminating the mailbox monopoly is very close to GMU's base case estimate of \$1.33 billion, their similarity seems almost coincidental because the assumptions are so different. A major difference in their assumptions relates to how much volume would be contestable where there is no letter monopoly. GMU makes clear the basis for its judgment that certain mail volumes are contestable, both in terms of product type and sortation characteristics. It concludes that contestable volume is 23 billion pieces.

Another major difference in assumptions relates to the proportion of contestable mail that private entrants would capture on skimmed routes. IBM's base case assumes that 35 percent would be captured. GMU's base case assumes that 100 percent would be captured. However, when GMU assumes that 35 percent of contestable mail would be captured on each skimmed route, it yields a reduction in Postal Service profits of \$0.19 billion.

⁹³ It can not be determined from the IBM report whether these assumptions are entirely subjective, or have been derived from modeling empirical data.

⁹⁴ Commenting that "it is also important to get a sense of what happens when entry is more successful," IBM offers a "high-entry scenario." This scenario assumes lower entrant network costs, a greater reduction in Postal Service productivity from mailbox congestion, and an increased "ability of entrants to attract volume from the Postal Service." IBM's report does not explain why these alternative assumptions are plausible, except to say that entrants would "not have to incur the fixed network costs associated with delivering addressed products and collecting mail." Under its "high-entry" scenario, IBM estimates that eliminating the mailbox monopoly would reduce Postal Service profits by \$2.6 billion. *Id.*

GMU has the more thoroughly analyzed estimate of contestable volume. When GMU's more realistic assumption concerning contestable volume is combined with the Delphi survey results indicating that only a very small percentage of eligible volume would shift to private entrants, it indicates that both the IBM and the GMU baseline estimates of reduced Postal Service profits are probably too high. IBM Final Report, Appendix C, at 17-21, 37.

The basic logic behind the congestion effect needs to be clarified. The volumes modeled by IBM are characterized as "diverted" volumes, whether existing competitors or new entrants contribute the volume. If these volumes are, in fact, diverted from the Postal Service rather than new volume, it would seem that this should have some ameliorating effect on congestion in the mailbox. If, on the other hand, these volumes are primarily new volume and would have substantial congestion effects, they would have a significant impact on the volume variability of delivery and collection costs. Each additional piece would be expected to increase congestion, and thereby increase, rather than decrease, unit marginal costs. This effect is not sufficiently analyzed in IBM's estimate of the profit impact of eliminating the mailbox monopoly.⁹⁵

⁹⁵ In addition, IBM's estimate of the effect of reducing the frequency of delivery involves substantial increases in the volume of mail delivered in ZIP Codes on the remaining delivery days. If these increases in volume are as substantial as those assumed by IBM in its analysis of the mailbox monopoly, it implies that there might be increasing unit marginal costs under IBM's reduction-in-delivery-days scenario that need to be taken into account.

Needs and Expectations of the United States Public

National policy elucidated in title 39 section 101 provides that the Postal Service “shall provide reliable and efficient services to patrons...and render postal services to all communities.” 39 U.S.C. 101. The Postal Service has a pervasive presence throughout the Nation and broad impact on individuals, businesses, government, and society at large. In recognition of such presence and impact, Congress directed the Commission to consult with the Postal Service’s patrons, including the general public. See PAEA 702(c)(1). This chapter integrates the results of the Commission’s broad public consultation concerning this report.

The needs and expectations of the public are diverse, and could not be captured using one method. There is difficulty in adequately representing small businesses, individuals, and rural patrons, all of which do not regularly participate in Commission proceedings. Therefore, the Commission consulted with the public through multiple mechanisms. First, through the public docket, the Commission solicited formal comments and reply comments concerning this report. Second, the Commission held four public hearings and an open workshop. Third, the Commission utilized surveys conducted by GMU to assess practices and preferences of individual households, small businesses, and small nonprofit organizations. Fourth, the Commission sent letters to other Federal agencies soliciting feedback on the USO and postal monopolies.

The Commission created Docket No. PI2008-3 to invite interested parties to comment on the form and content of this report. In PRC Order No. 71,⁹⁶ the Commission introduced the topic of the report and set forth a Discussion Memorandum which provided background and framed the discussion around the USO and postal monopolies. The written comments in the public docket were, for the most part, provided by the Postal Service and organizations with a significant interest in the postal industry (e.g., private enterprises engaged in delivery, Postal Service unions, and major mailers or mailer organizations). The written comments reflect the interest in maintaining universal service as it exists, and providing the Postal Service with the flexibility required in order to adapt to changing conditions. The comments in the public docket support a continuation of universal service provided by the Postal Service and retention of the postal monopolies in order to support the USO.

The Commission sought feedback from specific interested parties during the four regional field hearings. Those parties included the Postal Service; urban and rural postmasters; publishers; city and rural letter carriers; mail-related industries; industries which rely on the mail; not-for-profit organizations; and employee organizations. The open workshop included representatives of major mailers, mailing organizations, and other interested persons. The testimony at the regional hearings and open workshop indicates a continued need for universal postal service and the postal monopolies. The modern operation of the Postal Service has created an expectation of a level of universal service among those testifying. The regional hearings provided the Commission with diverse viewpoints. Those testifying expressed a desire for the continuation of quality

⁹⁶ PRC Order No. 71, Notice and Order Providing an Opportunity to Comment, April 18, 2008 (Order No. 71).

universal service provided by the Postal Service and supported by the monopolies.

GMU conducted an assessment of small businesses, small not for profit organizations, and individual households concerning their use and perception of the USO and monopolies. These surveys demonstrate that the post office is frequently used by many households and small businesses. A large number of patrons continue to use the Postal Service for bill payment, and most were satisfied with the service provided by the Postal Service. The surveys showed that patrons would not favor a significant reduction in postal service and that there is continued support for the postal monopolies.

The Commission sent letters to other Federal agencies which solicited input for this report. Multiple agencies responded and indicated that the Postal Service was important to their missions. Each agency that responded maintained that the Postal Service was providing adequate universal service and there was a need for continued universal service at the current level.

The Commission received consistent feedback, through multiple channels, from all the stakeholders that it solicited. That feedback reveals that there is a public expectation for the current level of universal service provided by the Postal Service. Most, although not all, witnesses support the continuation of the monopolies. Households and businesses frequently use the Postal Service, and many frequent their local post office. Many stakeholders also express the continued need for the Postal Service's flexibility to adapt its operations to changing conditions while maintaining universal service. However, since this evidence was developed, the recent economic contraction has increased the financial uncertainty facing the Postal Service. This financial uncertainty may render much of the public feedback garnered months ago less germane.

Congress should evaluate the expressed needs of the public in light of these new financial circumstances.

Household Surveys

George Mason University's Center for Social Science Research conducted a survey of households to obtain information on the needs and expectations of households with regard to their use of mail, the post office, and delivery. GMU administered the survey by phone to a random sample of 791 households. They conducted the survey between August 10 and October 10, 2008.

There are some notable limitations of the data. Households without landline telephones were excluded from the survey. Additionally, senior citizens and possibly those not employed outside the home are over-represented among respondents.

Overall, the need for mail services among households is uneven. Some people use the Postal Service rarely, but many use it frequently.

The post office is remains the center of many people's mail-related activities. Most households are close to their local post office in both travel time and distance. Preference for proximity to the post office was ranked fifth behind the grocery store, pharmacy, gas station, and the bank, but households tend to utilize their local post office extensively. More than half of respondents reported that a member of the household visited the post office in the last 7 days, and an additional 25 percent reported visiting within the last 30 days. Three quarters of respondents purchase their stamps at the post office, and more than a third of households mail their letters at the post office.

In general, households do not favor losing their local post office. Nearly half of respondents oppose or strongly oppose replacing their post office with service at a nearby store in their neighborhood. When respondents were asked if they would be willing to pay to keep their local post office open, more than a quarter of respondents were willing to pay \$25, and 8 percent were willing to pay \$50 or more.

People increasingly use the internet as a substitute for postal services such as sending correspondence, conducting transactions, and ordering merchandise. However, the Postal Service plays a key role, especially in conducting business transactions. Nearly all households receive bills through the mail, while less than a third of households receive online bills. More than 2 out of 5 households say they would not allow bills that they currently receive by mail to be sent to them by email even if they received a discount of one dollar.

Households more frequently pay bills by mail than online. More than 4 out of 5 households paid bills using the Postal Service compared with a little over 2 in 5 that paid bills online. About half of the respondents that did not pay any bills online do not trust online banking.

Sixty-eight percent would not mind reducing the number of delivery days from 6 to 5 days per week. Even for bill delivery, this would inconvenience only 35 percent of households. Three-day delivery, however, would affect 34 percent of households a great deal and 23 percent of households somewhat; 38 percent would be willing to pay more to keep 6-day delivery.

The preference for keeping the current levels of volume and delivery frequency for advertising mail is low: 95 percent would not object to have it

delivered 3 days or less. If it were available, 78 percent would put their names on a do-not-mail list that stopped most advertising mail.

Although households generally mail very few parcels, 71 percent of households use the Postal Service exclusively to ship parcels. An additional 13 percent use both the Postal Service and another carrier. When asked how difficult it would be to switch from the Postal Service to another shipper for mailing parcels, respondents were split evenly between very or somewhat difficult, and not very or not at all difficult.

The Postal Service's quality of service ranks high in people's opinion. Households were generally satisfied with both speed and reliability of service. Keeping the post office open an hour or two longer would be somewhat or very helpful to about half of respondents.

The survey included questions used to gauge respondents' attitude towards the letter monopoly and the mailbox monopoly. Fifty-eight percent of people favor the Postal Service's exclusive right to access their mailbox. However, significantly more people were amenable to allow other entities besides the Postal Service to access the mailbox if specific companies were named. Respondents had mixed feelings when asked to speculate what would happen if letters were open to competition; respondents were nearly evenly split between predicting an increase and a decrease in service quality, but 45 percent of people would expect rates to decrease. More than 1 in 5 indicated they were uncertain as to what would happen to service or price.

Despite the increasing role of the Internet, households frequently use the Postal Service and the post office. They seem generally satisfied with both

quality and service and would not favor significantly reducing delivery days, closing their local post office, or eliminating the mailbox monopoly.

Small Business and Nonprofit Mailers Survey

George Mason University's Center for Social Science Research conducted a national phone survey to assess the needs and expectations of small businesses and small nonprofit mailers with regard to the letter and mailbox monopolies and the Postal Service's USO. See Appendix G. GMU administered the survey to 444 randomly selected "small" businesses and "small" nonprofit organizations. They drew the sample from a population of nonprofit establishments with \$25,000 or less in annual receipts, and businesses with annual sales volume of \$100,000 or less.

Small businesses and small nonprofits are almost exclusively single-piece mailers. Over 90 percent send out less than 100 letters per week, and only 20 percent of respondents send out large mailings such as catalogs, newsletters, or solicitations.

Small businesses and nonprofits often use their post offices. More than two-thirds of nonprofits and small businesses visit the local post office at least once a month and 20 percent of those visit the post office daily. Seventy-eight percent obtain postage at a post office, and 50 percent use the post office for mailing their pieces. Closing of post offices for cost savings is only supported by 1 in 3 companies, even if it resulted in a reduction in rates.

Small businesses and nonprofits generally do not experience or expect much volume change. Among those who have reported change over the past 3 years, or project change 5 years from now, more respondents estimate an increase (20 percent and 29 percent, respectively) rather than a decrease

(15 percent and 16 percent, respectively), but the estimated scope of decrease is higher than the scope of increase. Internet use is expected to trigger volume shifts of less than 10 percent by nearly half the respondents, while shifts of 10 percent or more is expected by 36 percent of respondents.

Reducing the number of delivery days from 6 to 5 days would not affect 80 percent much or at all, yet 23 percent would be willing to pay higher rates to maintain 6-day delivery. Three-day delivery would affect 54 percent significantly or very significantly. GMU also asked if respondents would be inconvenienced if different types of mail would be delivered 1 day late. Respondents indicated that they would be most inconvenienced by late delivery of payments (51 percent) and bills (46 percent.) About 2 in 5 would be inconvenienced if statements, letters, and parcels were delivered 1 day late. Nineteen percent said they would be inconvenienced if advertising mail was delivered 1 day late; however, 70 percent of respondents do not send advertising or fundraising letters by mail.

Respondents had mixed reactions when asked to speculate what would happen if delivery of letters were opened to competition; 48 percent of the respondents predict that rates would decrease compared with 31 percent that forecast rates would increase. Respondents are split about the effect on service quality: 45 percent expect a decrease and 38 percent expect an increase.

In summary, small businesses and small nonprofits are frequent users of the post office but tend to be low volume mailers. Most would not be affected by a reduction from 6-day delivery to 5-day delivery. However, they do not favor a large reduction in delivery days nor the closing of their local post office.

Public Inquiry Docket

The Commission solicited and obtained comments and testimony from a wide range of Postal Service stakeholders to ensure this report adequately addresses concerns across the spectrum of the postal industry, users of the mail, members of the public, Federal agencies, and private enterprises engaged in the delivery of the mail. The comments and testimony were provided well before the current financial turmoil and increased financial strain on the Postal Service. Some of the Postal Service's primary patrons, namely financial services firms, were the hardest hit in this financial crisis. The anticipated response by those firms to changes to the USO, in light of the current economic climate, would be extremely valuable to the policymaker. For this reason, the Commission recommends that Congress urge the Postal Service to develop this information.

The Commission issued PRC Order No. 71 with an attached Discussion Memorandum that channeled comments into 12 topics relevant to this report. The topics included scope of "universal postal service" and "universal service obligation;" historical development of universal service; the USO and monopoly laws; the geographic scope of the USO; the range of products subject to the USO; the appropriate level of access to postal facilities and services; the appropriate frequency of delivery; the rates and affordability of service inherent in the USO; the appropriate quality of service; methods to calculate the cost of the USO; methods to calculate the value of the postal monopoly; the implications of the USO for the postal and mailbox monopolies; the USO and postal monopolies in other countries; and other issues.

The Commission held four public hearings at locations around the country, and one open workshop, to reach out and consult with stakeholders in geographically diverse areas. The Commission also mailed letters specifically inviting other Federal agencies, including five Chief Financial Officers Council

agencies, to participate and offer feedback on universal service and the postal monopolies.

Seventy-six discrete organizations or individuals responded and gave comments or testimony concerning universal postal service and the postal monopolies. See the *Analysis of Public Comments* attached to this report for a more detailed aggregation of opinions on the topics of universal postal service and the postal monopolies.

A consensus developed among the Postal Service, its employee organizations, mailers, and other stakeholders. Nearly all the organizations and individuals affirm the need for continued universal service provided by the Postal Service. Likewise, most also express a belief in the need for the letter and mailbox monopolies to continue to support the Postal Service's ability to provide universal service. Maintenance of the status quo in these areas is deemed most likely to allow the Postal Service to adapt to an uncertain future.

Several organizations and individuals suggest that certain products or services important to specific industries or consumers must continue. Others express concern that access is maintained in geographically remote areas. But all impart a general level of satisfaction with universal service as currently provided by the Postal Service.

Most organizations and individuals expressed no desire for any change in the current universal service standard. They do not express any desire to have a rigid legal definition which would set universal service at a proscribed level. Several, however, propose or support legally mandated quality standards. Many state that a rigid definition of universal service or the USO might place the Postal

Service in an untenable situation in the face of economic and industry uncertainty.

The consensus is to maintain universal service and the USO in its present form. Few support any change which would deny the Postal Service flexibility in responding to sender or recipient needs and expectations. Most stakeholders express satisfaction with the current performance of the Postal Service and view any changes as a possible threat to their continued enjoyment of universal postal service.

Social, Economic, and Technological Trends

Social, economic, and technological trends are all impacting the Postal Service's operations. Social and technological trends have changed the manner in which people communicate and use the Postal Service. Economic trends have had a devastating impact on mail volumes and revenues. The financial crisis which took hold in the summer of 2008 exacerbated the Postal Service's already strained financial health. For the purpose of this section, universal postal service is understood as a means of communication, specifically a means to collect and deliver information to the public. To use the Postal Service's terminology, the mail is a system used for correspondence, transactions, advertising, periodicals circulation (and package delivery), to everyone and everywhere.⁹⁷

⁹⁷ The different functions are reflected in the five mail markets defined by the Postal Service in its *Household Diary Study*. See *The Household Diary Study, Mail Use and Attitudes in FY 2007*, March 2008, at 5 (*Household Diary Study*). The scope is implied in the Postal Service 2007 Annual Report glossary: "Universal Service: The Postal Service's mandate and commitment to the nation to provide mail delivery service at uniform and reasonable rates to everyone, everywhere." See *United States Postal Service Annual Report 2007* at 59.

Mail-based communication, in that sense, is one among several means of communication, from oral transmission to telephone to electronic data interchange.⁹⁸ The Postal Service has long been competing with other networked information and communications technologies (ICT), starting with telegraph, wired telephone, electronic mail, and now wireless telephone and Internet. Like the Postal Service, these alternative means potentially have a nationwide reach of service in terms of population and geography, and can substitute most functions of the mail *i.e.*, to conduct personal correspondence, business transactions, and advertising, and disseminate the content of magazines and newspapers.

The need for universal postal service is influenced by the availability and use of alternative ICT for collecting, processing, and delivering items of correspondence, transaction, advertising, periodicals, and parcels.⁹⁹ Such availability and use is, in turn, related to trends in society, economy, and technology at large.

The following trends give an overview of the uncertainty facing the Postal Service in light of the current financial turmoil, general economic conditions, and use of alternative technologies to fulfill functions previously carried out by the Postal Service.

⁹⁸ Communication is defined here as an exchange of information and creation of shared meaning between one or more senders and one or more receivers.

⁹⁹ These categories are used by the Postal Service to distinguish the different market segments of mail. The first three fulfill a communication function for personal correspondence, business transactions, and advertising. The Postal Service has a distribution function, namely, the dissemination of print publications (periodicals), and shipping of goods (packages). Except for the latter, there are technological alternatives for these functions.

Trend 1: Traditional Volume Patterns are Changing

Between 2000 and 2007, the Postal Service experienced a steady decline in the volumes of single-piece First-Class Mail.¹⁰⁰ In the same timeframe, Standard Mail replaced First-Class Mail as the volume leader of the Postal Service. Since the beginning of FY 2008, corresponding to the start of the economic recession, both First-Class and Standard Mail volumes dropped significantly. Forecasting when and whether there will be a recovery in mail volumes is highly speculative.

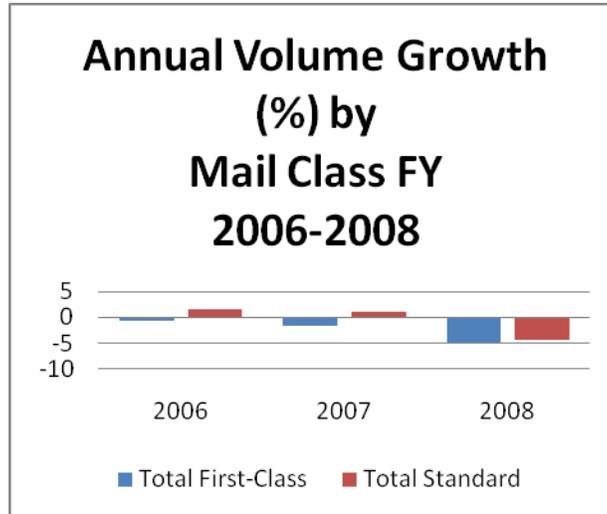
During this economic downturn, there has been an accelerated diversion of business and individual mail to alternative media, and some have left the market entirely. An economic recovery may not correspond with a recovery of mail volume. At the time Congress enacted the PAEA, the Postal Service was experiencing shifts in mail volume among classes of mail, but since 2007, it has experienced a dramatic drop in all classes. The Postal Service has not experienced such a precipitous drop in mail volumes since the Great Depression.¹⁰¹ Figure 2 depicts changes in mail volume from 2006 to 2008.¹⁰²

¹⁰⁰ See United States Postal Service Revenue, Pieces and Weight Reports (RPW Reports), FY 2000-2008.

¹⁰¹ Internal Commission data on mail volumes.

¹⁰² Data source: see RPW Reports FY 2006-2008.

Figure 2.



Trend 2: Postal Service Revenues are Declining Despite Rate Increases

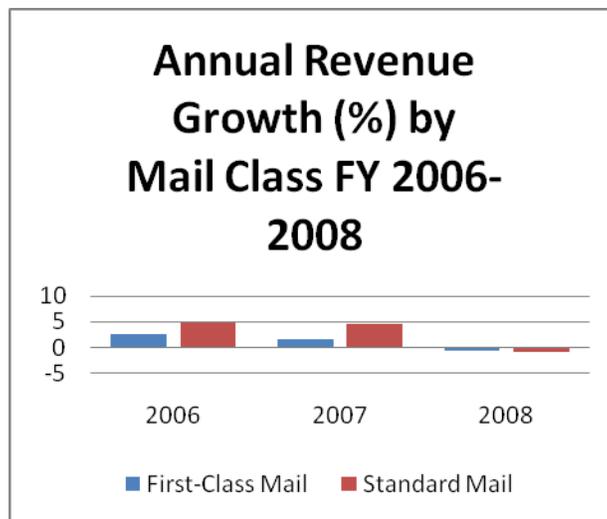
Corresponding with the precipitous drop in mail volumes, First-Class Mail and Standard Mail revenues also are declining. First-Class Mail and Standard Mail revenues are the two largest components of the Postal Service revenue.¹⁰³ Congress enacted the PAEA and requested this report when Postal Service revenues were steady. Revenues remained steady through 2007, but have dropped significantly since the start of the recession. At the time of this report, the Postal Service's declining revenues, coupled with the Consumer Price Index (CPI) price cap on products that generate approximately 90 percent of its revenues, may put the Postal Service's financial viability in peril.

The trend of decreasing revenues forces the Postal Service to dramatically reduce costs to remain viable. Some costs, including the pension

¹⁰³ See *id.*

contributions required by Congress and many fixed network costs, can not be significantly reduced. The reduction in revenues, notwithstanding rate increases in May 2007 of 7.6 percent and May 2008, of 3 percent is significant. Never before has the Postal Service experienced a reduction in revenues following a rate increase.¹⁰⁴ Figure 3 demonstrates the drop in revenues from 2006-2008.¹⁰⁵

Figure 3.



Trend 3: The Recent Financial Market Turmoil Dramatically Impacted the Postal Service

In the summer of 2008, the world’s financial markets severely contracted. This contraction severely impacted the United States economy as a whole, and the Postal Service in particular. In the third quarter of 2008, First-Class Mail and Standard Mail volumes each dropped 5.5 percent compared to the same quarter

¹⁰⁴ See RPW Reports FY 1970-2008.

¹⁰⁵ Data source: see RPW Reports FY 2006-2008.

in the previous year. Likewise, in the fourth quarter of 2008, First-Class Mail volume dropped 6.9 percent, and Standard Mail volume dropped 6.1 percent compared to the same quarter in the previous year. As a result of the drops in volumes, revenues declined in the same time period. Most of the public comment concerning this report was garnered in the first two quarters of 2008.

At that time, the Postal Service was experiencing slight growth in revenue (largely as a result of the 2007 rate increase). Figure 4 shows the change in Postal Service revenues in 2008 by quarter, compared to the same quarter in 2007.¹⁰⁶

Figure 4.

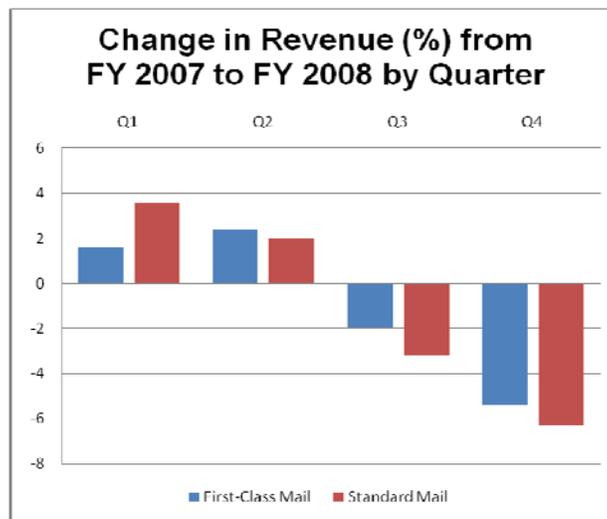


Figure 4 shows a precipitous drop in the Postal Service's mail revenue during the time this report was being created. The drop in volume and revenue intervened since the public offered feedback for this report. Such a trend impacts the mailing behavior of the Postal Service's largest customers and the continued financial viability of the Postal Service. Immediate analysis of the impact on large

¹⁰⁶ [Data source: *id.*](#)

mailer behavior of the current financial climate is necessary in order to accurately assess this trend.

Trend 4: The Amount of Information and Communication is Increasing

Information and communication technologies have enabled a steep increase in the creation and dissemination of information across the board, meaning that almost all means of communication are used more, albeit with changing distributions of volume within and across different media. This holds true in relation to mail as well: households with greater access to electronic communication also receive high volumes of mail and other forms of communication.¹⁰⁷

Trend 5: New Information and Communication Technology is Not Adopted Evenly

Most technological innovations have a slow start, diffuse more rapidly as adoption increases, then level off until a small percentage of potential adopters remain. At the same time, people develop preference of technology use early on, and those patterns are likely to remain relatively stable as generations move through the different stages of aging. The fact that email use has become a daily activity in every age group, and that text messaging is now added as a complementary use by under 25 year-olds, indicates that personal correspondence and more and more transactions will be shifting online.

¹⁰⁷ See *Household Diary Study*, *supra*, at 14.

Trend 6: The Availability of Alternatives Eventually Entails Substitution Effects

Substitution effects are evident for all household users. High-volume mail households are increasingly using electronic alternatives. Between 2005 and 2007, households that received 30 or more pieces of mail each week increased their share of bills paid via the internet from 15 percent to 21 percent. Even for households that received less than 30 pieces of mail each week, the share rose from 10 percent to 16 percent.

Trend 7: Nationwide Availability of Technology Still Leaves Initial Gaps in Service

Experience in the telecommunications field shows that there are certain, and usually the same, geographic areas, of the country that are underserved by new technologies. These areas are often sparsely populated, or are home to a greater number of people that have lower than average ICT use because of their socio-economic status. This phenomenon highlights the need for universal postal service throughout the Nation to ensure that all communities are served.

Summary

The Postal Service may be facing a crisis. There is increasing diversion of previous postal services to ICT alternatives. Unparalleled drops in mail volumes and decreases in revenues, despite rate increases, combine to place enormous financial strain on the Postal Service. In the immediate future, volumes and revenues will likely drop further, and the financial strain on the Postal Service will continue to increase.

Financial data filed with the Commission confirm the Postal Service is responding to the crisis. It is working hard to adapt to the new climate by

reducing costs to operate more efficiently. The Postal Service continues to streamline its network and labor force to maintain universal service, but at a lower cost. It may well need to further refine the service it provides in order to promulgate further efficiency gains and reduce costs.

In the intervening months since the Commission solicited the public and received comments discouraging changes to the USO and monopolies, the strain on the Postal Service's finances has increased remarkably. The testimony and comments, while still informative, must be viewed in light of the Postal Service's precarious financial state. At the time the PAEA was enacted and public discourse began about this report, the Postal Service was coping with changes in technology which reduced some types of mail volume. Currently, the Postal Service must cope with the same changes in technology coupled with a financial crisis.

The Commission can not predict what the future will hold for the Postal Service. The current pressures on the Postal Service from declining revenue and volume, however, do not appear to be abating, but rather seem to be increasing. Congress will want to remain aware of Postal Service operating and financial results on a real time basis, yet as far as the Commission is aware, the Postal Service no longer provides Congress with monthly reports of its volumes, revenues, and costs.

The Postal Service will be required to further reduce costs and increase efficiency in the future. It may want Congress to reassess rapidly the elements of universal service the Postal Service provides in light of the economic, social, and technological trends discussed in this section. Reassessment of those elements will properly entail Congress considering all seven aspects of the USO and the give and take among each of the elements.

Societal Benefits

No attempt was made to quantify the value added by the Postal Service to the Nation tangential to its fulfillment of the USO, or the possible effects on the USO of “do not mail” bills (DNM) as proposed in more than a dozen State legislatures this year. Such societal benefits and DNM initiatives fall outside the scope of this report; however, public comment and testimony identifies benefits and potential costs which seem important elements for policymaker consideration when considering the future of the Postal Service. The examples which follow make clear the Postal Service adds value as an institution and infrastructure and faces potential threats beyond those quantified in this report.

The Postal Service binds the Nation together through its omnipresence in communities across the United States. It is the physical representative of the United States, and is frequently the primary contact many citizens have with the Federal government. The Postal Service fills civic needs in geographically remote or isolated areas; for example, in Alaska, the Postal Service allows employees to offer notary public services at no charge.

Title 39 section 411 of the U.S. Code permits the Postal Service to make agreements with, and offer services to, other Federal agencies. Federal agencies benefit from section 411 and the Postal Service’s infrastructure and depend on it to provide critical services to citizens. The Department of State relies on the Postal Service to process passport applications across the country. The Selective Service System utilizes the Postal Service to register citizens for Selective Service at all classified post offices, stations, and branches. The Internal Revenue Service depends on the Postal Service as a point of contact for taxpayers to collect forms. In many states, voters may register or collect voter registration forms at post offices.

In addition, the Postal Service is part of a multi-agency response effort funded as part of the Cities Readiness Initiative that helps prepare for potential public health emergencies. The Cities Readiness Initiative includes a pilot program in which letter carriers store and transmit medication to affected areas in the event of a bioterrorist attack. The Postal Service is a first responder for homeland security infrastructure protection. In the wake of national disasters like Hurricane Katrina, the Postal Service has been on the front line to aid affected areas in their return to normalcy.

The Postal Service, through the Postal Inspection Service, directs one of the oldest Federal law enforcement agencies. The Postal Inspection Service frequently partners with State and Federal law enforcement to investigate complicated crimes including child exploitation and fraud.

The Postal Service is uniquely situated to provide community service programs of great value to a wide range of beneficiaries. The Carrier Alert Program involves letter carriers keeping an eye on residences and communities for anything out of the usual (*e.g.*, mail piling up over a period of days). Carrier vigilance has resulted in numerous lives saved and catastrophic injuries mitigated, from discovery of an incapacitated stroke victim to rescuing unconscious elderly residents from a burning apartment. The Have You Seen Me? program involves the Postal Service delivering photographs of missing children, and it shares credit for the rescue of 144 missing children. The National Association of Letter Carriers' Stamp Out Hunger program is the Nation's largest 1-day food drive. It involves letter carriers collecting non-perishable food items along postal routes during mail delivery. The program collected 73.1 million pounds of food in 2007 to restock food banks, pantries, and shelters in all 50 states, and the District of Columbia.

Throughout the Nation's history the Postal Service has moved the Nation forward, developing post roads, addresses, and linking remote corners of an unwieldy nation. The Postal Service continues innovation in its efforts to "go green" and consider renewable energies and alternative fuels.

The Postal Service is a lifeline to the housebound, elderly, and infirm. Many people, especially senior citizens, use the Postal Service as a means to receive critical medicines. For the housebound, letter carriers and the mail they carry are vital links to society at large and offer essential interaction. In remote areas, post offices provide community identity and a place for interaction.

Semipostal stamps sold at a premium over the First-Class rate fund important public causes. Currently, breast cancer research at the National Institutes of Health and the Medical Research Program at the Department of Defense are funded through the Breast Cancer Semipostal. Letter carriers are leaders in fundraising efforts, collecting more than \$20 million in the last 15 years to finance research and provide care for people with muscular dystrophies.

DNM initiatives have surfaced during recent years in more than a dozen legislatures. DNM takes the form of registries, where consumers can opt-out of advertising mail (similar to the national Do Not Call registry administered by the Federal Trade Commission) and absolute prohibitions, which ban advertising mail. Given the climate of declining volumes, there is a possibility that DNM initiatives could lead to further reduction in volumes and therefore revenues and possibly impact the Postal Service's ability to fund the USO. Expert opinion varies as to the constitutionality of either form of DNM initiative. No attempt to study or quantify the impact of DNM exists. The policymaker should be aware of the potential threat DNM poses to the Postal Service and the legal ambiguity surrounding the constitutionality of DNM.

While this report develops values for the postal monopolies and the costs associated with the USO, it would be unwise to ignore those benefits the Postal Service confers on the Nation which fall outside the scope of its obligation. It would also be unwise to ignore the potential impact of DNM legislation in the States. Further study of the value of a Federal postal service, apart from its function as a delivery mechanism fulfilling the USO, as well as the potential threat posed by DNM legislation, should be undertaken. The results of such a study will inform future considerations of potential changes in the USO or the monopolies.

Policy Options

In this chapter, the Commission will identify the policy options and summarize the pro and con arguments for each option. Options which are not plausible given the current economic climate, but which give a broader spectrum of possible policy options, are discussed in Appendix H.

Any notion of change in policy for the Postal Service must be viewed in light of the development of current policy to its present form. As Appendix H discusses in greater detail, modern postal policy rests upon three pillars: the universal service obligation, the monopoly laws, and the institution of the Postal Service. The three pillar approach, however, is a modern invention. Before 1970, postal policy was managed by the political process which included Congressional oversight. Since 1970, the Postal Service, recast as an independent establishment of the Federal government, has been given a broad mandate to operate in a more business-like manner. Congress continued to exercise supplemental budget authority in the appropriations process, and the former Postal Rate Commission dealt with cost allocation among classes of mail. Since the PAEA became law in 2006, the Postal Service has had increased flexibility to adapt to changes in the postal industry, balanced with enhanced oversight from the Commission.

Any policy change in one of the three pillars will necessarily impact the others. The Commission's contractor attempted to evaluate the most plausible policy options based upon previous proposals to Congress, and options

evaluated by the President's Commission on the United States Postal Service. The options evaluated encompass a broad spectrum of possible outcomes.

This chapter will identify options for ensuring universal service, options for defining the components of the USO, options for the postal monopoly, and options for the mailbox monopoly. Some policy options would preclude other options while some options can be grouped. For example, licensed-based regulation to ensure universal service is only feasible for products not subject to a monopoly. Quality of service standards, however, can be promulgated independent of the monopoly policy.

Options

Universal Service

Options for Ensuring Universal Postal Service. There exist multiple, options for mandating universal service. As a threshold, the options are to continue with the status quo of a flexible, qualitative definition of the USO, or create specific quantitative mandates for the USO.

Weighing in favor of a specified USO, the contractor cites the protection of a standard of universal service in the face of increased competition. A specified USO tempers the incentive to lower standards in order to control costs should the Postal Service continue to lose volume. There is also a general benefit to society of clear laws and regulations which provide realistic service expectations. The current qualitative USO only establishes a few specific aspects of the USO. For example, while the prices are capped for market dominant products and 6-day delivery is mandated, other aspects of the USO remain only vaguely defined. Under this framework, the Postal Service may sacrifice other aspects of universal service in order to meet the two specified criteria. For example, cluster boxes

instead of curb or door delivery may be chosen for new addresses in order to maintain the price caps and 6-day delivery.

Weighing in favor of maintaining the status quo, history shows that a USO with specific mandates is not required. The Postal Service has developed a national postal system that is a world leader in breadth, efficiency, and low cost operation. The system has been fostered by a flexible USO. There is value in a broad USO definition that gives the Postal Service flexibility to efficiently tailor its network to the changing needs of its patrons.

Options for a Legally Specified USO. There are several options for a legally specified USO: a USO which consists solely of price rules; a statutory USO; remedial regulation administered by the Commission; license-based regulation administered by the Commission; or a contract between the government and the Postal Service.

First, the Postal Service would prefer a USO which provides it with the ability to adjust to changing circumstances. It favors eliminating the appropriations language that prohibits reducing delivery routes and closing small post offices (which are the only specific constraints on the Postal Service outside of the pricing restrictions). Such a regime would allow the Postal Service to operate with greater flexibility, but may require increased oversight to ensure that adequate service is maintained.

Second, Congress may elect to define the USO specifically in a statute. A statutory USO would delineate a specific standard and commit enforcement to the courts or the Commission. The Postal Directive adopted in 1997 by the European Union is an example of a statutory USO. The most positive aspects of a statutory USO are the opportunity for broad public consultation, political

acceptance for the final standard, and the ability to provide stability. The biggest disadvantages for a statutory USO include Congress' need to address many technical details of postal policy; difficulty in revising a statutory USO, which may be necessary in a changing economic climate; and uneven results of balancing political interests.

Third, the USO could be administered through remedial regulation by the Commission. Under this framework, Congress would promulgate statutory guidelines, and the Commission would remedy any lapses in universal service. This approach compares to that in the United States telecommunications industry. The virtues of a remedial regulation approach include building on incentives for efficiency and innovation by focusing regulatory intervention only on situations where universal service is imperiled. This approach would be consistent with other United States regulated industries, and could be built upon the current complaint authority bestowed on the Commission. The biggest disadvantage of a remedial regulation approach is that it requires a problem to develop with universal service before the regulator can take action to remedy it.

Fourth, license-based regulation administered by the Commission is a possible mechanism. A current example of a licensed-based regulatory scheme is the United Kingdom, which prohibits an organization from providing delivery of letters without a license from the regulator. In a license-based regime, the regulator would be able to attach conditions to a license to ensure the provision of universal service. In favor of a license-based regime, there is flexibility compared to a statutory USO, and the ability to use ex-ante controls to assure against service failure. However, licensed-based regulation works best in an open market environment, and there may be increased need to regulate all delivery service providers to ensure there is adequate universal service coverage.

Fifth, the use of a contract between the government and the Postal Service could ensure universal service. An example of a contract between the government and the post provider for universal service is in place in New Zealand. An advantage of the contract method is its simplicity; the definition of the USO is provided in the contract and can be altered by mutual agreement. Disadvantages for application in the United States may include the need for a more complicated contract due to the size and diversity of the country, and requirement of complicated oversight by the government.

Options for Defining Individual Components of the USO. The Commission finds that the USO is comprised of seven basic aspects or service elements: (1) geographic scope; (2) range of products; (3) access; (4) delivery; (5) prices/affordability; (6) quality of service; and (7) an enforcement mechanism. Any legal USO must balance and address each of these elements of universal service. This section will examine each element of the USO and explore possible options for altering the scope of each.

Geographic Scope of Universal Services

The geographic scope of the USO is currently defined by a combination of general qualitative statements and directives as well as stipulations regarding efficiency. Currently, the Postal Service must serve all patrons and all communities. It has broad discretion over how it will comply with the broad geographic scope of its operations. The geographic scope could remain as it is, or be reduced. Geographic scope was the first aspect of the USO and strongly correlates with binding the Nation together. Throughout the hearings and public participation process, the ubiquity of the geographic scope requirement was strongly supported by all. Congress could also carve out exceptions for areas which are ill suited to a rigid rule.

An option for specifying the geographic scope of the USO is “to cities, villages, and along principal routes of public transportation in rural areas.” This option would be appropriate if Congress wishes to approximate the current standard of geographic scope in a legal USO. Any attempt to geographically define the USO in statute should allow for exceptional circumstances where service can not feasibly be provided.

Range of Products

The range of products covered by the USO is currently not defined in the law. The Postal Service takes the position that the only products it must offer on a universal basis are market dominant products. The Commission finds that all products are covered by the USO, although different products require different amounts of service.

Congress could undertake to define which products are covered by the USO. There are multiple options for defining the products covered by the USO: all products; market dominant products; products covered by the monopoly (Private Express Statutes); items of certain physical characteristics; or items necessary to bind the Nation together.

Defining all postal products as covered by the USO would be consistent with the notion of binding the Nation together, and the provisions in title 39 which do not distinguish between any classes of products for the USO. The pricing flexibility inherent in the PAEA should allow the Postal Service to provide products universally which otherwise might not be provided efficiently due to limited demand.

Defining market dominant or monopoly products as the only products covered by the USO fits into a general rationale of mandating service only where

products are market dominant or subject to the monopoly. However, market dominance and the monopoly exist for different public policy reasons than the USO and may not be a good surrogate. Defining the USO as including only products of certain physical characteristics or that are “necessary to bind the Nation together” may create a logical relationship between the public interest and the USO, but would create an arbitrary class of mail which is currently undefined and ambiguous.

Access to Universal Services

Access to universal service is currently governed by the requirement that the Postal Service consult with affected parties before closing a post office, and a general obligation to provide “ready access to essential postal services ... consistent with reasonable economies.” See 39 U.S.C. 403(b)(3). Access incorporates the ready availability of locations to purchase postal products, make inquiries, and obtain information. The effectiveness of access includes both how long it takes to get where service may be obtained, and how long it takes to get service after reaching the applicable location. Access also includes the ability to conveniently tender mail by depositing it at a postal facility, in a collection box, in a personal mailbox for collection by a carrier, or giving it to a carrier on his or her route.

The Postal Service has asked Congress to remove the language which restricts the closing of small and rural post offices found in the annual appropriations acts. Congress should address the need for such facilities as part of the overall balancing of the USO elements. Standards reflecting numbers of nearby residents or distance from an optional facility are an alternative to outright prohibition against closing any post offices.

Delivery of Universal Services

There are two subsets of delivery when it pertains to universal service: delivery mode, encompassing the method to reach patrons; and delivery frequency, encompassing the number of deliveries in per week. Currently there is no legal requirement concerning delivery mode, but delivery frequency is set at 1983 levels, including 6-day and rural delivery.

Delivery mode could be explicitly defined to protect the public interest by ensuring a uniform level of service across the Nation. However, the Postal Service has throughout its history used flexibility in delivery mode to accommodate budgetary restrictions. Any determination by Congress of delivery mode should balance the public interest in a universal standard of delivery against the need for the Postal Service to be flexible to contain costs.

Delivery frequency may be defined as a minimum number of delivery days per week to ensure a level of service. Currently, delivery at 1983 levels is required. The GMU household surveys show that a limited reduction in delivery days would be acceptable to a large number of households. They also indicate that the sensitivity for frequency of delivery changes may be different across classes of mail. Though in the public proceedings a few large mailers indicated they were amenable to a reduction in delivery frequency given adequate savings, their reaction may be dramatically different given the extreme financial market contraction. Finally, 1983 delivery standards, as they are generally not defined, may not be in line with the role of mail in society in the 21st century.

Prices of Universal Services

Pricing of market dominant products is extensively defined and regulated by the PAEA. Pricing standards include a rate increase cap which limits annual rate increases of market dominant classes to the Consumer Price Index. The

standards also include establishment of special rate classes and uniform rates for some classes of mail. Competitive products are required to cover attributable costs and a reasonable share of institutional costs.

There are several alternatives concerning the price component of the USO: statutory price caps could be limited to single-piece products; geographically uniform prices for single-piece First-Class letters; a revised uniform rate rule for Library and Media Mail; or commercial flexibility in pricing competitive products.

Congress could impose a geographically uniform price for all single-piece First-Class letters, rather than for all letters. While this option would still allow the convenience of a single stamp for all single-piece letters regardless of destination, it would allow the Postal Service to charge for the transportation of bulk mail, and vary the rates accordingly. Similarly, Congress could change the uniform rate rule for Library and Media Mail to take into account transportation costs by the same rationale.

Quality of Universal Services

Currently, quality of universal service is defined in general terms in title 39; a requirement that the Postal Service seek an advisory opinion from the Commission on any issue which substantially impacts service; and the new requirement that service performance be measured and reported. Quality regulation on a micro level is for the most part left to the Postal Service.

There are options for defining quality of service required by the USO: more detailed criteria for the quality standards set by the Postal Service, or expanded Commission review of changes to universal services.

Congress could establish either loose or detailed criteria for quality of service standards. The PAEA allows the Postal Service to establish standards in consultation with the Commission. The Commission will then determine whether Postal Service performance in meeting its standards is satisfactory, and, if necessary, it may require remedial action.

Congress could expand the role of the Commission to review changes in the nature of universal services. Currently, the Commission can only provide advisory opinions on proposed changes.

Protection of the Rights of Users of Universal Services

At present, the PAEA mechanism to protect individual rights to universal service under the law is largely untested. Congress may opt to mandate transparent procedures for complaint handling with redress by the Postal Service or the Commission, and expand or contract right of appeal of a complaint case. In the former case, the Postal Service would be required to ensure that procedures exist for redress for user rights, and reports concerning the resolution of complaints would be published. In the latter case, the regulator may have a broader role in resolving individual user complaints pertaining to provision of postal services within the scope of universal service.

Letter Monopoly

Pros and Cons for the Continuation of the Letter Monopoly

GMU discusses possible justifications for the letter monopoly at length in Appendix H. The justification of the letter monopoly is grounded in economic and social considerations. For example, the Board of Governors has reported to Congress that the letter monopoly is justified because it protects the ability of the Postal Service to provide a national postal system with geographically uniform rates for letter mail. The letter monopoly has been justified as a “natural

monopoly.” The Postal Service has justified the letter monopoly in comments to the Federal Trade Commission, as necessary to offset the costs imposed on it by multiple Federal laws and regulations. In its 2008 report, the Postal Service justifies the postal monopolies by arguing that they are required to fund the USO. The Accenture report, recently prepared for the Postal Service, concludes that compared to other countries, the United States has more to lose and less to gain from competition in the postal industry.¹⁰⁸

In essence, the Postal Service contends that since it is mandated to provide services above what it would if it were operating in a business-like manner, those additional costs must be offset by the monopolies.

The most frequent argument against the letter monopoly is that, assuming a legal framework continues to exist to protect public interest and the provision of universal service, competitive markets might produce more efficient, innovative, flexible, and fairer services to buyers and producers.

Options for the Letter Monopoly

The status quo for the monopoly, in the wake of the PAEA, encompasses seven criminal law statutes, together with statutory exceptions and exceptions created by the Postal Service then in effect. Many, including the Postal Service, argue that the current state of the letter monopoly is satisfactory and should not be changed.

There exist options for changing the letter monopoly, which each involve redefining the monopoly in some manner. First, the term “letters and packets”

¹⁰⁸ See Postal Universal Service Obligation (USO) International Comparison, International Postal Liberalization—Comparative Study of US and Key Countries, August 2008.

could be redefined by statute or by the Commission. Second, the monopoly could be limited to cover First-Class Mail. Third, the monopoly could be defined as covering the carriage of textual communications recorded on paper, which is similar to the definition put forward by the President's Commission. This would restate the letter monopoly in a simpler, more understandable fashion. However, some may view any restatement as an unwarranted expansion or contraction of the letter monopoly.

Should Congress wish to consider restricting the letter monopoly, it should assure that the letter monopoly and related legal restrictions are phased out in an orderly fashion. Congress would need to promulgate laws which would ensure an effective USO in the wake of a reduced monopoly. The Postal Service should be given time to prepare for competition, while provisions should be made to protect more difficult to serve areas that might not attract or sustain a vibrant competitive market.

There are two approaches to phasing out the letter monopoly based on methods used elsewhere: a gradual decrease in weight and price limits, or permitting competition for an increasing range of services over time. The former would involve gradually reducing the monopoly to cover lower weights and a smaller price multiplier (for example, one step may be that the monopoly be reduced to cover 4 ounces or less and 3 times the stamp price). The latter would involve opening classes or categories of mail to competition; for example, bulk mail. In either case, there would be a timeframe to complete the transition from the monopoly.

In order to effectively transition away from the letter monopoly, there might be a corresponding adjustment to the USO. Such adjustments were discussed in

the options for the USO section, such as a contract or license scheme by which universal service is mandated in a competitive environment.

The Postal Service would also have to adjust to become capable of competition. While many of these adjustments would be managerial in nature, there are multiple steps Congress may wish to take to ready the Postal Service for competition, including government assumption of pension costs in excess of normal private sector pension costs, and revision of laws that restrict collective bargaining.

A regulator could administer the monopoly. Under this framework, the regulator would be charged with monitoring the cost of the USO and the value of the postal monopolies on an ongoing basis and limiting the scope of the monopolies wherever it finds that such limits will not affect the provision of universal service. This option is in line with the recommendations by the President's Commission, but would create a substantially more complicated regulatory framework.

Mailbox Monopoly

Pros and Cons for the Continuation of the Mailbox Monopoly

The mailbox monopoly is a criminal law that prohibits anyone but the Postal Service from depositing mailable matter in a private mailbox. 18 U.S.C. § 1725. Several factors support the continuation of the mailbox monopoly. If the mailbox were open, letter carriers would have to sort outgoing stamped mail from everything else in the mailbox and deal with increased clutter, possibly forcing the carrier to seek an alternate delivery mode. If utility of the mail is decreased by clutter or security concerns, there may be greater electronic diversion. Crimes involving the mail may be more difficult to investigate and enforce. Security of the mail and identity theft may prove costly to patrons.

Other factors weigh in favor of removing the mailbox monopoly. Consumers typically pay for and own the mailbox, so placing it out of their control is counter-intuitive. The mailbox monopoly effectively extends the letter monopoly beyond the scope of the Private Express Statutes. The ability to use the mailbox for competitive products also affords the Postal Service a competitive advantage over other package and express delivery services.

Options for the Mailbox Monopoly

There are two options for the mailbox monopoly should Congress wish to revise it. First, a regulator could regulate access to the mailbox. Second, the owner of the mailbox could control access to the mailbox. A regulator determining access to the mailbox may allow for the best utilization of the asset by private delivery services while minimizing the costs borne by the Postal Service. Giving the mailbox owner control of access comports with notions of private ownership, but may impose transaction costs and administrative burdens which make such an option infeasible.

Recommendations for the Universal Service Obligation and the Postal Monopolies

Introduction

The Commission, by the terms of the PAEA, is to submit any recommendations it has for changes to universal service and the postal monopoly. See 39 U.S.C. 702(b)(1). This chapter discusses the Commission's recommendations.

Two years have passed since Congress enacted the PAEA. As a result, there has been a shift in the way the Postal Service operates, competes, is regulated, and provides universal postal service. During this shift, the Postal Service has experienced declining volumes and revenues, with a spike in fuel costs and the statutory adjustment that resulted in higher retiree health benefit payments. In addition to this steady decline in volume and revenue, the financial crisis in 2008 has exacerbated the drop in volume and revenue. Potential "do not mail" legislation in over a dozen states may provide another threat to mail volumes. Moving forward in a climate of great economic uncertainty, the Postal Service should continue to use the flexibilities provided by the PAEA to meet the needs of the population as it has through its history.

The Commission sought and received input on possible changes to universal service and the postal monopolies from the Postal Service, its employee organizations, users of the mail, entities engaged in the delivery business, other Federal agencies, and the general public. Those sources

indicated there was a demand for the current level of universal service and support for the postal monopolies. That input, however, was received prior to the severe financial market contraction in the summer of 2008. It must, therefore, be viewed in light of the ensuing market upheaval and precipitous drops in the Postal Service's mail volume and revenue.

Recommendations

The Commission has several recommendations, which have been explained in detail in previous chapters.

1. The Commission recommends that Congress consider and balance all the features of universal service as part of any review of changes necessary to preserve a financially viable Postal Service.
2. The Commission recommends that the Postal Service be directed to develop information on the probable impact on mail usage by large volume mailers in reaction to potential alternative changes in the seven features of universal service.
3. The Commission recommends that, before any decisions to adjust or eliminate universal service or the monopoly are made, the resulting impact on the societal benefits of a Federal postal service should be carefully assessed.

The remainder of this chapter will offer a brief definition of the current status of each aspect of the USO and postal monopolies, identify possible changes, and specifically identify Commission recommendations.

Universal Service Obligation

Form of the USO

The Postal Service is required to provide universal service by the current qualitative standards which include broad statutory language requiring it to “bind the Nation together,” subject to oversight from the Commission. Various elements of the USO are mandated by the PAEA, such as the price cap on market dominant products. Other elements are mandated in annual appropriations legislation; for example, 1983 delivery levels and prohibitions on using appropriated funds to close unprofitable post offices. The ability of the appropriations process to accommodate reforms made under the PAEA could be an issue Congress may wish to address.

Given the uncertainty facing the Postal Service, as well as the effectiveness with which it has operated under the current flexible USO, the Commission recommends that Congress consider balancing all aspects of universal service in the general law, rather than having some determined in the appropriations process.

Geographic Scope

The geographic scope of the USO is defined by title 39 sections 101(a), 101(b), 403(a), 403(b), 406, 407(a), 407(d), and 411. The Commission concludes that the geographic scope of the USO is throughout the United States, its territories, and possessions; to and from foreign regions pursuant to agreements with the United States military, United States agencies, and agreements relating to international postal services and international delivery services, subject to reasonable economic and efficiency limitations. The geographic scope of the USO for individual postal products can vary from

product to product so long as the reason for variation is based upon economic and efficiency limitations and is not unduly discriminatory.

No change to the geographic scope of the USO is recommended. The Postal Service has continually realigned the geographic scope of universal service to efficiently fit the evolving needs of senders and recipients of the mail, and it should be able to continue to refine the geographic scope of its services as patrons' needs evolve. Throughout the public participation process, ubiquity of the geographic scope of the USO was valued by all.

Range of Products

The products covered by the USO are described in title 39 sections 101(a), 403(a), and 403(b)(2). The Commission concludes that the range of products covered by the USO includes all mail matter. While all products are covered by the USO, the Postal Service has several mechanisms by which it may make needed adjustments in prices and service (especially for competitive products). The Postal Service may vary the level of service for individual products so long as the variance is not unduly discriminatory. The Postal Service may petition the Commission to allow it to cease offering any product (market dominant or competitive). Competitive products are subject to different price, quality, and service requirements. These different requirements allow the Postal Service to meet the needs of mailers of competitive products in a different manner than market dominant products.

The justification for the current policy of a governmental national service includes the concept that the Postal Service is a carrier of last resort. The ability of the Postal Service to set prices for competitive products ensures that there is no additional "USO cost" imposed for inclusion of competitive products, since the Postal Service may set the price high enough to cover costs. This construction

guarantees that the Postal Service remains a carrier of last resort for all mail matter in the event of market failure, but maintains the flexibility it requires to tailor its product offerings based on efficiency and needs of mailers.

The Commission suggests that if Congress determines that only market dominant products should be subject to the USO as the Postal Service advocates, Congress may wish to revisit the rationale for the Postal Service having sole access to the mailbox. As discussed further in the monopolies section, if private carriers are providing a portion of universal service as the only expedited service to some areas of the Nation, Congress may wish to allow those carriers access to the mailbox.

Access to Facilities

The USO's access obligation is described at 39 U.S.C. 101(b), 403(b)(3), and 404(d). Further restrictions on the closing of post offices are present in the annual appropriations acts. The Commission concludes that these provisions mandate that the Postal Service establish and maintain postal facilities such that patrons throughout the Nation will have reasonably convenient access to essential services, with several limitations on the closing or consolidation of any post offices. This approach gives the Postal Service considerable discretion to determine the type and location of postal facilities.

The Postal Service has used its flexibility to realign the placement of postal facilities to meet the needs of patrons as those needs change. The historic growth and decline in the number of post offices and collection boxes in favor of carrier delivery and collection at an individual's mailbox both demonstrate the continuing realignment of access to comport with the needs of patrons nationwide.

The language in the Postal Service appropriation acts prohibiting the use of appropriated funds to close small or rural post offices operating at a deficit limits the Postal Service from closing post offices. However, given that approximately 2,000 post offices have been closed since 1984, it is reasonable to assume that the Postal Service has closed many small or rural post offices in that group for reasons other than operation at a deficit. Congress may wish to consider fundamental matters like facilities allocation in the general law rather than in its appropriations capacity.

Delivery Mode and Frequency

The USO's delivery obligation is found in title 39 section 403(a), which requires the Postal Service to deliver mail. No legal obligation identifies a specific mode of delivery, so the Postal Service is free to determine the delivery mode as door delivery; curbside delivery; cluster box delivery; delivery to a roadside box; post office box delivery; or general delivery. Language in annual appropriations acts mandates that delivery continue "at the 1983 level." The intent of the appropriations language—to require 6-day delivery—is clear, but the extent of this obligation is subject to different interpretations.

The appropriations language could be subject to a number of interpretations, including requiring 6-day delivery in all areas which had it in 1983, or requiring the same percentage of recipients of 6-day delivery as in 1983. However it is interpreted, this language constrains one aspect of the USO, which may lead to an imbalance in other aspects of the USO since it prohibits the Postal Service from any cost or efficiency adjustments to this element. Full consideration of all relevant interests by Congress would allow for robust debate and political participation, and allow for the design of a systemic national postal policy which balances all elements of the USO.

Pricing

The USO's pricing obligations are outlined in title 39 U.S.C. 101, 403, 3622, and 3633. The Commission concludes that the pricing obligations of the USO include apportionment of costs to all users of the mail on a fair and equitable basis; imposition of fair and reasonable rates; and prohibition of undue discrimination or unreasonable preference among any users in classifications, rates, and fees. Several types of mail have unique pricing requirements including reduced or no charge rates; uniformity requirements; inbound international rate requirements; price caps; and other rate criteria. Pricing represents one of three specific USO aspects which are explicitly mandated by law.

The Postal Service has wide flexibility in pricing competitive products. This flexibility should continue, given that competitive products are subject to the USO mandate. The inflation-based rate cap for market dominant products has been operating for such a short time that its impact can not be assessed at this time. Should an exigent circumstance arise, the current law allows the Postal Service to breach the inflation rate cap with permission from the Commission. This procedure ensures that if the inflation-based rate cap is not adequate for the Postal Service in the short term, there is a remedy available which would give Congress due time to consider a change to the law. The rate cap constrains one aspect of the USO, and the effect of that constraint should be balanced against the other aspects of the USO.

Service Quality

A number of statutory sections of title 39 direct the Postal Service to provide quality postal services. Section 3691 requires the Postal Service to promulgate "modern service standards." Section 3661 mandates that the Postal

Service request an advisory opinion from the Commission when it seeks to change the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis. The Commission concludes that the USO requirement of service quality mandates the Postal Service request an advisory opinion when it seeks to change the quality of service on a nationwide or substantially nationwide basis.

In the public proceedings, the Commission noted broad public satisfaction with the quality of service currently provided by the Postal Service. The Postal Service, in consultation with the Commission, has been developing modern service standards. Given the brief interval of time between the enactment of the PAEA and the present, the modern service standards have not been fully implemented. More time is required to determine if the service standards promulgated under section 3691 are adequate to meet the needs of the Nation.

Enforcement of the USO

The USO's enforcement mechanisms are found in title 39 section 3662, which authorizes a complaint procedure before the Commission when interested parties believe the Postal Service is not operating in conformance with section 101(d), which covers apportionment of costs on a fair and equitable basis; section 401(2), which authorizes the Postal Service to adopt, amend, and repeal rules and regulations not inconsistent with title 39; section 403(c), which prohibits undue or unreasonable discrimination or preference among users of the mail; section 404(a), which prohibits the Postal Service from adopting any rule or regulation which gives itself an unfair competitive advantage; section 601, which relates to the letter monopoly; or title 39 requirements for rates and services.

At the present, the Commission's rules of practice and procedure limit complaints to matters which have a substantially nationwide scope. In an

ongoing rulemaking, the Commission has proposed establishing a two-track system for processing complaints. One track would exist for formal legal complaints, while another would exist for informal rate or service inquiries/disputes.

The current complaint system was strengthened in the PAEA. The Commission now has authority to impose remedies and otherwise enforce its findings in a complaint. This authority has not yet been fully developed. Further development in the Commission's complaint procedures will need to be implemented and evaluated before any changes to the enforcement mechanism of the USO should be evaluated.

Postal Monopolies

Current Letter Monopoly

The Postal Service monopoly gives the Postal Service the sole ability to carry most addressed, paper-based correspondence in the Nation. The PAEA gives the Commission authority to ensure the letter monopoly is implemented in a manner consistent with Congress' intent.

Under the current system, the monopoly is maintained to offset the costs placed on the Postal Service by the USO. Given the continuing drop in mail volume, broad support of the monopoly by stakeholders, and an uncertain economic climate, the Commission does not recommend any changes to the letter monopoly. As the postal industry evolves, this study and the contractor's work should provide valuable insight to policy considerations surrounding possible changes to the monopoly in the future. Future reports by the Commission will provide information not yet available, which may aid Congress in its determination of the future of the letter monopoly.

Current Mailbox Monopoly

The “mailbox rule” or mailbox monopoly gives the Postal Service the sole ability to deliver to and collect from mailboxes, as specified in the Domestic Mail Manual’s regulations governing access to the mailbox.

The Commission’s public proceedings evidenced a broad spectrum of support for the continuation of the mailbox monopoly. An unsecured mailbox could result in disadvantages for the Postal Service, including difficulty investigating mail fraud, maintaining security of the mail, and efficiently collecting mail from cluttered mailboxes. As such, the Commission does not recommend any changes to the mailbox rule.

If Congress were to decide that the Postal Service should not be obligated to provide all products universally (specifically competitive products for expedited delivery service), Congress may wish to consider whether the mailbox rule should continue. If the Postal Service will not offer expedited service of any kind, its basis for enjoying sole access to the mailbox is eroded.

Conclusion

The Postal Service has functioned effectively for the better part of two centuries and continues to fulfill its mission to provide universal service under a flexible USO supported by the monopolies. The Commission does not recommend that Congress increase the burden of the USO during a period when the Postal Service needs flexibility to adapt to a changing industry and economic climate.

Based on careful review of the current standards, historical development, public opinion, success with the current system, and regulatory experience, the Commission recommends that any changes to the USO or monopolies be

carefully balanced in light of the Postal Service's uncertain financial state. With the current economic and mail industry climate as a backdrop, the Postal Service requires the flexibility afforded by the postal monopolies and a flexible, qualitative USO.

This approach allows the Postal Service, historically and prospectively, to mold its network to pressures including shifts in population; growth and development of cities; improvement in the modes of transportation; popular demands for affordable non-commercial letter correspondence; demands for service to rural areas and villages; the growth in demand for package services; a growing need for expeditious commercial correspondence; changes in the modes of communication, including electronic diversion; precipitous drops in mail volume and revenue brought about by sudden changes in the financial markets; and initiatives like "do not mail" legislation.

Analysis of Public Comments

Introduction

To comply with the PAEA, the Postal Regulatory Commission undertook to consult with a wide range of Postal Service stakeholders to gather information for this report. See Pub. L. 109-435 § 702, 120 Stat. 3218 (2006). The Commission solicited comments and testimony from the Postal Service, other Federal agencies, users of the mail, enterprises in the private sector engaged in delivery of the mail, and the general public in regards to the Universal Service Obligation (USO) and Postal Service monopolies. To better reach out to stakeholders in other areas of the country, the Commission held regional hearings at Flagstaff, Arizona; St. Paul, Minnesota; Washington, D.C.; and Portsmouth, New Hampshire. The Commission also held an open workshop in Washington, D.C.

During the regional hearings and workshop, 54 individuals representing a wide range of organizations and associations testified before the Commission. The Commission also received 46 written comments and 15 reply comments from a variety of individuals and organizations. In all, 76 distinct organizations or members of the public commented or testified, including 13 United States Government agencies. See table of Statements and Comments at the conclusion of this Analysis for identification details of individuals and organizations commenting or testifying. As a matter of convenience, citations to these comments and testimony will identify the party, type of document and page. For example, Postal Service comments are cited as “Postal Service Comments at xx”; Lawrence James’ Statement is cited as “James Statement at xx”; and testimony from the Washington, D.C. field hearing will be cited as “Tr. Washington, D.C. Hearing at xx.”

A wide range of stakeholders took advantage of the opportunity to provide input to the Commission, including Postal Service employees, union organizations, mailers, businesses, Federal agencies, the general public, and industry associations. All offered valuable insight into the impact of the USO and Postal Service monopolies on their businesses and lives.

As noted in several of the reply comments, a broad consensus exists in the comments and testimony for the preservation of the status quo, while details of the most essential elements to preserve varied with the individual interest of the witness or organization. See NAPS Reply Comments at 1; UPS Reply Comments at 1; and DFS Reply Comments at 1. The focus of the testimony and comments varies depending on the party testifying or commenting. As an example, rural postmasters are very concerned with the widespread closing of rural retail outlets and their replacement with rural carriers or contract offices; therefore, they are focused on rural equality as an aspect of the USO. Commercial mailers are much more concerned with increased work sharing and universal rate availability; therefore, they comment on those aspects of universal service. Periodical publishers, nonprofits, and catalog/mail order entities are more sensitive to rate increases and frequency of delivery issues. The diversity of interest and opinion in the makeup of those commenting in writing or testifying at the field hearings and workshop greatly enhances the Commission's ability to understand the breadth of issues presented by its task and the widespread, and in some instances, otherwise unforeseeable impact of possible changes in universal service or the USO on Postal Service stakeholders.

Overall, most feedback stresses a continuing need for universal postal service and the USO. See PSA Reply Comments at 1; and APWU Comments at 5. Many express the continuing need for a flexible USO which allows the Postal Service to operate efficiently and respond effectively in a changing industry

environment. Most agree that the USO should be supported by both the Private Express Statutes and the Mailbox Monopoly (together, the “postal monopolies”). Also, the consensus is for the postal monopolies to remain unchanged. Several comments and some testimony indicate that the present is not the proper time to submit proposed fundamental changes to the USO or the postal monopolies, as only 2 years have passed since the introduction of the PAEA, and the postal industry and economy are in a state of turmoil and the Postal Service continues to see unprecedented losses in volumes and revenues. See Postal Service Reply Comments at 1-2.

Topic No. 1: Scope of “Universal Postal Service” and “Universal Service Obligation”

Most witnesses and organizations fail to differentiate between the concepts of the USO and “Universal Postal Service” (also referred to as “universal service”). The USO is the duty, imposed on the Postal Service by Congress, to provide a minimum level of postal services across the Nation. Universal Postal Service is the service the Postal Service provides on a nationwide basis. All commenters agree, however, that the Postal Service currently provides an acceptable level of universal service and most believe that this level of service should continue without significant change.

Those organizations and individuals that offer feedback on how best to define the scope of the USO are divided into those that favor a flexible definition and those that favor a rigid definition. The majority of the comments and testimony indicate mailers, recipients, the Postal Service, and other stakeholders do not believe a “hard and fast” definition of the USO, as exists in the EU, would be beneficial in the United States. Rather, they indicate flexibility is required to allow the Postal Service to continue to adapt as circumstances change. A few notable exceptions, however, indicate the USO should be clearly delineated and

prescribe an exact level of service required or at a minimum clearly define consumer expectations.

The majority of those testifying or commenting indicate that a flexible USO definition would be the best alternative. Many testifying or commenting, including David Stover (Greeting Card Association (GCA)); David Straus (American Business Media (ABM)); Senny Boone (DMA Nonprofit Federation (DMA)); Robert Brinkman (National League of Postmasters); Ted Keating (National Association of Postal Supervisors); Pitney Bowes Inc. (Pitney Bowes); Alliance of Independent Store Owners and Professionals and the Saturation Mailers Coalition (AISOP/SMC); Alliance of Nonprofit Mailers (ANM); and Steve Smith (Christian Science Publishing Society), indicate there is value in retaining flexibility in any definition of the USO so as not to tie the hands of the Postal Service. Tr. Washington, D.C. Workshop at 45, 47-48, 53 and 61; Tr. Washington, D.C. Hearing at 44-45; Pitney Bowes Comments at 2-3; AISOP/SMC Comments at 4; ANM Comments at 2; and Tr. Portsmouth Hearing at 90. Mail Order Association of America (MOAA) comments that the absence of precise USO parameters should not be changed, as developing challenges in the industry require flexibility. MOAA Comments at 1. Valassis Direct Mail, Inc. (Valassis) comments that the USO should give the Postal Service sufficient flexibility in the face of a changing economic and industry climate. Valassis Comments at 7. Those witnesses who advocate a flexible definition of the USO cite the Postal Service need for flexibility in a country with diversity in geography, population density, changing economic conditions, and individual dependence on the Postal Service as a means of communication or connection. They also recognize the need of the Postal Service to adapt in order to produce cost efficient service in a period of industry change.

Several of those testifying or commenting expressed a desire for a rigid definition of the USO. Those witnesses endorsing a rigid definition of the USO cite the need to uphold service standards for mailers or individuals and for economic policy considerations. Richard Geddes (Cornell University) states there should be a precise definition of the USO in order to clearly define the policy goal since it is the justification for both the letter and mailbox monopolies; there must be some concrete measurement as to whether that policy goal is met. Tr. Washington, D.C. Hearing at 87-88. Tom Underkoffler (Medco Health Solutions, Inc. (Medco)) states that a simple USO mandate is not sufficient to ensure universal service. Tr. Portsmouth Hearing at 36-37. Jamie Trowbridge (Yankee Publishing, Inc.) asks that there be clearly articulated service standards to allow service measurement and reporting as well as a method of redress if standards are not met. *Id.* at 17-18. Rita Cohen (Magazine Publishers of America (MPA)) contends that universal service is delivery to every residence, 6 days per week. Washington, D.C. Workshop at 46. Major Mailers Association (MMA) recommends the Postal Service develop and support its definition of the USO and then be held accountable to that definition. MMA Comments at 2. Parcel Shippers Association (PSA) advocates a base level of service guaranteed in the USO. PSA Comments at 2. The National Association of Presort Mailers (NAPM) comments that the USO definition should provide a floor or minimum service requirement. NAPM Comments at 1. It also indicates that the USO must be sufficiently defined to allow a determination as to whether the monopolies are sufficient to fund the USO. *Id.* at 2. Similarly, PSA advocates a statutory definition of “basic level of service” with flexibility above that floor. PSA Comments at 2.

Several of the witnesses and organizations testifying and commenting, including Don Rowley (*Arizona Daily Sun*); T. Scott Mitchell (MackayMitchell Envelope Company); Steve Smith (Christian Science Publishing Society); ANM;

and Federal Express (FedEx), expressly agree with the Commission's six factors delineating the scope of universal service and framing the discussion (geographic scope, range of products, access, delivery services, rates and affordability, and quality of service). Tr. Flagstaff Hearing at 31; Tr. St. Paul Hearing at 70; Tr. Portsmouth Hearing at 89-90; ANM Comments at 1; and FedEx Comments at 2. The General Services Administration (GSA) takes the concept one step further and indicates all six aspects of the USO definition are critical concerns for Federal agencies. GSA Comments at 1. Rather than address each factor or offer other relevant factors, most chose to focus on a particular aspect which was important to their industry or organization.

Many witnesses attempt to define the scope of universal service or the USO. William Young (National Association of Letter Carriers (NALC)) opines that the essential elements of the USO are the letter monopoly, the mailbox monopoly and 6-day delivery service. Tr. Washington, D.C. Hearing at 13. Charles Mapa (National League of Postmasters) indicates that universal service is defined by dependable mail service to every American, every day, everywhere, at a reasonably affordable rate, and sufficient access to the postal system (including a post office in each community). *Id.* at 207. William Burrus (American Postal Workers Union, AFL-CIO (APWU)), defines the function of the Postal Service as to provide services to bind the Nation together through the personal, educational, literary and business correspondence of the people, and by law to provide prompt, reliable and efficient services to patrons in all areas and services to all communities. *Id.* at 187. Ted Keating (National Association of Postal Supervisors) supports the continuation of universal service as "we have come to know it." *Id.* at 219. Murray Comarow urges the Commission to define universal service as "6-day delivery" and leave the Postal Service to adjust the definition as necessary. *Id.* at 234. Linda Sherry (Consumer Action) believes Congress gave a good definition of the USO as the "continued availability of affordable, universal

postal service throughout the United States.” *Id.* at 236. She also indicates that any proposed definition of the USO include an emphasis on the intrinsic value of the mail in consumer protection and civic functions. *Id.* at 237.

Similarly, Dale Goff (National Association of Postmasters of the United States (NAPUS)) indicates the USO should be viewed in its broader social and political context, not purely as an economic definition. *Id.* at 32. Jeanie Schnell (NAPUS) agrees that if the USO were defined in economic terms, it would result in the demise of many small communities. Tr. Portsmouth Hearing at 43. Jan Pritchard (The Flute Network) declares that universal service is the continuation of letter mail to every person at a reasonable and consistent price with 6-day delivery where possible. Pritchard Statement at 14. Dennis O’Neill (NAPUS) defines universal service as nondiscriminatory accessibility, price, and standards for postal services. O’Neill Statement at 4. Similarly, retired Postmaster Lyle Puppe (NAPUS) states that universal service includes nondiscriminatory treatment to those communities that need a post office most. Puppe Statement at 4.

Likewise, many organizations also attempt to assign a definition to universal service or the USO. AISOP/SMC comment that universal service is sender-supported delivery service that reaches all American homes and businesses on a regular basis at affordable rate and preparation costs. AISOP/SMC Comments at 3. Valassis comments that the Commission should acknowledge universal service as it has come to exist, encompassing delivery 6 days per week to all areas and populations, and as a sender supported business model that provides free delivery to the recipient. Giuliano Statement at 6. The National Newspaper Association (NNA) comments that universal service means “everyone, everywhere, should get the same level of service for the same cost.” NNA Comments at 9. Finally, the Postal Service, closely tracking

statutory language, defines the USO as its requirement to provide access to services and facilities even when not economical; provide quality and efficient services by providing prompt and reliable services; provide services to all communities to “bind the Nation together” as nearly as practicable; provide services at fair and reasonable rates and not unduly discriminate against mail users; and offer a range of products that meet the needs of different mail users including one or more classes of mail sealed against inspection. Postal Service Comments at 1-3. ANM indicates that universal service is defined by public expectations. ANM Comments at 2.

Similarly, the U.S. Department of Housing and Urban Development (HUD) comments that in light of the PAEA changes, there is a need for an evaluation of the needs and expectations of the public. HUD Comments at 1. Charles Mapa (National League of Postmasters) states the USO means “providing dependable mail service to every American resident every day, everywhere at a reasonably affordable rate, as well as providing sufficient access to the postal system for rural residents.” Tr. Washington, D.C. Hearing at 39. He opines that sufficient access necessarily entails a post office in rural locations. *Id.* Don Rowley (*Arizona Daily Sun*) testifies that the definition of USO should be one of delivery which is reliable and predictable, and allows access by mailers to the same rates and facilities. Tr. Flagstaff Hearing at 9. Other than frequency of delivery, no comments or testimony champion a quantitative definition of universal service (*e.g.*, distance or population requirements for post offices).

Comments and testimony are mixed as to how universal service must be provided. GCA comments that universal service must be provided by the government, not private carriers or a combination of carriers. GCA Comments at 3. NALC agrees that the government can not compel private carriers to assist in providing universal service. NALC Comments at 5. FedEx offers an alternative

viewpoint, that gaps in the provision of universal service can be imposed, by legal obligation, on a provider or group of providers. FedEx Comments at 3. Richard Geddes (Cornell University) indicates universal service could be provided by private carriers in a situation where each would bid for the lowest subsidiary necessary to provide universal service. Geddes Comments at 4. Most agree, however, that the Postal Service should continue to provide universal service at its current level.

Comments and testimony regarding the scope of universal service and the USO vary as to method employed to create a definition and the definition of each. Most, however, express an opinion that it is not time to “rock the boat” with radical changes to universal service or the USO.

Topic No. 2: Historical Development of Universal Service, the USO, and Monopoly Laws

The development of the USO and monopoly was not a contentious issue in testimony and comment. Several comments and some testimony include statements about the monopoly existing to protect revenue given the detriment imposed by the USO.

The Postal Service points to the development of universal service as a progressive concept, derived from the Constitutional text providing “all Duties, Imposts and Excises shall be uniform through the United States.” (Footnote omitted.) Postal Service Comments at 11. The Postal Service comments that universal service developed as Congress legislated and the geographic network expanded, pricing was controlled, and free home delivery was offered. *Id.* Similarly, NALC points to the Postal Service’s Constitutional underpinning as a service to the people. NALC Comments at 6. The Postal Service examines the

statutory development of the monopolies through the Private Express statutes and the mailbox rule. Postal Service Comments at 11-14.

Several comments address the policies which formed a foundation for the Postal Service, including the free exchange of ideas and the sanctity of the political press. See NNA Comments at 3; MPA Comments at 3; and GCA Comments at 14-15. Other comments from MPA and NNA reference the link between publishers of newspapers or printed material to the Postal Service since colonial times. MPA Comments at 3; and NNA Comments at 3. They note that facilitation of the distribution of the printed word is a fundamental justification for the formation of a government-sponsored postal system. *Id.*

In all, comments and testimony that touch on the development of the USO and postal monopolies agree, while each focuses on a different aspect of the development. Most testifying or commenting on any aspect of the historical development of the USO or the postal monopolies reference the amorphous spirit of the foundation of the law to advance a particular aspect of the USO of interest to their industry.

Topic No. 3: Universal Service: Geographic Scope

The response to a proposed geographic scope of universal service is that it should entail every location in the country. See *The Nation*/MPPACE Comments at 2; MPA Comments at 4; and Postal Service Comments at 17-18. Several postmasters, rural carriers, and area managers for the Postal Service cite examples of service to remote communities: accessible only by boat or hovercraft, where the Postal Service is the only carrier which delivers to the home or local post office; where nearly all incoming goods (including financial services and instruments) are provided at the local post office; where the only route to the area is through a foreign nation; and where the only service is by

mule train winding down into the Grand Canyon. Many also peg the geographic scope of universal service as its most critical feature.

The overwhelming response from stakeholders is for the Commission not to recommend any changes in the geographic scope of universal service currently offered by the Postal Service. Stephanie Lerdahl (rural letter carrier) suggests the system works and not to adjust it. Tr. Flagstaff Hearing at 22. Jan Pritchard (The Flute Network) wants the Commission to be very clear with the consequences if there are any recommended changes to universal service. *Id.* at 66, 71-72. Matthew Panos (Food for the Hungry) testifies there is a need for the current level of service. *Id.* at 75. George White (Up With Paper) states the USO especially includes those in rural and low income areas where it would not be profitable to offer service. Tr. St. Paul Hearing at 16. David Straus (ABM) and David Todd (MOAA) offer that mailers on the whole seem to be satisfied with the current level of service. Tr. Washington, D.C. Workshop at 14 and 16.

GSA writes that it is not aware of any areas currently not receiving universal service and the United States Department of Agriculture (USDA) is pleased with the geographic scope of universal service as it stands. GSA Comments at 1; and USDA Comments at 1. The Department of Defense comments that the Postal Service successfully partners with the Military Postal Service Agency (MPSA) to provide an integrated network to transport and distribute military mail overseas. It requests that the Postal Service continue to consult with the MPSA on strategic and operational planning which may affect military mail operations. DOD Comments at 1.

Several mailing groups and nonprofits encourage the Commission to view the geographic scope of universal service from the senders' perspective. Direct Communications Group urges the Commission to define universal service by the

needs of senders of each class of product. Direct Communications Group Comments at 27-28. ANM states that universal reach is of paramount importance to nonprofit organizations. ANM Comments at 2. Similarly, MPA indicates that ubiquity of service is critical to magazine publishers. MPA Comments at 4.

Several postmasters testifying or commenting indicate that geographic scope of the USO must entail a post office in rural communities. Dennis O'Neill (NAPUS) indicates there is a dependence on the rural post office by the community for access to post office boxes and other services. Tr. St. Paul Hearing at 30. But others indicate that remote location service might have to be modified at some time in the future to control costs. MMA Comments at 2.

The consensus definition is that universal service must reach every citizen. The only disagreement as to geographic scope is the level of service at each location. Several comments support a flexible service standard for harder to serve communities. See Valassis Comments at 6; Postal Service Comments at 18; and NPPC/FSR Comments at 4-5. Others comment that service must be uniform without qualification. See ANM Comments at 2; MPA Comments at 4; NALC Comments at 7; and USDA Comments at 1.

Topic No. 4: Universal Service: Range of Product Offerings

Witnesses who testified and organizations that commented vary in opinion across the board on which products should be subject to the USO. Nearly all are in agreement that current market dominant products should be included in the USO, while several promote the additional coverage of competitive products. Few witnesses or organizations undertake to define the entire range of products the Postal Service should offer as part of universal service. Rather, they focus on a product or range of products important to each industry.

Those that attempt to define the entire range of products offered, like FedEx, generally think universal service should cover basic affordable services that are common and necessary. FedEx Comments at 5. FedEx comments that the only classes of mail which should be covered by the USO would be single-piece or “social” mail. *Id.* at 4. NPPC/FSR comment that all market dominant products should be included in the USO. NPPC/FSR Comments at 5. The Postal Service agrees, stating that the USO was limited to market dominant products, otherwise there would need to be a re-evaluation of whether a competitive product is truly competitive. Postal Service Comments at 18-20.

Publishers and business mailers advocate a USO which would continue to include Standard Mail, bound printed matter, and publications. Don Rowley (*Arizona Daily Sun*); Arthur Sackler (NPPC); Jamie Trowbridge (Yankee Publishing, Inc.); and Tom Underkoffler (Medco) all specifically indicate that Standard Mail, periodicals or other “broad spectrum size and weight” categories should be covered by the USO. Tr. Flagstaff Hearing at 10; Tr. Washington, D.C. Workshop at 70-71; and Tr. Portsmouth Hearing at 16-17 and 38. ANM indicates that universal service should be offered for the nonprofit subclasses of standard and Periodicals mail. ANM Comments at 3. Similarly, NNA believes that newspapers are an integral part of the USO. NNA Comments at 8-10. John Joachim (Hazelden Foundation) and Pierce Myers (PSA) both impress the need for a parcel or package product which is covered by the USO. Tr. St. Paul Hearing at 50-51; and Tr. Washington, D.C. Workshop at 56. Government agencies like the GSA indicate that some correspondence is required by law to be sent using Registered Mail and that agencies use First-Class Mail in a majority of instances; therefore, First-Class and Registered Mail should continue to be offered as universal services. GSA Comments at 2. The United States Department of State (Department of State) asks that the report address which

international mail products would be covered under the USO. Department of State Comments at 4.

Robert Brinkman (Discover Financial Services (DFS)) offers the opinion that if the network remains universal, the Commission should avoid pegging individual products to the USO. Tr. Washington, D.C. Workshop at 72. He believes the market will account for individual products, which will give the Postal Service the flexibility it desires in meeting the needs of a diverse consumer base. *Id.* Similarly, MOAA believes market changes may force changes in the services offered universally and that flexibility should not be hampered. MOAA Comments at 3.

Postal union and management organization Presidents William Young (NALC), Dale Goff (NAPUS), and William Burrus (APWU) opine that the USO should cover market dominant and competitive products equally. NALC Comments at 8; and Tr. Washington, D.C. Hearing at 83. Jody Berenblatt (Bank of America) articulates that universal service should definitely cover market dominant products and that it may also be a selling point for competitive products. Tr. Portsmouth Hearing at 83-84. FedEx indicates that universal service should not include expedited services as they are a “value added service.” FedEx Comments at 5. PSA comments that both market dominant and competitive products should be included in the range of product offerings. PSA Comments at 2-3. NALC agrees that the Commission should avoid the temptation to “unbundle” services making some subject to the USO while excluding others. NALC Comments at 8. Linda Sherry (Consumer Action) testifies that the USO should provide adequate coverage of single-piece, parcel post, media mail, and flats. Sherry Statement at 2.

Comments and testimony indicate a general desire for the current market dominant products to remain subject to the USO. Several individuals and organizations express a wish to have their product of choice included; a few others state that products should not be unbundled and should all be subject to the USO. The consensus is that since the Postal Service has, to the present, offered acceptable product offerings on a universal basis, the Commission should not recommend changes as to the scope of products offered under the USO.

Topic No. 5: Universal Service: Access to Postal Facilities and Services

Access to Postal Service facilities and services received a broad range of comment and testimony. Mailers want access to the facility that gives them the best rates and service. Rural carriers and postmasters are concerned with access of rural communities to delivery and retail facilities. One rural postmaster states the access to services as it currently stands in rural areas does not meet universal service. See Goff Statement at 5. Charles Mapa (NAPUS) defines the USO so as to mandate a post office in rural communities. Mapa Statement at 3. The APWU indicates that from an individual's perspective, access to the mailbox and retail services are critical issues. APWU Comments at 3. David Popkin comments that access to facilities should also include the availability of blue collection boxes. Popkin Comments at 2. Cameron Powell (Earth Class Mail) defines access well beyond the logistics of receiving paper and encourages the Postal Service to seek alternate ways of providing service (such as his company's electronic mailbox management system). Tr. Flagstaff Hearing at 79.

As part of a common theme, many comments and much testimony indicate the need for the Postal Service to maintain flexibility in how it provides access. DMA/PostCom/MFSA comment that all Americans should have reasonable access, but the Postal Service should retain the flexibility on the

details of providing that access. DMA/PostCom/MFSA Comments at 9-10. MOAA comments that local post offices are important to communities, but flexibility should be preserved if it proves necessary to close a post office. MOAA Comments at 4. Similarly, MPA comments that the Postal Service should be given flexibility to realign its mail processing network given that consumers have greater alternative access to services without going to a post office. MPA Comments at 5. The Postal Service opposes any further restrictions on its location decisions which might impact its ability to respond to changing economic conditions. Postal Service Comments at 20-23. The Postal Service notes, however, that while the absolute number of retail facilities has fallen, it has improved access to postal services and facilities through relocations and a mix of alternative service. *Id.*

Opinions are mixed on whether contract stations, rural routes, or alternative access to services are an adequate form of access to retail services. Murray Comarow supports the greater use of contract postal units. Comarow Comments at 7. NAPM comments that contract post offices may be as good or better than a stand-alone post office for the provision of service. NAPM Comments at 4. NPPC/FSR state that while access to services appears to be at a good level, the Postal Service probably operates far more retail facilities than is necessary or economical. NPPC/FSR Comments at 5. Dennis O'Neill (NAPUS) offers an alternative view and emphasizes that there is a dependence on the rural post office by the community. O'Neill Statement at 3. Charles Mapa (National League of Postmasters) and Dale Goff (NAPUS) indicate that a contract station is no substitute for a post office. Tr. Washington, D.C. Hearing at 80-83. Jody Berenblatt (Bank of America) states that access to services is at an acceptable level, while the number of retail facilities is excessive and should be pruned. Berenblatt Statement at 6. Many reference the growth and continued need for alternative access beyond the traditional means. See Comarow

Statement at 7; MMA Comments at 3; NPPC/FSR Comments at 5-6; and Shea Comments at 2.

Overall, most comments and testimony indicate a continued need for the current level of access to postal facilities and services. Many encourage the Postal Service to develop alternative access beyond the brick and mortar post office. Rural postmasters and union representatives are concerned with maintaining traditional post offices in rural areas. The Postal Service does not desire any further encumbrance (in the form of a requirement for access) which might limit its flexibility to determine access locations.

Topic No. 6: Universal Service: Frequency of Delivery

Witness testimony and organization comments are in favor of maintaining 6-day delivery as the current standard. Several acknowledge, however, the impractical result which might occur if there was a 6-day standard mandated by the USO. Letter carriers, postmasters, and union representatives indicate that any deviation from the 6-day standard would be undesirable. Mailers of publications and Standard Mail are especially sensitive to any deviation from the current 6-day standard. Many commenting or testifying, however, indicate that the Postal Service should remain free to respond to economic pressure with regards to delivery frequency if a reduction becomes a necessity.

Those witnesses and organizations that allow for the possibility of a reduction in frequency from the 6-day delivery standard do so with many caveats. Witnesses including David Todd (MOAA); George Gould; Bruce Moyer (National Association of Postal Supervisors); and Jody Berenblatt (Bank of America) want to see careful analysis of all the potential cost savings, as well as costs incurred, if there is to be any recommendation to leave the 6-day standard. Washington, D.C. Workshop at 16-17, 22-24 and 47-48; and Tr. Portsmouth Hearing at 83.

Murray Comarow comments that 6-day delivery should be continued, but the Postal Service should be allowed to deviate for compelling reasons. Comarow Comments at 3. DMA/PostCom/MFSA only allow for the possibility of reduction if a strong case can be made for savings. DMA/PostCom/MFSA Comments at 10-11. ABM supports the continuation of the 6-day standard, but if circumstances change, then mailers' needs must be considered before determining if that standard can be changed. ABM Comments at 6-7. AISOP/SMC express their wish for the 6-day standard to continue, but believe the Postal Service should have flexibility to adjust to contain costs and maintain affordability. AISOP/SMC Comments at 4.

The General Services Administration indicates that if savings can be demonstrated from a reduction, Federal agencies and citizens can probably adjust if Saturday delivery remains and the time "to" delivery standard can remain the same. GSA Comments at 2. MOAA indicates the 6-day standard is ideal, but a trade off for a price reduction might be acceptable. MOAA Comments at 2. Valpak comments that if a reduction in 1 day of delivery service is necessary to maintain fair and reasonable rates for the future, it would be justifiable. Valpak Comments at 2. Valassis indicates that while it greatly favors the 6-day delivery standard, it should not be mandatory so the Postal Service can have flexibility if financial circumstances change. Valassis Comments at 9. Time Warner Inc. (Time Warner) supports the 6-day standard as a necessary feature of the magazine publishing business, but believes the Postal Service should have the flexibility to reduce frequency where mail volume does not justify the cost of delivery. Time Warner Comments at 3. ANM states that 6-day delivery gives great value to nonprofit organizations and should continue, but the Commission should not recommend it as a requirement of universal service so as not to tie the Postal Service's hands unduly. ANM Comments at 4. Finally, the Postal Service indicates it is loathe to reduce delivery frequency and would only do so

after weighing customer needs, costs, and other factors. Postal Service Comments at 27.

Other witnesses and organizations are outright opposed to any change in delivery frequency from the 6-day service standard. Condé Nast Publications (Condé Nast) comments that any deviation from the 6-day standards would hurt the viability of publications. Condé Nast Comments at 2. DFS comments that there is no reason the 6-day standard should cease. DFS Comments at 9. MMA asserts that even if delivery frequency were reduced, many mailers would need the current levels of pickup and acceptance. MMA Comments at 3. MPA comments that 6-day delivery is essential for periodicals, and the costs avoided if there is a reduction in delivery days would not justify the inconvenience. MPA Comments at 6. Linda Sherry (Consumer Action) testifies that 6-day delivery should continue. Sherry Statement at 5. NALC comments that its members would lose 35,000 jobs if there was a reduction from 6-day service and any such decision should be left to Congress. NALC Comments at 8-9. Further, NALC states that the ability to reach every citizen and business every day helps create “strong national markets and serves to bind all Americans culturally and politically.” *Id.* The Social Security Administration (SSA) indicates that a reduction in 6-day delivery could delay receipt of benefits for pensioners. SSA Comments at 1.

The majority of the comments and testimony express a desire for the 6-day delivery standard to continue. Comments and testimony from the periodical/print media industry and postal service unions express extreme displeasure with any reduction in the frequency of delivery. Many also opine that the Postal Service should retain flexibility to determine any future deviation or reduction in the standard if it was economically necessary. Those which allow for

a possible service reduction are not, however, in agreement on how that reduction would take form.

Topic No. 7: Universal Service Obligation: Rates and Affordability of Service

Most participants in the field hearings indicate their sensitivity to rate increases and need for affordability, but are otherwise silent as to rates as they pertain to the USO. Several, including John Joachim (Hazelden Foundation) indicate that rates must continue to climb no faster than the Consumer Price Index (CPI), as currently provided. Tr. St. Paul Hearing at 22. Vicki Updike (Miles Kimball Company) indicates the catalog industry is especially sensitive to the most recent rate increases and as a result has seen several businesses fold or cease cataloging operations. *Id.* at 57-60. Updike's solution is to encourage the Postal Service to take steps to reduce its "massive" fixed cost. *Id.* at 63. Similarly, Jamie Trowbridge (Yankee Publishing, Inc.) testifies that the periodical industry is extraordinarily cost sensitive to postal rates and needs a "reliable and affordable" Postal Service to survive. Tr. Portsmouth Hearing at 14-16. Several witnesses, including George White (Up With Paper) and T. Scott Mitchell (MackayMitchell Envelope Company) call for nondiscriminatory rates for varying classes of mail. Tr. St. Paul Hearing at 47 and 73.

Mary McCormack (MMA) indicates since larger mailers are required to do more worksharing and circumvent more obstacles to put their pieces into the system, electronic diversion will only increase. Tr. Washington, D.C. Workshop at 57-58. Bob Woodheim (Mailers Council) ties rates and affordability directly into the accessibility of the Postal Service, indicating that affordability is the major component of accessibility. Tr. Washington, D.C. Workshop at 85. David Straus (ABM) offers that while "fair and equitable apportionment of cost" may be an element of rulemaking, it certainly should not be an element of the USO or

universal service. *Id.* at 87. Elisabeth Robert (The Vermont Teddy Bear Company) offers that the Postal Service is on the whole not competitive on the basis of rate alone on packages, but with better pricing, trackability, and local area volume handling, could easily be competitive. Tr. Portsmouth Hearing at 28-29. T. Scott Mitchell (MackayMitchell Envelope Company) offers that those products used by citizens to accomplish transactions related to government or social responsibilities should be covered by some mechanism that keeps prices below inflation. Mitchell Statement at 10.

The written comments focus on rates and affordability as essential aspects of universal service. Predictably, most businesses, trade organizations and associations express sensitivity to rate increases. Many, including AISOP/SMC, MPA, ABM, and ANM express high sensitivity to rate increases, with several predictions of increased diversion to another delivery medium or cessation of services in general if rates continue to climb quickly. AISOP/SMC Comments at 4; MPA Comments at 7; ABM Comments at 5-6; and ANM Comments at 4.

Comments are mixed on the use of the CPI as a cap to rate increases every year. Several comments indicate the CPI might not offer enough flexibility to allow the Postal Service to set rates which would preserve its function. GSA recognizes that the CPI cap might not be viable over the long term. GSA Comments at 2. MMA expresses concern that the CPI increases would not sustain the Postal Service. MMA Comments at 4. The Postal Service indicates that perhaps in the future the pricing mechanism (CPI cap) would be different for single-piece products versus bulk products. Postal Service Comments at 29. The Department of Housing and Urban Development indicates that if rates were to increase in greater increments, but less frequently, there would be fewer consumer complaints. HUD Comments at 2.

Several comments stress the importance of maintaining universal, affordable rates to avoid losses in volume. See AISOP/SMC Comments at 4; ABM Comments at 5-6; GCA Comments at 6; MOAA Comments at 5; MPA Comments at 7; NALC Comments at 10; and *The Nation*/MPPACE Comments at 1. Several comments express a desire to revisit the change in rate apportionment that occurred between 2006 and 2007. See ABM Comments at 5-6. The Postal Service expresses its reliance on the postal monopolies to subsidize affordable, universal rates. Postal Service Comments at 28.

Across all comment and testimony, there exists satisfaction with the current rate structure (with the notable exceptions of the periodical and catalog mailers). The current rate increase cap is generally viewed positively, with several doubts about the viability of the CPI cap in the face of declining mail volumes and revenues. There is widespread support for the continuation of uniform rates across geographic areas, and several mailers call for equal access to competitive rates.

Topic No. 8: Universal Service: Quality of Service

Nearly every witness offering an opinion as to the “quality of service” that would meet the USO indicate that the current level of universal service is acceptable. Stephanie Lerdahl (rural letter carrier); Matthew Panos (Food for the Hungry); David Straus (ABM); Jamie Trowbridge (Yankee Publishing Company); and Ted Keating (National Association of Postal Supervisors) all indicate the current quality of service needs to continue. Tr. Flagstaff Hearing at 21-23 and 75; Tr. Washington, D.C. Workshop at 14; Tr. Portsmouth Hearing at 17-18; and Tr. Washington, D.C. Hearing at 219. Organizations including the EPA, GSA, MPA, and SSA all indicate satisfaction with the current level of service provided by the Postal Service. EPA Comments at 1; GSA Comments at 2; MPA Comments at 8; and SSA Comments at 1. James Martin (60 Plus Association)

states that timely, reliable quality of service is extremely important to seniors. Martin Statement at 1.

ABM recalls that mailers must pay for the level of service that mail recipients claim to find necessary. ABM Comments at 4. ABM, therefore, believes the Commission should not lock the Postal Service into quality standards which changing conditions might render impracticable. *Id.* Several comments give specific instances where the quality of service offered by the Postal Service should improve. Murray Comarow indicates window service needs to be faster and nicer. Comarow Comments at 5. John Shirrell comments that window service is of an inadequate quality, while options to alleviate such problems like the automated postal centers have been removed further exacerbating window service problems. Shirrell Comments at 2. Valpak indicates that reductions in service to contain costs should not come bundled with degradation of service performance or quality. Valpak Comments at 12.

Many comments focus on the lack of an adequate measurement system to determine if the Postal Service is providing quality service. DMA/PostCom/MFSA comment that measurement of performance is a critical aspect of providing quality universal service. DMA/PostCom/MFSA Comments at 11-12. MMA indicates that the quality standards for the Postal Service are unpublished and unknown, making the Postal Service unaccountable for any level of quality service. MMA Comments at 4. MPA supports requiring the Postal Service to establish clear service standards and measurement systems. MPA Comments at 8. Pitney Bowes advocates the creation of a clear quality standard with performance measurement. Pitney Bowes Comments at 9-10. NALC supports a standard which would give a maximum walking distance to a post box to ensure some measure of equality of service. NALC Comments at 12. The Postal Service advocates the measurement of service quality based on a

service standard achievement measurement system it would establish in consultation with the Commission. Postal Service Comments at 30. The Postal Service also desires to maintain discretion in the type of service each customer receives, as long as it comports with the expressed service standard. *Id.* at 30-33.

The consensus is there is not an identifiable deficiency in the quality of service offered by the Postal Service. NAPM, however, indicates that perhaps the Commission should also identify communities which receive excessive service. NAPM Comments at 2. Most of the comments and testimony give positive feedback on the quality of service presently offered by the Postal Service and indicate a reluctance to suggest changes.

Topic No. 9: Methods of Calculating the Cost of Universal Service Obligation and Postal and Mailbox Monopolies

Comments and testimony relating to the methods of calculating the cost of the USO and postal monopolies focus on two issues: the uncertainty of placing a cost on an intangible idea, and the framework in which the cost is constructed. Several comments question the validity of any “cost” data that could be obtained and what use that data might have. Other comments debate the model which could be used to estimate costs of the USO or monopolies.

DMA/PostCom/MFSA indicate that attempts to quantify the costs of the USO or a monopoly are at best hypothetical and possibly misleading. DMA/PostCom/MFSA Comments at 12. MOAA expresses concern that the issue could be answered with a degree of precision which would be useful. MOAA Comments at 5. GCA warns against the assumption that the Postal Service is an efficient system when attempting to calculate the cost of the USO. GCA Comments at 22-23. Similarly, NALC cautions against any sort of aggregation of

cost from smaller communities' recruitment of a lowest cost carrier due to intangible costs like high turnover, recruitment costs, service interruptions and bankruptcies. NALC Comments at 12. Given the complex and fluid definition of the USO, it seems many organizations are unwilling to attempt to place a value or cost on its provision. Several entities, however, attempt to describe methods to place a value on the USO and mailbox monopoly.

Richard Geddes encourages the use of a "bottom up" approach to calculate the USO cost, where one constructs basic features of mail service that customers would desire and pay for, and set that as the cost of the USO. Geddes Comments at 1. NAPM defines the cost of the USO as the costs the Postal Service would avoid if the USO mandate is removed. NAPM Comments at 5.

The Postal Service would measure the costs of the USO as the cost of providing services subject to the USO less the cost of providing services in a liberalized environment. Postal Service Comments at 33. The Postal Service cautions against other models of avoided cost and entry pricing as the models do not account for the Postal Service's continued operations in a liberalized environment or the Postal Service's change in business practices without a USO mandate. *Id.* at 32-33.

The vast majority of organizations and individuals commenting or testifying indicate an extreme reluctance to relax the mailbox monopoly in any fashion. See ABM Comments at 9; ANM Comments at 7; Condé Nast Comments at 1; DFS Comments at 10; NALC Comments at 9; NAPM Comments at 6; NPPC/FSR Comments at 11; Time Warner Comments at 7; USDA Comments at 8; Valpak Comments at 5-6; and Postal Service Comments at 9. The rationales justifying the reluctance to lift the mailbox monopoly include protection of

revenues, security and sanctity of the mail, and better efficiency from avoiding overcrowding or sorting. Several publishing organizations support a limited relaxation of the mailbox monopoly if the Postal Service reduces service to a degree that would hamper the ongoing viability of daily publications. See NNA Comments at 17-19. James Martin (60 Plus Association) asks why the prohibition of use of the mailbox for local notices could not be lifted. Martin Statement at 2.

Similarly, the majority of comments and testimony indicate a continuation of the letter monopoly to protect revenues and prevent cream skimming of profitable routes. See ANM Comments at 6; MPA Comments at 9; NPPC/FSR Comments at 10; Time Warner Comments at 7; and Valpak Comments at 11. One comment expresses that the postal monopolies should be liberalized. See Geddes Comments at 2-6. Another comment indicates that the letter monopoly was essentially abolished with the amount of electronic diversion and alternative means of communication. See NAPM Comments at 5-6.

Overall, a consensus does not exist on the method or utility of assigning a cost to the USO and postal monopolies. The Postal Service expresses an adamant belief that the “profitability” method is the sole realistic method to place a cost on the USO. Multiple organizations and individuals take this topic as the opportunity to express their desire that the postal monopolies remain intact and unchanged.

Topic No. 10: The Implications of the Universal Service Obligation for the Postal Monopoly

Comments vary greatly in topic and opinion for the implications of the USO for the postal monopoly. Under the topic, most testifying or commenting

indicate there should not be a change (especially elimination) to the postal monopoly.

FedEx indicates the basic implication of the USO for the postal monopolies is that the postal monopolies should be no more extensive than is necessary to fund universal service. FedEx Comments at 9. Pitney Bowes argues that the postal monopolies promote the public policy goals attached to the USO. Pitney Bowes Comments at 12. T. Scott Mitchell (MackayMitchell Envelope Company) offers that the Postal Service should be able to prescribe regulations governing the mailbox, but the Commission should retain a right to review those regulations. Mitchell Statement at 11.

The Postal Service reiterates its position that the Commission has limited authority to affect the letter monopoly and no authority to interpret the mailbox monopoly. Postal Service Comments at 37-40. The Postal Service also indicates that the postal monopolies remain even if the Commission transfers many products from market dominant to competitive. *Id.* at 37-40. Lawrence James (Postal Service) opines that the Postal Service's ability to fund its USO is provided in large part by the postal monopolies. James Statement at 3. Similarly, Michael Larson (Postal Service) states that the postal monopolies help to provide the funding necessary to carry out the USO and bind the Nation together. Larson Statement at 3.

The consensus on the implications of the USO for the postal monopolies is that the monopolies, as they serve to fund the USO, should not be disturbed.

Topic No. 11: Universal Service, the Universal Service Obligation, and the Postal Monopoly in Other Countries

Most comments and testimony indicate a reluctance to utilize other countries as a comparative tool for the USO or postal monopolies. Several testifying or commenting, including Stephanie Lerdahl (rural letter carrier); T. Scott Mitchell (MackayMitchell Envelope Company); William H. Young (NALC); Steve Smith (Christian Science Publishing Society); William Burrus (APWU); NALC; and DMA/PostCom/MFSA specifically caution the Commission to avoid using a rigid “European model” approach when defining the USO due to the differing circumstances in the United States. Tr. Flagstaff Hearing at 19; Tr. St. Paul Hearing at 65; Tr. Washington, D.C. Hearing at 10; Tr. Portsmouth Hearing at 90-91; Tr. Washington, D.C. Hearing at 22-23; NALC Reply Comments at 2; and DMA/PostCom/MFSA Comments at 4. Don Cantriel (NRLCA) urges caution in any comparison as the United States is not comparable to the EU or developing countries in terms of volume, geography, affordability, labor disputes, revenue, and delivery frequency. Cantriel Statement at 2.

Reaction is mixed as to the result of liberalization in other countries. Many comments indicate that benefits from liberalization have not been realized elsewhere and should therefore not be adopted in the United States. See ABM Comments at 10; Comarow Comments at 2; EPA Comments at 2; NALC Comments at 2-4; and Postal Service Comments at 41-42. Geddes comments on the experiences in New Zealand and Sweden, which support unrestricted competition in the postal industry. Geddes Comments at 6-7.

With few exceptions, the consensus is not to look to European or other foreign models to form a basis for any changes to the USO or postal monopolies in the United States due to different circumstance. Most comments express a

view that gains from liberalization in Europe and elsewhere were by and large illusory and when realized, only realized by the large commercial mailers.

Topic No. 12: Other Issues

Many of those testifying or commenting urge the Commission not to lose sight of the social benefits offered by the Postal Service which can not be quantified, but provide a positive impact on the daily lives of many customers. The Public Representative indicates that the value of social services provided by the Postal Service, including keeping an eye on neighborhoods and distributing antibiotics during a bioterrorist attack, should be considered. Public Representative Comments at 1-2. Similarly, Jeanie Schnell (postmaster) cautions the Commission not to define universal service in solely economic terms, but to examine the social impact. Tr. Portsmouth Hearing at 39.

Examples abound of the Postal Service's ability to confer social benefits on its customers. One comment indicates that in the wake of Hurricane Katrina, the Postal Service was one of the only reliable systems in the area. Giuliano Statement at 5. The Postal Service offers a unique ability to connect every citizen and shares credit for the rescue of 144 missing children through the "Have You Seen Me?" mail program. *Id.* at 3. Matthew Panos (Food for the Hungry) states that letter carriers periodically collect food donations on their routes and are a lifeline for the housebound elderly or infirm. Tr. Flagstaff Hearing at 75-76. John Joachim recalls that in the town of Hugo, the day after it was devastated by a tornado, the postal van drove into the city to cheers and salutes from its residents. Tr. St. Paul Hearing at 36. Dennis O'Neill (postmaster) speaks of the "mail moment" when a person opens their box to discover correspondence. *Id.* at 45. T. Scott Mitchell (MackayMitchell Envelope Company) expresses the importance of the Postal Service employees as the physical representative of the United States Federal Government and an invaluable conduit to government

services for those who do not have other access. *Id.* at 72. Similarly, Lyle Puppe, a retired postmaster, discusses the rural post office as the sole place for community interaction and government presence in many areas. *Id.* at 76.

City letter carrier Richard Moses mentions the “Carrier Alert” program which helps carriers throughout the country save lives by responding when there are events out of the ordinary. Tr. Portsmouth Hearing at 71. Moses also discusses the carriers who help victims after traffic accidents, aid lost children, or report crimes or fires. *Id.* at 71-72. Moses gives information on the “Cities Readiness Initiative” which provides a role for the Postal Service in distributing medicines in the event of a bioterrorist event. *Id.* at 72. He also gives information on carrier’s efforts to “Stamp Out Hunger” in which 73.1 million pounds of food were collected by carriers in 2008. *Id.* Finally, Charles Mapa (National League of Postmasters) testifies about how the postmaster is the point of contact for many for the Federal government, whether there is a forest fire, inclement weather, road closure, or community emergency. Tr. Washington, D.C. Hearing at 75.

Alternatively, several comments advise the Commission not to look too closely at social benefits conferred by the Postal Service. One comment indicates that community service is not a postal product or service. NAPM Comments at 2. Gene Del Polito (PostCom) warns the Commission not to go too far astray in evaluating social benefit. Tr. Washington, D.C. Workshop at 20.

In all, many parties comment and testify about the social benefits conferred by the Postal Service in connection with universal service. Most of those who comment encourage the Commission to view the provision of universal service in light of these benefits.

“Do not mail” initiatives at the state level are a common topic of comments and testimony. Many individuals and organizations express concern about “do not mail” initiatives and the possible effect for postal revenues, possible Constitutional ramifications, and possible restriction on business enterprise.

Robert Corn-Revere (Davis Wright Tremaine LLP) testifies on the possible Constitutional issues surrounding “do not mail” initiatives and expresses his view that such initiatives would conflict with universal service and probably First Amendment rights of mailers. Tr. Washington, D.C. Hearing at 152-155. UPS believes the potential consequences of any such initiatives should be studied by the Commission. UPS Comments at 5. Others comment about the possible consequences of such legislation on volumes and revenues for the Postal Service. See NPPC/FSR Comments at 12; Panos Statement at 9; PSA Comments at 2 and 7; and Pitney Bowes Comments at 11.

Several organizations and individuals raise specific issues in testimony or comment. The Department of State asks that the Commission pay due regard to United States obligations under the Universal Postal Union Acts. Department of State Comments at 3. The Postal Service asks that the Commission consider the ongoing effect (positive and negative) of electronic diversion and the impact on the environment of more private carriers in a liberalized postal industry. Postal Service Comments at 46-48. Several comments and reply comments include debate as to who the Postal Service’s customers are, *i.e.*, senders of mail or senders and recipients. See NAPM Comments at 2; Direct Communications Group Comments at 3 and 9-10; and GCA Reply Comments at 1-2. Representative John McHugh offers useful background on Congress’s intended use of this report as a tool to evaluate a long-term business model for the Postal Service. McHugh Comments at 1.

Conclusion

The message the Commission received through comment and testimony is that the system works, most mailers and recipients are satisfied, and not to propose any radical changes. Witnesses and organizations prefer a flexible definition of the USO if one is to be created. Several organizations comment on the historical underpinnings and policy which developed into the USO and postal monopolies. Comments and testimony indicate, in the vast majority of cases, that geographic scope, access to facilities and services, frequency of delivery, and rates are all acceptable and should not be changed.

Several individuals and organizations offer opinions as to which products should be covered by the USO, and there is debate over whether the USO should cover market dominant products only, some subset of market dominant products only, some subset of market dominant and competitive products, or all products. The majority opinion is that at least market dominant products should be subject to the USO. Most of the comments and testimony indicate a satisfaction with the level of quality of the current universal service; however, several comments indicate a need for a concrete quality of service standard to which the Postal Service would be held accountable.

Individuals and organizations express doubt as to the utility of valuing the postal monopolies or the cost of the USO, while most express a strong opinion that the postal monopolies should not be disturbed. Most agree that the implication of the USO and the postal monopolies is that the latter is designed to fund the former. The majority of comments and much of the testimony caution against reliance on comparisons of the United States to other nations to define the USO or postal monopolies due to differences across every aspect of the Nation. Many stakeholders encourage the Commission not to view the Postal Service in a vacuum, but to recognize the social benefit and intangible qualities

which are conferred on many system users. Finally, multiple comments address and several witnesses testify about the possibly dangerous impact of “do not mail” legislation and its effect on mail volumes and revenues.

**STATEMENTS AND COMMENTS
REGARDING UNIVERSAL SERVICE OBLIGATION
AND MONOPOLIES**

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
The 60 Plus Association	James Martin	Transcript of Postal Regulatory Commission Washington, DC Public Hearing	July 10, 2008
		Testimony of James L. Martin, President, 60 Plus Association, Universal Postal Service and Postal Monopoly, Thursday, July 10, 2008, 10 a.m., PRC Hearing Room, 901 New York Avenue, NW, Suite 200, Washington, DC 20268	July 10, 2008
Advo, Inc. (Advo)	Thomas W. McLaughlin	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	June 12, 2008
Alliance of Independent Store Owners and Professionals and the Saturation Mailers Coalition (AISOP/SMC)	Donna E. Hanbery	Comments of the Alliance of Independent Store Owners and Professionals (AISOP) and the Saturation Mailers Coalition (SMC)	June 30, 2008
Alliance of Nonprofit Mailers (ANM)	David M. Levy Richard E. Young	Comments of Alliance of Nonprofit Mailers	June 30, 2008
American Business Media (ABM)	David R. Straus	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	June 12, 2008
		Comments of American Business Media	June 30, 2008
American Postal Workers Union, AFL-CIO (APWU)	Darryl J. Anderson William Burrus Jennifer L. Wood	Initial Comments of American Postal Workers Union, AFL-CIO	June 30, 2008
		Transcript of Postal Regulatory Commission Washington, DC Public Hearing	July 10, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
APWU (CONTINUED)		Testimony of William Burrus, President, American Postal Workers Union, AFL-CIO	July 10, 2008
		Reply Comments of the American Postal Workers Union, AFL-CIO	August 1, 2008
<i>Arizona Daily Sun</i>	Don Rowley	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Testimony of Don Rowley, Publisher, <i>Flagstaff Arizona Daily Sun</i> Before the Postal Regulatory Commission, Flagstaff, Arizona, May 21, 2008	May 21, 2008
Association for Postal Commerce (POSTCOM)	Gene Del Polito Kate Muth	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Bank of America	Jody Berenblatt	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Testimony of Jody Berenblatt on Behalf of Bank of America and the National Postal Policy Council, Portsmouth, New Hampshire, June 19, 2008	June 19, 2008
Christian Science Publishing Society	Steve W. Smith	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Written Statement of Steve W. Smith on Behalf of the Christian Science Publishing Society	June 19, 2008
Murray Comarow	Murray Comarow	Comments on PRC Order No. 71, April 18, 2008, Report on Universal Postal Service and the Postal Monopoly	June 6, 2008
		Transcript of Postal Regulatory Commission Washington, DC Public Hearing	July 10, 2008

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
MURRAY COMAROW (CONTINUED)		Before the Postal Regulatory Commission, Testimony of Murray Comarow, July 10, 2008 on Universal Service, Postal Monopoly, and Mailbox Access	July 10, 2008
Condé Nast Publications (CONDÉ NAST)	Howard Schwartz	Response to Order No. 71	June 4, 2008
Congress of the United States	Congressman John M. McHugh	Comments of Congressman John M. McHugh	June 30, 2008
Consumer Action	Linda Sherry	Transcript of Postal Regulatory Commission, Washington, DC Public Hearing	July 10, 2008
		Statement of Linda Sherry at the Hearing in Washington, DC	July 10, 2008
Consumer Postal Council	Don Soifer	The Future of Universal Service and the Postal Monopoly Testimony Before the Postal Regulatory Commission, Don Soifer, Consumer Postal Council	July 10, 2008
Cornell University	Richard Geddes	Transcript of Postal Regulatory Commission Washington, DC Public Hearing	July 10, 2008
		Oral Statement of R. Richard Geddes, Associate Professor, Department of Policy Analysis and Management, College of Human Ecology, Cornell University, Before the Postal Regulatory Commission, Washington, DC 20268 Regarding PRC Order No. 71, Notice of Request for Comments on Universal Postal Service and the Postal Monopoly Laws (Docket No. PI2008-3)	July 10, 2008
David Wright Tremaine LLP	Robert Corn-Revere	Transcript of Postal Regulatory Commission Washington, DC Public Hearing	July 10, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
DFS Services LLC (DFS)	Robert J. Brinkmann	Comments of DFS Services LLC	July 1, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
		Reply Comments of DFS Services LLC	August 1, 2008
Direct Communications Group	Alan Robinson	Comments on PI2008-3, Report on Universal Postal Service and the Postal Monopoly	June 30, 2008
Direct Marketing Association, Inc., Association of Postal Commerce, and Mailing & Fulfillment Service Association (DMA/PostCom/MFSA)	Dana T. Ackerly II Rita Brickman Ian Volner	Initial Comments of Direct Marketing Association, Inc., Association of Postal Commerce and Mailing & Fulfillment Service Association Pursuant to PRC Order No. 71	June 30, 2008
DMA Nonprofit Federation	Senny Boone	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Earth Class Mail	Cameron Powell	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Advance Written Statement of Cameron Powell, VP Strategic Development, Earth Class Mail, Prepared for Hearings Before the Postal Regulatory Commission, May 21, 2008, Flagstaff, AZ	May 21, 2008
Federal Express Corporation (FEDEX)	Nancy S. Sparks	Comments of Federal Express Corporation	June 30, 2008

Analysis of Public Comments

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
The Flute Network	Jan Pritchard	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Statement of Jan Pritchard	May 21, 2008
Food for the Hungry	Matthew Panos	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Universal Service Obligation (USO) Testimony of Matt Panos, May 21, 2008, Postal Regulatory Commission Public Hearing, Flagstaff, Arizona	May 21, 2008
George Mason University	Lee Fritschler Christine Pommerening	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Greeting Card Association (GCA)	David F. Stover Steve Laserson George White	Comments of the Greeting Card Association	June 30, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
		Reply Comments of the Greeting Card Association	August 1, 2008
Hazelden Foundation	John Joachim	Transcript of St. Paul, Minnesota Field Hearing	June 5, 2008
		Written Statement of John Joachim, Hazelden Foundation	June 5, 2008
Hoosier State Press Association	Stephen Key	Comments of the Hoosier State Press Association in Reply to Other Parties	July 1, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
LAMA Consulting	Leonard Merewitz	Response to Order 71, Testimony of Leonard Merewitz, Ph.D.	June 25, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Lexington Institute	Don Sawyer	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
MackayMitchell ENVELOPE COMPANY	T. Scott Mitchell	Transcript of St. Paul, Minnesota Field Hearing	June 5, 2008
		Testimony of T. Scott Mitchell, MackayMitchell Envelope Company, June 5, 2008, City Council Chambers, 3 rd Floor, St. Paul, MN	June 5, 2008
Magazine Publishers of America (MPA)	Rita D. Cohen James R. Cregan David M. Levy	Comments of Magazine Publishers of America, Inc.	June 30, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Mailers Council	Bob Woodheim	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Mail Order Association of America (MOAA)	David C. Todd	Comments of Mail Order Association of America to PRC Notice and Order No. 71	April 18, 2008

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
MOAA (CONTINUED)		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Major Mailers Association (MMA)	Mary P. McCormack	Comments of Major Mailers Association	June 30, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Medco Health Solutions (MEDCO)	Tom Underkoffler	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Report on Universal Service and the Postal Monopoly, Docket No. PI2008-3, Comments of Tom Underkoffler, Director of Logistics, Medco Health Solutions	June 19, 2008
Miles Kimball Company	Vicki Updike	Transcript of Postal Regulatory Commission, St. Paul, Minnesota Field Hearing	June 5, 2008
		Testimony of Vicki Updike on Behalf of the Miles Kimball Company	June 5, 2008
The Nation Company L.P and Magazines of Politics, Policy, and Current Events Coalition (THE NATION/MPPACE)	Teresa Stack	Comments of The Nation Company L.P. and of the Magazines of Politics, Policy, and Current Events Coalition (MPPACE) Pursuant to the PRC Request for Comments on the Universal Service Obligation	June 30, 2008
National Alliance of Postal and Federal Employees	Warren Powell	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
National Association of Letter Carriers (NALC)	George Gould William H. Young Robert A.F. Reisner	Initial Comments of William H. Young, President, National Association of Letter Carriers, AFL-CIO in Response to Commission Order No. 71	June 30, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
NALC (CONTINUED)		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
		Statement of William H. Young, President, National Association of Letter Carriers, AFL-CIO, Before the Postal Regulatory Commission	July 10, 2008
		[Reply Comments on Behalf of NALC] <i>Anticipating the Future—Building the 21st Century Postal Service</i> , Robert A. F. Reisner	August 1, 2008
National Association of Postal Supervisors	Bruce Moyer Ted Keating	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
		Reply Comments of National Association of Postal Supervisors	August 1, 2008
National Association of Postmasters of the United States (NAPUS)	Dale Goff Dennis O'Neill Lyle Puppe Jeanie Schnell	Transcript of Postal Regulatory Commission, St. Paul, Minnesota Field Hearing	June 5, 2008
		Testimony of Dennis O'Neill, Postmaster of Chokio, Before the Postal Regulatory Commission, St. Paul, Minnesota	June 5, 2008
		Committee on Post Office Closings & Consolidations, National Association of Postmasters of the United States, Testimony of Lyle Puppe, Retired Postmaster of Cottage Grove, MN, Before the Postal Regulatory Commission, St. Paul, Minnesota	June 5, 2008
		Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
NAPUS (CONTINUED)		Testimony of Jeanie Schnell, Postmaster of Monhegan, Maine, Before the Postal Regulatory Commission, Portsmouth, New Hampshire	June 19, 2008
		Transcript of Postal Regulatory Commission, Washington, DC	July 10, 2008
		Testimony of Dale Goff, President, Postmaster of Covington, LA, Before the Postal Regulatory Commission	July 10, 2008
		Reply Comments of the National Association of Postmasters of the United States	August 1, 2008
National Association of Presort Mailers (NAPM)	Joel T. Thomas	Comments of National Association of Presort Mailers in Response to Commission Order No. 71	June 30, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
National League of Postmasters (LEAGUE)	Robert J. Brinkmann Charles Mapa	Transcript of Postal Regulatory Commission, Washington, DC	July 10, 2008
		Testimony of Charles W. Mapa, President of the National League of Postmasters	July 10, 2008
		Reply Comments of the National League of Postmasters	August 1, 2008
National Newspaper Association (NNA)	Merle Baranczyk Tonda F. Rush Max Heath	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Testimony of Merle Baranczyk on Behalf of the National Newspaper Association	May 22, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
NNA (CONTINUED)		Comments of National Newspaper Association Pursuant to Order No. 71	June 30, 2008
		Reply Comments of the National Newspaper Association	August 1, 2008
National Postal Mail Handlers Union (NPMHU)	John F. Hegarty	Testimony of John F. Hegarty, National President, National Postal Mail Handlers Union, Before the Postal Regulatory Commission on the Universal Service Obligation	July 11, 2008
National Postal Policy Council (NPPC)	Arthur B. Sackler	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
National Postal Policy Council and the Financial Services Roundtable (NPPC/FSR)	David M. Levy Irving E. Daniels Arthur B. Sackler Richard M. Whiting	Comments of National Postal Policy Council and the Financial Services Roundtable	June 30, 2008
		Reply Comments of National Postal Policy Council and Financial Services Roundtable	August 1, 2008
National Rural Letter Carriers' Association (NRLCA)	Don Cantriel	Transcript of Postal Regulatory Commission, Washington, DC	July 10, 2008
		Testimony of Don Cantriel, Vice President of the National Rural Letter Carriers' Association	July 10, 2008
Office of Accountability & Compliance	Charles Robinson	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
Parcel Shippers Association (PSA)	Timothy J. May James Pierce Myers	Comments of Parcel Shippers Association to PRC Notice and Order No. 71	June 30, 2008
		Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008

Analysis of Public Comments

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
PSA (CONTINUED)		Reply Comments of Parcel Shippers Association to PRC Notice and Order No. 71	August 4, 2008
Pitney Bowes Inc. (PITNEY BOWES)	James Pierce Myers Michael F. Scanlon Dennis C. Shea	Initial Comments of Pitney Bowes Inc. in Response to Notice of Request for Comments on Universal Postal Service and the Postal Monopoly	June 30, 2008
		Dennis C. Shea Comments on Universal Postal Service	July 1, 2008
		Reply Comments of Pitney Bowes Inc. in Response to Notice of Request for Comments on Universal Postal Service and the Postal Monopoly	August 1, 2008
David B. Popkin (POPKIN)	David B. Popkin	Initial Comments of David B. Popkin	June 30, 2008
Public Representative	Emmett Rand Costich	Public Representative Comments in Response to Order No. 71	June 24, 2008
		Public Representative Reply Comments Concerning Auctions of the USO	August 1, 2008
ST Mailing Services	Ray Salsti	Transcript of Postal Regulatory Commission Workshop on Universal Service and the Postal Monopoly	July 10, 2008
John Shirrell	John Shirrell	Comments from John Shirrell	June 17, 2008
Time Warner Inc.	John M. Burzio Timothy L. Keegan	Initial Comments of Time Warner Inc. In Response to Commission Order No. 71	June 25, 2008
United Parcel Service (UPS)	John E. McKeever Laura A. Biancke	Comments of United Parcel Service on Universal Postal Service and the Postal Monopoly	July 10, 2008
		Reply Comments of United Parcel Service on Universal Postal Service and the Postal Monopoly	August 1, 2008

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PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
Up With Paper	George White	Transcript of Postal Regulatory Commission, St. Paul, Minnesota Field Hearing	June 5, 2008
		Statement of George White, President and C.O.O., Up With Paper, L.L.C., on Behalf of the Greeting Card Association	June 5, 2008
United States Department of Agriculture (USDA)	Boyd K. Rutherford	Comments of U.S. Department of Agriculture	July 15, 2008
United States Department of Commerce	Steve H. Murdock	Comments of United States Department of Commerce	June 2, 2008
United States Department of Defense (DoD)	Earl B. Boyanton, Jr.	Comments of Office of Department of Defense	May 30, 2008
United States Department of Energy (DOE)	Brian D. Costlow	Comments of the Department of Energy	July 25, 2008
U.S. Department of Housing and Urban Development (HUD)	Marie S. Savoy	Comments of U.S. Department of Housing and Urban Development	May 30, 2008
United States Department of State	Gerald C. Anderson	Comments of the U.S. Department of State	June 30, 2008
[United States] Department of Veterans Affairs	Robert T. Howard	Comments of Department of Veterans Affairs	June 3, 2008
United States Environmental Protection Agency	Anthony Hood Sunday Eme	Comments of United States Environmental Protection Agency	May 30, 2008
United States General Services Administration(GSA)	Kevin Messner	Comments of General Services Administration	July 15, 2008

PARTICIPANT	INDIVIDUAL(S)	TITLE	FILING DATE
United States Office of Personnel Management (OPM)	Linda M. Springer	Comments of United States Office of Personnel Management	June 4, 2008
United States Postal Service (POSTAL SERVICE)	Lawrence James Stephanie Lerdahl	Transcript of Flagstaff, Arizona Field Hearing	May 21, 2008
		Written Statement of Lawrence James, United States Postal Service	May 21, 2008
		Testimony Before the Postal Regulatory Commission [Stephanie Lerdahl]	May 21, 2008
	Mike Larson	Transcript of Postal Regulatory Commission, St. Paul, Minnesota Field Hearing	June 5, 2008
		Written Statement of Michael Larson, United States Postal Service	June 5, 2008
	Richard Moses Laura A. Timmons	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Testimony of Richard Moses, United States Postal Service City Letter Carrier, Hearing on the Universal Service Obligation, Postal Rate Commission, Portsmouth, New Hampshire	June 19, 2008
		Testimony of Laura Timmons, Area Marketing Manager, USPS Northeast Area, June 19, 2008, Eileen Dondero Foley Council Chambers, Portsmouth, NJ	June 19, 2008
	Anthony F. Alverno Daniel J. Foucheaux, Jr. R. Andrew German	Comments of the United States Postal Service	June 30, 2008
		Reply Comments of the United States Postal Service	August 1, 2008

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United States Small Business Administration (SBA)	Thomas M. Sullivan	Comments of United States Small Business Administration	July 31, 2008
[United States] Social Security Administration (SSA)	Michael J. Astrue	Comments of Social Security Administration	June 30, 2008
Valassis Direct Mail, Inc. (VALASSIS)	John M. Burzio Vincent P. Giuliano	Comments of Valassis Direct Mail, Inc. in Response to Commission Order No. 71	June 30, 2008
		Statement of Vincent P. Giuliano in Response to Commission Order No. 71	June 30, 2008
Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association Inc. (VALPAK)	John S. Miles Jeremiah L. Morgan William J. Olson	Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Comments Regarding Universal Postal Service and the Postal Monopoly	June 30, 2008
		Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. Reply Comments Regarding Universal Postal Service and the Postal Monopoly	August 1, 2008
The Vermont Teddy Bear Company (VTBC)	Elisabeth Robert	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Testimony of Liz Robert on Behalf of the Vermont Teddy Bear Company®	June 19, 2008
Yankee Publishing, Inc.	Jamie Trowbridge	Transcript of Portsmouth, New Hampshire Field Hearing	June 19, 2008
		Testimony of Jamie Trowbridge	



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