

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Section 407 Proceeding

Docket No. IM2018-1

NOTICE OF POSTING OF VIEWS

(Issued September 10, 2018)

Consistent with 39 U.S.C. § 407(c), the Commission provided views to the Secretary of State on whether certain proposals for the September 2018 Extraordinary Universal Postal Union Congress are consistent with the standards and criteria for modern rate regulation established by the Commission under 39 U.S.C. § 3622. Consistent with 39 C.F.R. § 3017.3(b), these views have been posted on the Commission's website in Docket No. IM2018-1:¹

Commission views dated July 24, 2018.

Commission's supplemental views dated July 26, 2018 and September 4, 2018.

Stacy L. Ruble
Secretary

¹ In Order No. 2960, the Commission stated, "[a]s indicated in section 3017.3(b), the Commission intends to post its views in the docket with which it is associated after conclusion of deliberations on a related treaty, convention, or amendment." Docket No. RM2015-14, Order Adopting Final Rules on Procedures Related to Commission Views, December 30, 2015, at 29 (Order No. 2960).

Title of Documents
Commission's views dated July 24, 2018.
Commission's supplemental views dated July 26, 2018.
Commission's supplemental views dated September 4, 2018.

File of Documents



POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Chairman

July 24, 2018

VIA U.S. MAIL AND EMAIL

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW 7th Floor
Washington, DC 20520

Dear Mr. Secretary:

This responds to the enclosed March 27, 2018, letter from the Department of State, pursuant to 39 U.S.C. § 407(c)(1), requesting the views of the Postal Regulatory Commission (Commission) on proposals to amend rates or classifications for market dominant products or services within the Universal Postal Convention that will be considered at the upcoming 2018 Universal Postal Union (UPU) Extraordinary Congress (2018 UPU Congress). I am writing to provide you the Commission's views with respect to the consistency of proposals that establish or amend market dominant rates or classifications with the standards and criteria established by the Commission under 39 U.S.C. § 3622.

The Commission has reviewed all 2018 UPU Congress proposals available on the UPU website as of July 23, 2018, and has identified one proposal that, if adopted, would likely represent a classification change for a market dominant product. Proposal, 20.18.1 amends Article 18, Basic services, of the Universal Postal Convention to change tracking for UPU letter post from an optional to a mandatory service. Currently,

the Postal Service only provides tracking for UPU letter post mailpieces as part of various negotiated service agreements and does not offer tracking for UPU letter post as a service to all designated postal operators of UPU member countries. Accordingly, if the 2018 UPU Congress adopts Proposal 20.18.1, the Commission's Mail Classification Schedule would likely need to be modified to include the tracking service.

Proposal 20.18.1 is consistent with the standards and criteria established by the Commission under 39 U.S.C. § 3622.¹ The Commission finds that Proposal 20.18.1 will likely promote the Postal Service's financial health. Although Proposal 20.18.1 does not include remuneration for the tracking service, Article 30-104.4.2 of the Regulations to the Universal Postal Convention specifies remuneration to designated postal operators for providing tracking for letter post.² Because the revenue earned from the proposed tracking service would be greater than the cost of providing the service, adoption of Proposal 20.18.1 would: provide additional contribution, supporting financial stability (Objective 5); promote the Postal Service's efforts to enhance mail security and deter terrorism (Objective 7); establish reasonable rates that do not threaten the financial integrity of the Postal Service (Objective 8); and enable the tracking service to cover its attributable costs (Factor 2).

On April 5, 2018, the Commission established a public proceeding under Docket No. IM2018-1 to solicit comments on the general principles that should guide the Commission's development of views on relevant proposals, in a general way, and on

¹ This finding of consistency with the standards and criteria established by the Commission under 39 U.S.C. § 3622 does not approve the addition of a market dominant product, or modification of an existing market dominant product, to the Mail Classification Schedule that would be required if the 2018 UPU Congress adopts Proposal 20.18.1.

² Regulations to the Convention, Final Protocol, Article 30-104, Supplementary remuneration for registered, insured and tracked items, March 31, 2017. Payment of the rate for the tracking service is contingent upon the Postal Service meeting the UPU requirements for data transmission. *Id.* It appears likely that the Postal Service will meet these UPU requirements.

specific relevant proposals, if the Commission is able to make these available.³ As part of Docket No. IM2018-1, the Commission received numerous comments regarding the effects of the UPU terminal dues system from small businesses, members of Congress, and industry stakeholders. These commenters expressed concern that the UPU terminal dues system harms U.S. businesses because terminal dues charged to foreign postal operators are less than domestic shipping rates. These commenters also expressed concern that domestic mailers are subsidizing the delivery of Inbound Letter Post because the cost of delivering Inbound Letter Post mailpieces is greater than Inbound Letter Post revenue.

Although many of the comments received were not directly related to the proposal at issue, Proposal 20.18.1, the Commission appreciates receiving these commenters' concerns about the overall impacts of the UPU terminal dues system. In the FY 2017 Annual Compliance Determination report, the Commission stated that because UPU terminal dues are not equivalent to domestic postage rates in the destination country, it considered these rates discriminatory.⁴ The Commission also reiterated its concerns "that the UPU pricing regime for the Inbound Letter Post product continues to result in noncompensatory terminal dues [and, as a result], domestic mailers are subsidizing the entry of Inbound Letter Post by foreign postal operators who use the same postal infrastructure but bear none of the burden of contributing to its institutional costs." FY 2017 ACD at 68. The Commission also highlighted a 2017 Copenhagen Economics report that quantified the impact of the UPU terminal dues

³ When the Commission adopted procedural rules that were codified in 39 C.F.R. part 3017, it explained that, although there was no legal requirement to do so, the Commission established these procedural rules to "allow for increased public input and transparency into the development of its views pursuant to 39 U.S.C. 407(c)." Docket No. RM2015-14, Order Adopting Final Rules on Procedures Related to Commission Views, December 30, 2015, at 28 (Order No. 2960).

⁴ Docket No. ACR2017, Annual Compliance Determination, March 29, 2018, at 68 (FY 2017 ACD).

negotiated at the 2016 UPU Congress, which took effect in January 2018. *Id.* Copenhagen Economics concluded that these terminal dues would result in a global net financial transfer among designated postal operators that ranges from 2.1 billion to 2.4 billion Special Drawing Rights (SDR)⁵ in 2018 to 2.8 billion to 4 billion SDR in 2021. *Id.* at 68-69.

In response to on-going concerns about the Inbound Letter Post product, the Commission recently proposed regulations that would require the Postal Service to provide Inbound Letter Post revenue, volume, attributable cost, and contribution data, aggregated by UPU country group and by shape, for the previous five fiscal years when it files its Annual Compliance Report.⁶ The Commission also recently established a public inquiry docket to examine the Postal Service's claims that the Inbound Letter Post product is subject to substantial competition.⁷

As it did before the 2016 UPU Congress in Istanbul, the Commission expresses its position that the U.S. government should promote terminal dues that cover the costs incurred by the Postal Service for handling, transporting, and delivering inbound international mail and that are aligned as closely as possible with domestic postage rates.⁸

Given that the UPU International Bureau is continuing to publish proposals for the 2018 UPU Congress on its website, the Commission will continue to review these additional proposals and any proposed amendments to these proposals and identify those that require a view from the Commission under 39 U.S.C. § 407(c). In the event

⁵ The International Monetary Fund exchange rate for one SDR on July 11, 2018, was \$1.41 U.S. dollars.

⁶ See Docket No. RM2018-2, Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements, July 12, 2018 (Order No. 4706).

⁷ See Docket No. PI2018-1, Notice and Order Initiating Public Inquiry on the Classification of the Inbound Letter Post Product, July 12, 2018 (Order No. 4708).

⁸ See Docket No. IM2016-1, Notice of Posting of Views, October 7, 2016, Attachment B at 10.

Secretary Pompeo
July 24, 2018
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that there are such proposals, the Commission will send you its additional views in a timely manner.

On behalf of the Postal Regulatory Commission, I wish the U.S. delegation the greatest success at the 2018 UPU Congress.

With best wishes, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read 'R. Taub', with a long horizontal flourish extending to the right.

Robert G. Taub
Chairman

Enclosure

cc: Kevin E. Moley
Assistant Secretary for International Organization Affairs
Bureau of International Organization Affairs

Nerissa Cook
Deputy Assistant Secretary
Bureau of International Organization Affairs

Stephen Anderson
Director
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs

Joseph Murphy
Chief, Postal Policy Unit
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs



Postal Regulatory Commission
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*Assistant Secretary of State
for International Organization Affairs*

Washington, D.C. 20520-6319

March 27, 2018

The Honorable Robert G. Taub
Chairman,
Postal Regulatory Commission,
901 New York Avenue NW,
Suite 200,
Washington, DC 20268-0001

Dear Chairman Taub,

The Secretary of State requests that the Postal Regulatory Commission (PRC) provide its views on the consistency of proposals to amend rates or classifications for market dominant products or services within the Universal Postal Convention that will be considered at the upcoming Extraordinary Universal Postal Union (UPU) Congress with the standards and criteria established by the Commission under 39 U.S.C. §3622. As background, 39 U.S.C. §407(c) (1) provides that, before concluding any treaty, convention or amendment that establishes "a rate or classification for a product subject to subchapter I of chapter 36 [of title 39]" (i.e., a market dominant product or service), the Secretary of State shall "request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622."

The Department of State looks forward to receiving the PRC's views on the consistency of such Congress proposals with the standards and criteria the PRC established under §3622 and will extend due deference to those views. In order to allow sufficient time to factor the PRC's views into the United States Government's positions for the UPU Congress, we ask that the PRC provide its response to this request by August 3, 2018, which is one month before the Congress convenes.

Thank you for your attention to this matter.

Sincerely,

Nerissa J. Cook
Deputy Assistant Secretary
Bureau of International Organization Affairs



POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Chairman

July 26, 2018

VIA U.S. MAIL AND EMAIL

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW, 7th Floor
Washington, DC 20520

Dear Mr. Secretary:

I am writing to follow up on my July 24, 2018 letter, in which the Postal Regulatory Commission (Commission), in accordance with 39 U.S.C. § 407(c), expressed its views on whether a certain proposal for the upcoming 2018 Universal Postal Union (UPU) Extraordinary Congress (2018 UPU Congress) is consistent with the standards and criteria established by the Commission under 39 U.S.C. § 3622. In that letter, I indicated that the Commission would provide you with views on any additional proposals that establish or amend a market dominant rate or classification that the UPU makes available after July 23, 2018.

On July 24, 2018, the UPU posted Proposal 20.28.1 on its website. Proposal 20.28.1 was put forward by Chile with support from Brazil, Colombia, Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Mexico, Panama, Paraguay, and Uruguay. Proposal 20.28.1 complements Proposal 20.18.1, which was discussed in my July 24, 2018 letter. If adopted, Proposal 20.18.1 would change tracking for UPU letter post from an optional to a mandatory service. If adopted, Proposal 20.28.1 would

amend Article 28, "Terminal dues. General provisions," of the Universal Postal Convention (UPU Convention) to include rates for the letter post tracking service in the UPU Convention for 2020 and 2021. Currently, remuneration to designated postal operators for providing tracking for letter post is specified in Article 30-104.4.2 of the Regulations to the Universal Postal Convention.¹ Proposal 20.28.1 would also significantly increase the rates for the letter post tracking service from 0.73 Special Drawing Rights (SDR)² to 1.00 SDR per item for 2020 and from 0.75 SDR to 1.10 SDR per item for 2021.

Like Proposal 20.18.1, Proposal 20.28.1 is consistent with the standards and criteria established by the Commission under 39 U.S.C. § 3622. The Commission finds that Proposal 20.28.1 will likely promote the Postal Service's financial health. Because the revenue earned from the proposed tracking service would be greater than the cost of providing the service, adoption of Proposal 20.28.1 would: provide additional contribution, supporting financial stability (Objective 5); promote the Postal Service's efforts to enhance mail security and deter terrorism (Objective 7); establish reasonable rates that do not threaten the financial integrity of the Postal Service (Objective 8); and enable the tracking service to cover its attributable costs (Factor 2).

¹ Regulations to the Convention, Final Protocol, Article 30-104, Supplementary remuneration for registered, insured and tracked items, March 31, 2017. Unlike the UPU Convention, which can only be amended by the UPU Congress, the Regulations to the Convention may be amended more frequently by the UPU Postal Operations Council.

² The International Monetary Fund exchange rate for one SDR on July 25, 2018, was \$1.41 U.S. dollars.

Secretary Pompeo
July 26, 2018
Page 3 of 3

Again, on behalf of the Postal Regulatory Commission, I wish the U.S. delegation the greatest success at the 2018 UPU Congress.

With best wishes, I am

Sincerely yours,



Robert G. Taub
Chairman

cc: Kevin E. Moley
Assistant Secretary for International Organization Affairs
Bureau of International Organization Affairs

Nerissa Cook
Deputy Assistant Secretary
Bureau of International Organization Affairs

Stephen Anderson
Director
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs

Joseph Murphy
Chief, Postal Policy Unit
Office of Specialized and Technical Agencies
Bureau of International Organization Affairs



POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Chairman

September 4, 2018

VIA U.S. MAIL AND EMAIL

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW, 7th Floor
Washington, DC 20520

Dear Mr. Secretary:

I am writing to follow up on my letters of July 24, 2018, and July 26, 2018. In these letters, the Postal Regulatory Commission (Commission), in accordance with 39 U.S.C. § 407(c), expressed its views on whether certain proposals for the September 2018 Universal Postal Union (UPU) Extraordinary Congress (2018 UPU Congress) are consistent with the standards and criteria established by the Commission under 39 U.S.C. § 3622.

On September 2, 2018, the UPU posted Proposal 20.28.2 on its website. Proposal 20.28.2 was put forward by Italy and amends Proposal 20.28.1 for which the Commission provided a view in my July 26, 2018 letter. If adopted, Proposal 20.28.2 would amend Article 28, "Terminal dues. General provisions," of the Universal Postal Convention (UPU Convention) to include rates for the letter post tracking service in the UPU Convention for 2020 and 2021. Currently, remuneration to designated postal operators for providing tracking for letter post is specified in Article 30-104.4.2 of the

Regulations to the UPU Convention.¹ Proposal 20.28.1 from Chile would significantly increase the rates for the letter post tracking service from 0.73 Special Drawing Rights (SDR)² to 1.00 SDR per item for 2020 and from 0.75 SDR to 1.10 SDR per item for 2021. Proposal 20.28.2 from Italy amends Proposal 20.28.1 from Chile and would increase the rates for tracked items in Article 28 of the UPU Convention to 1.50 SDR for 2020 and to 1.60 SDR for 2021.

Like Proposal 20.28.1, the Commission finds that Proposal 20.28.2 is consistent with the standards and criteria established under 39 U.S.C. § 3622. The Commission finds that Proposal 20.28.2 will likely promote the Postal Service's financial health. Because the revenue earned from the proposed tracking service would be greater than the cost of providing the service, adoption of Proposal 20.28.2 would: provide additional contribution, supporting financial stability (Objective 5); promote the Postal Service's efforts to enhance mail security and deter terrorism (Objective 7); establish reasonable rates that do not threaten the financial integrity of the Postal Service (Objective 8); and enable the tracking service to cover its attributable costs (Factor 2).

¹ Regulations to the Convention, Final Protocol, Article 30-104, Supplementary remuneration for registered, insured and tracked items, March 31, 2017. Unlike the UPU Convention, which can only be amended by the UPU Congress, the Regulations to the Convention may be amended more frequently by the UPU Postal Operations Council.

² The International Monetary Fund exchange rate for one SDR on August 28, 2018, was \$1.40 U.S. dollars.

Again, on behalf of the Postal Regulatory Commission, I wish the U.S. delegation the greatest success at the 2018 UPU Congress.

With best wishes, I am

Sincerely yours.

A handwritten signature in blue ink, appearing to read 'R. Taub', with a long horizontal flourish extending to the right.

Robert G. Taub
Chairman

cc: Kevin E. Moley
Assistant Secretary for International Organization Affairs
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