

OFFICIAL TRANSCRIPT OF PROCEEDINGS BEFORE THE POSTAL REGULATORY COMMISSION

IN THE MATTER OF:)
)
POSTAL REGULATORY COMMISSION,)
USO/POSTAL MONOPOLY HEARING)

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ORIGINAL

IN THE MATTER OF:)
)
POSTAL REGULATORY COMMISSION,)
USO/POSTAL MONOPOLY HEARING)

Suite 200
901 New York Avenue, N.W.
Washington, D.C.

Thursday,
July 10, 2008

The parties met, pursuant to the notice, at
10:02 a.m.

BEFORE: DAN G. BLAIR, Chairman
MARK ACTON, Vice Chairman
RUTH Y. GOLDWAY
TONY L. HAMMOND
NANCI E. LANGLEY

PANEL I

WILLIAM H. YOUNG, President, National
Association of Letter Carriers

WILLIM BURRUS, President, American
Postal Workers Union

DON CANTRIEL, Vice President, National
Association of Rural Letter Carriers

APPEARANCES: (Cont'd)

PANEL I (Cont'd)

DALE GOFF, President, National Association
of Postmasters of the U.S.

CHARLES MAPA, President, National League
of Postmasters

TED KEATING, President, National Association
of Postal Supervisors

PANEL II

RICK GEDDES, Associate Professor, Department
of Policy Analysis and Management, Cornell
University

MURRAY COMAROW, Bethesda, Maryland

LINDA SHERRY, Director for National Priorities,
Consumer Action

PANEL III

JAMES MARTIN, President, 60 Plus Association

ROBERT CORN-REVERE, Partner, Davis Wright
Tremaine LLP

P R O C E E D I N G S

(10:02 a.m.)

CHAIRMAN BLAIR: Take your seats, please.

Good morning, everyone. I want to thank everyone for coming in today on a warm July morning, and I'm very pleased to welcome all of you to the Postal Regulatory Commission's fourth and final public hearing, as we proceed with our study of universal mail service and the postal monopoly.

As you all know, Congress has tasked the Commission with providing it with a report by December 19, 2008. We initiated our study earlier this year through an extensive notice in the Federal Register. We asked for comments by the end of June, and received 42 comments, with reply comments due by July 29.

In an effort to reach out beyond the Beltway here in D.C., the Commission took to the road. Today's hearing builds on the record of 22 witness testimonies we received in Flagstaff, Arizona; St. Paul, Minnesota; and Portsmouth, New Hampshire. We also conducted a well-attended workshop a few weeks ago.

As a result of these hearings, several themes have emerged. We've heard about the need to maintain access to postal services, and the importance

1 that local post offices play in providing the
2 community identity and the face of the federal
3 government in rural and remote locations throughout
4 our country.

5 At the workshop many of the mailers
6 represented stressed the need to maintain affordable
7 postal prices. Some urged the Commission to review
8 potential trade-offs and service reductions, should
9 this offset future increases in the cost of mail.

10 Most commentators to date oppose opening the
11 mailbox to competition. Defining the U.S. Postal
12 Service along with estimating the cost of the
13 universal obligation is indeed a broad task. That's
14 why we're hearing from such a diverse group of
15 witnesses over the past couple of months, and that's
16 proven very helpful for us.

17 We look forward to hearing from our final
18 group of witnesses on this issue, and I'd like to take
19 the chance and the opportunity to introduce you to
20 them now.

21 Our first panel is comprised of Mr. William
22 Young, President of the National Association of Letter
23 Carriers; Mr. William Burrus, President of the
24 American Postal Workers Union; Don Cantriel -- if I
25 mispronounced your name, I apologize, sir -- Vice

1 President of the National Association of Rural Letter
2 Carriers; Dale Goff, President of the National
3 Association of Postmasters of the United States;
4 Charles Mapa, President of the National League of
5 Postmasters; and Ted Keating, President of the
6 National Association of Postal Supervisors.

7 I would also like to note that John
8 Haggerty, President of the National Mail Handlers
9 Union, was unable to attend today due to a schedule
10 conflict. He has, however, submitted a written
11 statement, which will be part of today's hearing
12 record.

13 Our second panel today includes Rick Geddes,
14 Associate Professor, Department of Police Analysis and
15 Management at Cornell University; and Murray Comarow
16 of Bethesda Maryland; and Linda Sherry, Director of
17 National Priorities at Consumer Action. Don Soyfur,
18 Executive Director of the Consumer Postal Council
19 could not be with us today, but has submitted
20 testimony, which will be included in the record.

21 Our final panel includes Jim Martin,
22 President of the 60-Plus Association; and Robert Corn-
23 Revere, a partner at Davis Wright Tremaine, and an
24 expert on First Amendment and freedom of speech
25 issues.

1 Your written statements will be made part of
2 the Commission's hearing record. Additionally, a
3 transcript of today's hearing will be made available
4 on the Commission's website.

5 Before I offer my fellow commissioners an
6 opportunity to say a few words, I'd like to restate
7 for those present today the Commission's task at
8 writing this report. I appreciate the candor with
9 which the witnesses have approached the Commission.
10 The Commission is writing this report, and not our
11 consultants.

12 We will rely on our consultants to provide
13 us research and data; however, it will be the
14 Commission that makes the findings and recommendations
15 contained in the report.

16 As previously announced at our workshop,
17 interested parties will have the opportunity to review
18 and comment on our report after we have submitted it
19 to Congress in December. The Commission looks forward
20 to that comment period, and may issue further findings
21 and recommendations based upon the comments and
22 replies.

23 Now let me take this chance to offer my
24 fellow commissioners the opportunity to welcome you.
25 At this point I'd like to yield to the Vice Chair of

1 the Commission, Mark Acton.

2 MR. ACTON: Thank you, Mr. Chairman. I have
3 nothing to add, other than thanks for the time and the
4 testimony from our witnesses here today.

5 And also, many of your organizations have
6 sent fine representatives out to our field endeavors,
7 and that's been a great contribution to our effort on
8 this front. So thanks for that, as well.

9 CHAIRMAN BLAIR: Commissioner Goldway.

10 MS. GOLDWAY: Thank you, Mr. Chairman. I
11 think this is, I've been on the Commission now for 10
12 years, and this is the first time that we've had such
13 a significant representation of people who represent
14 the workers at the Postal Service here all at once.

15 And I think it demonstrates both the
16 importance of the task at hand that we have, which is
17 to grapple with the concept of the Postal Service and
18 its future, and I hope a new openness that our
19 Commission will have to maintain a dialogue, and to
20 build solid relationships with the people who are here
21 today, as well as with many people we have worked with
22 in other proceedings in the past. So I'm especially
23 glad to welcome you here this morning.

24 CHAIRMAN BLAIR: Thank you, Commissioner
25 Goldway. Commissioner Hammond.

1 MR. HAMMOND: Thank you, Mr. Chairman. I
2 want to add my welcome to our witnesses on the panel
3 today. And thank you, Mr. Chairman, for scheduling
4 this additional hearing so that we could get some more
5 testimony in from all of these folks.

6 These forums that we've had across the
7 country have provided us with a wealth of information
8 and issues to consider as we look at the universal
9 service and the monopoly. I know today's hearings
10 will add to that as we prepare our report to the
11 Congress. And thank you all for doing so.

12 CHAIRMAN BLAIR: Thanks, Commissioner. And
13 I'd like to now yield to the new kid on the block,
14 Commissioner Nancy Langley. Commissioner Langley.

15 MS. LANGLEY: Thank you, Chairman Blair. It
16 is really a pleasure to have my maiden voyage on the
17 dais to coincide with the appearance of the leaders of
18 the Postal Unions and management associations he
19 represents; the interests, the significant percentage
20 of postal employees. And we know from past experience
21 with federal government agency changes, that the
22 transformation really benefits from the input of the
23 employees.

24 And so I'm pleased that we have the
25 opportunity to hear from you, to also hear your views,

1 and to discuss with you how changes to universal
2 service or the postal monopoly might affect the
3 delivery of the U.S. mail.

4 And I very much appreciate your being here.
5 I appreciate all the fine work of Ann Fisher in
6 putting together these hearings. I have known Ann for
7 many years, and I know that she really put her heart
8 and soul into getting the best cross-representation of
9 the postal community in working with the Chairman,
10 whose idea came to fruition through these hearings.
11 So thank you very much.

12 CHAIRMAN BLAIR: Thank you, Commissioner
13 Langley. I will now turn to our first panel, and I
14 want to give you all a very, very warm welcome. I do
15 greatly appreciate you all taking the time today. You
16 all are very busy, and for you to come before the
17 Commission and offer your testimony on a very
18 important matter that we're working very hard on is
19 greatly appreciated by us.

20 So now I would like to again welcome each
21 and every one of you. I appreciate the opportunity
22 that you provide us to hear from you directly. We've
23 heard from some of your folks at previous forums, and
24 we look forward to hearing from the chiefs of the
25 organization. Usually no one has more of a stake in

1 the future of the Postal Service than the people that
2 you represent.

3 So with that introduction, I'd like to
4 welcome Mr. Young, Mr. Burrus, Mr. Cantriel, Mr. Goff,
5 Mr. Mapa, and Mr. Keating. Thank you all for coming.

6 And we'll start on my left, I guess on your
7 right, so Mr. Young. Welcome to the Commission.
8 Thanks for coming in.

9 MR. YOUNG: Thank you. Good morning, Mr.
10 Chairman and members of the Commission. My name is
11 Bill Young. I'm the President of the National
12 Association of Letter Carriers.

13 NALC is an exclusive collective bargaining
14 representative of 225,000 active city carriers
15 employed by the Postal Service in every city and town
16 in America. Six days a week we deliver tens of
17 millions of citizens and millions of businesses across
18 America, providing the full range of postal services.

19 I want to thank you for this opportunity to
20 testify about the future of universal service.

21 NALC submitted extensive comments in
22 response to your order no. 71 related to this
23 proceeding. As you will note in our comments, letter
24 carriers play a critical role in all the elements of
25 universal service that are under study. Today I'd

1 like to focus on a few key points.

2 First, we urge the Commission to take an
3 American approach to the issue of universal service.
4 In order no. 71 you appeared to place the study into
5 the context of changes now underway in Europe, where
6 the European Union has embarked on a plan to
7 deregulate postal services, and many governments have
8 chosen to privatize their post offices. But this
9 model is entirely inappropriate for the United States,
10 where we have adopted a different approach to
11 universal service.

12 Indeed, over the past decade or so, a
13 parallel debate has gone on in the U.S. and in Europe
14 about the future of postal services. The European
15 Union decided to experiment with deregulation as it
16 seeks to create a single market in all goods and
17 services in its 25 member states.

18 In America, where postage rates are much
19 lower and universal service is provided much more
20 efficiently, thanks to the extensive use of technology
21 and sensible work-sharing by mailers, we decided to
22 maintain universal service through a public enterprise
23 financed with a limited regulated monopoly.

24 Defining universal service or universal
25 service obligation in America is therefore a very

1 different exercise than doing the same for Europe. It
2 may make sense for European regulators to have a rigid
3 and tightly defined definition of universal service,
4 given the need to regulate competition and to level
5 the playing field for dozens, or even hundreds, of
6 competitors.

7 But a narrowly defined, inflexible
8 definition of universal service does not make sense in
9 the United States, at least not in the context of the
10 new postal law, the Postal Accountability Enhancement
11 Act of 2006.

12 That law maintains the Postal Service as a
13 kind of public utility, and it modernizes the basic
14 framework of the Postal Reorganization Act of 1970.
15 PAEA explicitly retained the PRA's definition of the
16 Postal Service's core mission from Title XXXIX, which
17 is, and I quote, "The Postal Service shall have as its
18 basic function the obligation to provide postal
19 services to bind the nation together through the
20 personal, educational, literary, and business
21 correspondence of the people. It shall provide
22 prompt, reliable, and efficient services to patrons in
23 all areas, and shall render postal services to all
24 communities."

25 This core mission should shape your approach

1 to your study. The U.S. has been well served for
2 decades by a flexible, evolutionary approach to
3 universal service, rooted in the deepest traditions of
4 our democracy, and changing with the technological and
5 market developments.

6 We do not believe that the model of European
7 deregulation is the right starting point for an
8 examination of universal service. Given the poor
9 results we've seen so far in Europe, as reported in
10 our comments, the Commission should be especially
11 cautious in this regard.

12 Second, the Commission should recognize the
13 Postal Service plays a critical role in the nation's
14 economic, social, and political infrastructure. And
15 that the postal monopoly, the mailbox statute, and the
16 six-day delivery are essential elements to true
17 universal service.

18 We believe that the current postal monopoly
19 is critical to supporting the national inner structure
20 that promotes the economic prosperity, and guarantees
21 a democratic society by assuring equal access to all
22 citizens.

23 While academic models designed to minimize
24 the value of universal service might suggest there is
25 a better way to finance it, in practice the

1 alternatives are often politically unsustainable, and
2 fail to take into account the transaction costs
3 involved.

4 The Postal Service exclusive access to
5 America's mailbox is equally critical. It assures the
6 privacy and the integrity of the mail that letter
7 carriers guarantee every day. It also is vital to
8 effectively enforce the monopoly.

9 And six-day delivery is essential to meet
10 the widely ranging needs of American businesses and
11 our nation's busy citizens. Not every American needs
12 Saturday delivery, but millions of others rely on it.
13 It should be preserved.

14 The postal monopoly keeps the overall cost
15 of mailing letters for all mailers low, by maximizing
16 the Postal Service's economy of scale and scope. The
17 Mailbox Statute prevents identity theft and preserves
18 the trust that people have in their mail. And six-day
19 delivery ensures every American business and household
20 maximum flexibility for conducting their business
21 through the Postal Service.

22 As the comments that you've received so far
23 make clear, these three elements of universal service
24 not only have overwhelming support of the nation's
25 mailers, they are also strongly backed by the American

1 people.

2 Finally, I urge the Commission to be careful
3 about recommending major changes in either the
4 definition of universal service or the extent of the
5 postal monopoly on the basis of unreliable predictions
6 about the future. Yes, the internet is eliminating a
7 lot of traditional mail. But it is also creating many
8 new mail-based industries, served by companies like
9 eBay and Netflix. And it is impossible to predict now
10 the countless ways we'll use the Postal Service in the
11 future.

12 Moreover, there is an extraordinary amount
13 of change and innovation going on in the Postal
14 Service right now, as it seeks to adapt to a new
15 postal law, and to the changing needs of the American
16 people. Continuity and stability in the legal
17 framework governing the USPS is essential if the
18 Postal Service is to succeed in adjusting to the
19 internet age.

20 Before you act, stop and think about what
21 you have. No other institution has the ability to
22 visit 145 million delivery points six days a week.
23 It's a truly invaluable network, which can be used in
24 countless ways to enrich America's economy and our
25 democracy. Our goal should be to maintain the only

1 true universal communication network we have in
2 America.

3 We have generations of America before us; we
4 should strive to preserve the universal service for
5 the generations that follow us. It's part of the
6 legacy of American democracy; let's not waste it.

7 Let me underline that last point, and
8 perhaps reveal my age a bit. I'm nearing the end of
9 my postal career. I started in the Postal Service 43
10 years ago.

11 Not too long after I started, the great Joni
12 Mitchell had a hit song called "Big Yellow Taxi." One
13 of the key refrains in that song goes, "Don't it
14 always seem to go that you don't know what you've got
15 till it's gone. They paved Paradise, and put up a
16 parking lot."

17 Well, the Postal Service and its universal
18 service may not be paradise, but it's a lot better
19 than a parking lot.

20 Thank you very much.

21 CHAIRMAN BLAIR: Thank you, Mr. Young. I
22 appreciate your thoughtful statement.

23 Mr. Burrus, welcome.

24 MR. BURRUS: Good morning, Mr. Chairman and
25 Commissioners. I want to thank you for scheduling

1 this hearing on the subject of the postal monopoly,
2 and thank you for inviting me to testify on behalf of
3 the American Postal Workers Union and its 300,000
4 members.

5 The original law that established our
6 nation's postal system and each subsequent
7 modification decreed that the Postal Service is a
8 basic and fundamental service provided to the people
9 by the Government of the United States, authorized by
10 the Constitution, created by an Act of Congress, and
11 supported by the people.

12 Despite the fact that commercial
13 communications such as advertising now dominate postal
14 volume, the basic function of the Postal Service is
15 still the obligation to provide postal services to
16 bind the nation together through the personal,
17 educational, literary, and business correspondence of
18 the people. And it's required by law to provide
19 prompt, reliable, and efficient services to patrons in
20 all areas, and to provide postal services to all
21 communities.

22 As postal workers, we bring to the
23 Commission our views on universal service from a
24 unique vantage point. We are average Americans,
25 residing in every community; and because of our

1 employment, we have a thorough inside knowledge of
2 postal operations.

3 We work on a daily basis to bring prompt,
4 reliable, efficient, and trusted postal services to
5 every citizen in America. As postal employees, we see
6 and understand on a personal level how important our
7 services are to individuals, and to communities.

8 The general theme of my testimony this
9 morning is to urge the Commission to consider the
10 universal service obligation, the role of the postal
11 monopoly, and the importance of the privacy of the
12 mailbox, from the vantage point of the recipients of
13 the mail: the average individuals who may be
14 technologically challenged, churches, community
15 associations, and small businesses.

16 I am certain the Commission appreciates the
17 importance that the business community and ordinary
18 people alike attach to the Postal Service and to their
19 local post office. Time and again during the
20 consideration of various mail processing surveys that
21 question the economic viability of particular postal
22 facilities, local communities rallied in impressive
23 numbers to attend town hall meetings and support
24 retaining their local postal services.

25 And even though the law provides that no

1 small post office may be changed, closed, solely for
2 operating at a deficit, more compelling than these
3 words were the reactions of people who learned that
4 their postal facilities might be closed. Scores of
5 individual citizens rallied to the preservation of
6 their post office.

7 These protests also took place in larger
8 cities, where individuals and political leaders
9 expressed deep concern about the location and
10 continued viability of their postal facilities.

11 The point that I make is illustrated by
12 events that ensued when the Postal Service proposed to
13 close the old and rather dilapidated post office in
14 McCausland, Iowa, a town of approximately 300
15 residents.

16 The plan was to close the local post office
17 and provide the residents rural delivery only, with no
18 post office in the community. The citizens in
19 McCausland rallied and purchased the building at a
20 cost of \$55,000 to house, retain a community postal
21 facility.

22 Then the building needed an additional
23 \$55,000 in renovations. So the citizens organized
24 fundraisers for that purpose. As McCausland City
25 Council Member Lloyd Claussen said, funds were raised

1 one pork sandwich at a time.

2 In response to these efforts, the American
3 Postal Workers Union made a substantial contribution
4 to assist in the renovation. And it is my
5 understanding that to date, sufficient funds have been
6 raised, and the Postal Service has agreed to lease the
7 new post office. The citizens of McCausland will
8 retain local postal services.

9 The commitment of ordinary citizens to
10 preserve their postal service is summarized by Rep.
11 John McHugh of New York. In his testimony to this
12 Commission, Mr. McHugh was one of the staunchest
13 supporters of postal reform legislation, and is well
14 respected for his knowledge and commitment to a viable
15 postal service.

16 He said, and I quote, "Congress debated the
17 future of the Postal Service for 12 years. And during
18 that time, a bipartisan consensus formed that held
19 universal service to be broadly defined to serve all
20 Americans, rich and poor, urban and rural, nationwide.
21 That has historically meant six-day delivery,
22 reasonable access to retail services, as well as
23 convenient access to collection boxes."

24 Rep. McHugh also strongly supports the
25 postal monopoly, as he referred to it as crucial to

1 America's sense of privacy and the security of the
2 mail.

3 For these and many other reasons, the
4 American Postal Workers Union respectfully submits
5 that your review of the universal obligation and the
6 monopoly should be influenced by the history and the
7 role of postal services in the fabric of our country.

8 In addition to sharing our views on these
9 matters, I want to take this opportunity to express
10 our concern about the process the Commission used in
11 undertaking the preparation of the report on these
12 issues.

13 I shared our views in a letter to the House
14 Subcommittee, which I requested be included in the
15 record. We are concerned about the published opinion
16 of the contractors who have been selected to draft the
17 Commissioner's report. Included in their writings are
18 the following opinions.

19 In testimony before the Presidential
20 Commission, James Campbell characterized the monopoly
21 as having insidious effects, stating that the postal
22 monopoly makes the Postal Service a victim, corrodes
23 labor relations, intimidates customers, excuses
24 endless political interference from Members of
25 Congress, and is the chain that binds the Postal

1 Service hand and foot.

2 I find these wordings to be short on
3 original analysis, and long on ideological wishful
4 thinking. I disagree that this is the time, and
5 universal service is the vehicle, to tinker with the
6 postal monopoly. The effects of the nation's economic
7 stagnations has caused a slow but steady erosion of
8 mail volume. But these developments only emphasize
9 the importance of maintaining the monopoly, to ensure
10 that universal service can be sustained even in hard
11 economic times.

12 Advocates of dismantling the monopoly are
13 fond of pointing to changes in European postal service
14 as an example for change. I make two responses to
15 those comparisons.

16 The first is that the geography, history,
17 experience, and performance of the European postal
18 system had been so different from ours, that the
19 differences are more significant than they are
20 similarity.

21 The Europeans have found the need to
22 coordinate a variety of different postal services
23 across international borders. And by contrast, the
24 United States Postal Service is operated as a unified
25 service in a geographically large and very populous

1 single country. Our delivery obligations range from
2 large urban centers to sparsely populated and remote
3 locations. And unlike the European systems, we are
4 providing door-to-door services. And despite all the
5 challenges that we have faced, the U.S. postal rates
6 have tracked overall inflation trends for the entire
7 history, while service standards and public
8 satisfaction have risen and remain high.

9 There is no need or reason for this country
10 to mimic a European model to cure problems that we do
11 not have.

12 I'll also point out the inconsistencies of
13 those who would argue that systems adopted by other
14 countries would serve as our models. As a nation, we
15 continue to engage in healthy debate about national
16 healthcare. And it is often cited that the European
17 and Canadian models are examples of superior service.

18 But despite the healthy debate, it is
19 generally accepted that the European healthcare model
20 is not adaptable to the American system, and should
21 not be afforded serious consideration. We suggest
22 that the European postal model is equally not
23 applicable to our country.

24 The APW urges the Commission to do all that
25 it can to preserve the monopoly, and preserve mail

1 services to the American people.

2 Thank you.

3 CHAIRMAN BLAIR: Thank you, Mr. Burrus. We
4 appreciate the vantage point with which you approach
5 the Commission.

6 Mr. Cantriel, welcome.

7 MR. CANTRIEL: Thank you. Chairman Blair,
8 Commissioners, my name is Don Cantriel. I am the Vice
9 President of the National Rural Letter Carriers
10 Association, which represents 128,000 rural craft
11 employees. Our craft is a vital and dynamic part of
12 the United States Postal Service delivery network.

13 Rural carriers are a post office on wheels.
14 We provide all the services found at a post office to
15 all our customers every delivery day. My route, 71.4
16 miles with over 400 boxes, approximately 40 miles of
17 those are gravel roads. I deliver medicines,
18 ducklings, baby chicks, bees, seeds, farm supplies,
19 and parts to the customers on my route.

20 My postal customers believe that what I put
21 in their mailbox is safe. It doesn't matter if it's a
22 check, a passport, a new credit card, medicine, or
23 they are simply buying stamps from me; they trust
24 their mailbox's security.

25 A recent Securities and Exchange Commission

1 study showed that only two percent of identity thefts
2 occurred through the Postal Service, and most of those
3 were customer-caused problems.

4 The Ponemon Institute Survey showed that for
5 the fourth year in a row, that 86 percent of citizens
6 believed the United States Postal Service to be the
7 most trusted government agency. My customers believe
8 we maintain the security and sanctity of their mail,
9 with quality service at affordable prices.

10 The National Rural Letter Carriers
11 Association strongly supports the limited monopoly the
12 United States Postal Service has, that enables us to
13 provide a universal service obligation at the world's
14 most affordable rates, and most reliable service.

15 We agree with Congressional postal reform
16 leaders that stated the universal service obligation
17 means six-day delivery to everyone, to everywhere in
18 the largest geographical delivery country in the
19 world. We support our customers' strong support of
20 the mailbox monopoly and the resulting security and
21 sanctity it provides for their mail.

22 We strongly believe the universal service
23 obligation in the United States is a result of
24 collaboration between the United States Postal Service
25 and our partners. FedEx, DHL, UPS, and R.R. Donnelley

1 are our competitors and our business partners. By
2 working with them, we increase their profitability,
3 and they increase our reliability. They help us
4 process and transport postal products, and we help
5 them collect and deliver the last mile.

6 Currently the National Rural Letter Carriers
7 Association believes there is no reason to consider
8 changing the monopoly, the universal service
9 obligation, or the mailbox monopoly.

10 I'd like to also address the current
11 economic situation. By most economists' assessment,
12 we are in a recession. All of the U.S. mailing
13 industry is very sensitive to the economy. The Postal
14 Service acutely feels the loss of volume in its
15 revenue.

16 Rural carriers also share that pain. We
17 have a contractual reimbursement for providing our own
18 vehicles in order to perform our duties, which a
19 majority of our carriers do. However, the
20 escalator/deflator mechanism is adjusted quarterly,
21 yet gas prices are going up each and every week, so
22 our members are paying the different out of pocket.

23 Additionally, in a recent mail count
24 carriers lost between two and 12 hours per week in
25 evaluation. Each hour is worth approximately \$1,500

1 in annual salary. My route lost two hours per week.

2 You have a very complex assignment. You've
3 been asked to define the universal service obligation
4 monopoly after Congress chose not to do that. You
5 have data, but not under the new process.

6 Most of the U.S. industries that were
7 monopolies are now deregulated. The European Union is
8 commercializing their posts. And in spite of these
9 facts, the U.S. has the most sophisticated and the
10 cheapest mail and parcel-delivery network in the
11 world.

12 We believe that the monopoly in mail, and
13 our competitive partnership, allowed the universal
14 service obligation that is unique in the world.
15 Please be extremely cautious in proposing changes to
16 the world's most efficient and effective system.

17 Thank you for allowing me to testify and
18 speak on behalf of the nation's 128,000 rural
19 carriers.

20 CHAIRMAN BLAIR: Mr. Cantriel, thanks for
21 bringing your perspective before the Commission. We
22 appreciate it.

23 Mr. Dale Goff, welcome. Appreciate your
24 coming before us.

25 MR. GOFF: Thank you, Mr. Chairman and

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1 distinguished Commission members.

2 My name is Dale Goff. I am the President of
3 the 40,000-member National Association of Postmasters
4 of the United States, NAPUS. But more important, I am
5 the proud Postmaster of Covington, Louisiana, a town
6 that resisted Hurricane Katrina's assault against our
7 nation's Gulf Coast.

8 Within my dual capacity as President of
9 NAPUS and as Postmaster of Covington, I fervently
10 believe that I am uniquely qualified to assist the
11 Commission in its examination of a universal Postal
12 Service, and the essential universal service
13 obligation.

14 The Commission has heard from four NAPUS
15 members, three of whom testified on behalf of NAPUS,
16 and one who spoke on behalf of the U.S. Postal
17 Service. Each of these dedicated members of our
18 postal family has a unique and vital relationship with
19 the communities they serve.

20 Postmaster Mike Larson of St. Paul,
21 Minnesota, gave the PRC a wide-angle perspective of
22 serving a metropolitan area and the operations that
23 are needed to delivery quality service.

24 Postmaster Dennis O'Neill of Chokio,
25 Minnesota, spoke of the social and economic importance

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1 of post offices to small rural communities.

2 Postmaster Jeannie Schnell of Monhegan,
3 Maine, passionately and articulately explained the
4 dependence that isolated communities have on their
5 post office.

6 And retired Postmaster, Lyle Puppe, educated
7 the Commission about what happens to communities when
8 post offices are closed or suspended, and to what
9 lengths communities will go to protect their beloved
10 post offices.

11 These are personal and front-line
12 perspectives of how universal retail service affects
13 America. Whether rural, suburban, or urban, whether
14 on the U.S. mainland, or non-contiguous areas of this
15 nation, these Postmaster views must resonate with the
16 Commission.

17 Therefore, I need not repeat the
18 Postmasters' articulate explanation of the role that
19 post offices play in providing universal service.
20 Indeed, the approximately 27,000 independent post
21 offices are the bedrock of a universal postal system.
22 They serve as outposts of commerce and connectivity to
23 countless towns and hamlets across the American
24 landscape.

25 Our founding fathers recognized the

1 importance of post offices to our national postal
2 system when they enshrined this inherently government
3 facility in the U.S. Constitution. Congress has
4 consistently and unambiguously reinforced the inherent
5 linkage between the community, its post office, and
6 universal service.

7 In 1976, Sen. Jennings Randolph proposed an
8 amendment to Title XXXIX of the United States Code,
9 which is still applicable. Section 404(b) requires
10 local participation in determinations to discontinue
11 post offices, or consolidate them; and that such
12 determinations may be appealed to the Postal Rate
13 Commission, now the Postal Regulatory Commission.

14 This provision is unique to post offices.
15 Sen. Randolph justified the amendment when he stated
16 it is important that the independence and integrity of
17 communities continue and a good mail service be
18 maintained.

19 The premise underlying 404(b) is the
20 association between an independent post office and the
21 quality of an area's mail service.

22 Congress has consistently acknowledged the
23 importance of post offices, especially to small
24 communities and rural areas. Additionally, postal
25 accountability to postal customers is tied to the

1 local post office and its postmaster.

2 Throughout Congressional deliberations over
3 PL 109-435, the commitment to post offices integral to
4 universal service did not change. In this regard, I
5 urge the Commission to carefully consider the comments
6 that Rep. John McHugh submitted on June 30. His
7 remarks are instructive, as to his intent and advance
8 in his legislation, the measure that authorized this
9 proceeding.

10 The PRC must recognize that universal
11 service and the Postal Service's obligation to provide
12 it should be viewed in a broad social and political
13 context, not purely in economic terms. Economic
14 expediency must not define universal service.

15 If economists circumscribed the postal
16 footprint, the institution would not be where it is
17 needed most.

18 I hope that Postmasters O'Neill, Schnell,
19 and Puppe sufficiently illustrated this point to the
20 Commission. From my vantage point as a postmaster, a
21 universal postal service, heralded by post offices,
22 fortified Louisiana communities in the wake of
23 Hurricane Katrina, and strengthened Illinois, Iowa,
24 and Missouri communities inundated by Mississippi
25 Rover flooding.

1 Incoming trusts, and I can relate to this
2 from being in Louisiana after Hurricane Katrina, when
3 profit-motivated businesses sauntered into many of
4 these devastated communities, the citizens were
5 exploited by privateers. The PRC must not be seduced
6 into the misguided belief that for-profit entities can
7 provide the same level of non-discriminatory service
8 that the Postal Service can.

9 It is not borne out by the facts; rather, on
10 our shores or countries with so-called liberalized
11 postal regulations. By the same token, the Postal
12 Service itself must not be permitted to deviate from
13 its universal service obligations by under-staffing
14 postal facilities, thereby denying communities a
15 uniform level of universal service.

16 Universal service, to be credible, must be
17 consistently high-quality. Inferior or unpredictable
18 service does not fulfill our nation's expectations of
19 a universal Postal Service, of the federal
20 government's obligation to provide it.

21 Bestowing high-volume areas with U.S. Post
22 Offices and turning over postal operations in low-
23 volume areas to privatized or depersonalized postal
24 units is not universal service.

25 The common denominator of universal service

1 has been, and must continue to be, the post office.
2 The Postal Service and this Commission must do
3 everything in their power to maximize the
4 opportunities for post offices to generate revenue and
5 provide necessary public services. This includes
6 appropriate staffing and the flexibility to offer a
7 wide variety of postal products. This is the essence
8 of our postal heritage and our postal future.

9 The commitment to universal service is not
10 fulfilled when excessive number of postmaster slots
11 remain vacant, and the Postal Service statements
12 indicate that headquarters has no intention of filling
13 these positions.

14 As you may recall, retired Postmaster Lyle
15 Puppe testified to this unfortunate situation at the
16 PRC St. Paul hearing. I have just one tidbit to add
17 to his testimony.

18 I have been advised that a district manager
19 publicly told postmasters at their Minnesota
20 convention that he had no intention of filling 50
21 postmaster vacancies in his district. It is
22 abundantly clear that the failure to replace a
23 postmaster renders the individual post office ripe for
24 closure.

25 In addition, as retired Postmaster Puppe

1 mentioned to the commission, so-called temporary
2 emergency suspensions have become a much-too-often-
3 used ploy to close post offices.

4 I am pleased to note that the Commission has
5 taken a keen interest in postmaster vacancies and
6 suspensions. The USPS's unfortunate and ill-advised
7 tactics undermine universal service.

8 Indeed, in July 2003, the New York Times
9 underscored the importance of post offices to
10 universal service. And I quote, "It is no mere
11 metaphor to say that for many rural communities, the
12 coming of the post office was a symbol of
13 establishment, an essential connection with the fact
14 and ideal of America. And in most communities, towns
15 that have lost rail service and bus service and lack
16 high-speed internet connections, that symbol of
17 establishment still means what it always has.

18 "Unless you have lived in a town whose only
19 real business is its post office, hardly larger than a
20 garden shed in some places, it is hard to know how
21 vital that one business can be. To lose the post
22 office feels literally like being erased from the map.

23 "In much of back-road America, the presence
24 of a post office is a benign symbol of the larger web
25 of governance, of national community as a whole. That

1 is a bond worth keeping, a building worth keeping
2 open."

3 I hope the Commission agrees with the New
4 York Times. And I thank you for this time.

5 CHAIRMAN BLAIR: Thank you, Mr. Goff. We
6 also appreciate NAPUS's work in helping us put
7 together a number of witnesses that you referenced.
8 So thank you very much.

9 Mr. Mapa, welcome to the Commission. I will
10 note that you had a video that you had distributed to
11 the commissioners and to the Commission itself.
12 Unfortunately, we can't post it on our website because
13 of the bandwidth, but I wanted to make that reference
14 in that we can provide a link to your organization, as
15 well.

16 So thanks for coming before the Commission.
17 We appreciate it.

18 MR. MAPA: Chairman Blair, members of the
19 Commission, thank you for inviting the National League
20 of Postmasters to testify before you today.

21 The task you have before you in this
22 universal service inquiry is very important to our
23 country, and the League very much appreciates all the
24 time and effort the Commission has obviously expended
25 in this inquiry.

1 With your permission, I would like to enter
2 my statement into the record, along with the video
3 appendix that I have provided you. And I will proceed
4 to summarize my testimony.

5 My name is Charlie Mapa, and I am President
6 of the National League of Postmasters. I'm also the
7 Postmaster in Gold Run, California, a small community
8 of a few hundred people nestled in the beautiful
9 Sierra Nevadas of northern California, and currently
10 under a blanket of smoke from hundreds of forest
11 fires. But it's still a beautiful place.

12 Started in 1887 to represent rural
13 postmasters, the National League of Postmasters is a
14 management association representing the interests of
15 all postmasters. Although we represent all
16 postmasters from across the country, from the very
17 smallest to the very largest post offices, rural
18 postmasters are a sizable portion of our membership.
19 The League speaks for thousands of retired
20 postmasters, as well.

21 I've submitted for the record as part of my
22 testimony a very special, short document video called
23 "Post Roads." I would ask the commissioners and each
24 of its staff to take a few minutes to watch this
25 video. That video, which uses League past-National

1 President Steve LeNoir's post office in Horatio, South
2 Carolina, as a focal point, accurately discusses the
3 nature of small post offices, small rural post
4 offices, and documents the role of those small post
5 offices in rural America. Moreover, it does so with
6 an eloquence that I cannot match.

7 I assure you that what that video says about
8 the symbiotic relationship of small post offices and
9 their communities in South Carolina is equally true of
10 small post offices and their communities in
11 California, as well as small post offices in
12 communities across our nation.

13 In terms of universal service and the
14 monopoly, almost all the comments filed in this docket
15 have a shared common theme. And that is that
16 universal service is necessary; that both monopolies
17 must be retained, and that there is no reason to cut
18 back on six-day delivery. As detailed in my written
19 testimony, the League agrees with these positions.

20 As you read through these comments or the
21 comments of the other testimonies, you may see some
22 predicting the demise of the postal system as new
23 communications technologies offer new alternatives to
24 the mail. The Commission should be aware that such
25 predictions have been around since the late 1800s, and

1 we have yet to abandon the postal system.

2 In fact, each time mail volumes were
3 challenged by electronic diversion of one sort or
4 another, starting with the telegraph, exactly the same
5 dynamic has developed. When each new communications
6 technology came along, each one did indeed take away
7 some mail volume. However, in doing so, each of the
8 new technologies changed American society in some
9 fundamental way, and each of these changes created new
10 and different uses for the mail.

11 Eventually new volume replaced the old
12 volume. There is no reason to think that this time it
13 will be any different, as several of the comments
14 note.

15 The League would also note that some might
16 argue that economic theory suggests that the needs of
17 the marketplace would be met by the private sector if
18 the postal market were thrown wide open. That
19 argument, however, misses the point, that the private
20 express statutes exist for equitable reasons, not for
21 economic ones.

22 While it may or may not be true that the
23 marketplace could or would meet most of the postal
24 needs of most of the people most of the time, the
25 private express statutes are there to ensure that all

1 of the postal needs of all of the people are met all
2 of the time, or the federal government and the United
3 States Postal Service will be held directly
4 accountable.

5 It is this equitable assurance, coupled with
6 the transparency and accountability that the private
7 express statutes assign to the federal government and
8 to the Postal Service, that is the heart of the
9 notion, and the politics, of universal service and the
10 private express statutes.

11 In terms of the definition of universal
12 service, the League would think that a good definition
13 of universal service would be the following:
14 Universal postal service means providing dependable
15 mail service to every American resident every day,
16 everywhere, at a reasonable, a reasonably affordable
17 rate, as well as providing sufficient access to the
18 postal system for rural residents. That means having
19 a post office readily available in their community.

20 We would caution the Commission not to
21 attempt to define universal service too closely. The
22 League believes that the definition set forth above
23 contains the proper level of detail, and providing any
24 further detail would be counter-productive.

25 In my written testimony I discuss European

1 posts, and point out that in 1999, if one compared the
2 United States Postal Service to the next nine posts --
3 Great Britain, France, Italy, Australia, Japan,
4 Mexico, Germany, Switzerland, and Canada -- one found
5 that the United States Postal Service moved 72 percent
6 more pieces of mail, with 25 percent fewer people, and
7 did so at a generally lower rate.

8 When those figures were updated in 2006, we
9 found that the United States Postal Service moved 93
10 percent more mail volume than the nine put together,
11 with 42 percent fewer people. Again, at generally
12 lower rates. We find that difference significant,
13 particularly since the United States is larger
14 territorially than eight of the nine other nations.

15 Thus, while looking at developments in
16 Europe is certainly an appropriate and sensible thing
17 to do, it should be done with the recognition that our
18 system is by far the most efficient system in the
19 world.

20 Finally, I would like to return to the
21 question of small rural post offices. And I urge you
22 to watch the video I have provided as an appendix to
23 my testimony. It shows so much better than I can why
24 small post offices matter to rural America, and why
25 their value goes far beyond the mere provision of

1 postal services.

2 I could go on for several minutes to discuss
3 why and how small post offices create social,
4 political, and cultural cohesion in rural America, but
5 will not do so. I think that it is adequately covered
6 in my written testimony, and in that video.

7 I will simply point out that small rural
8 post offices are what create community in rural
9 America. And when a small post office closes, the
10 community often shrivels up and dies. That is no
11 small matter.

12 As we point out in our testimony, and as the
13 staff of this Commission's predecessor has pointed
14 out, the cost of keeping rural post offices open is
15 minimal. The cost of the 10,000 smallest post
16 offices, more than one third of all post offices in
17 the United States, was about seven-tenths of one
18 percent of the total budget of the Postal Service in
19 1999.

20 Thank you for considering our views, and I
21 would be pleased to answer any questions that you
22 might have.

23 CHAIRMAN BLAIR: Thanks, Mr. Mapa. That
24 analysis that you just alluded to would be really
25 helpful for our staff to have as we conduct that

1 report. So if you want to include that for the record
2 or as part of your reply comments during this period,
3 we'd appreciate that.

4 Mr. Keating, welcome. I'm sorry I didn't
5 get a chance to personally greet you this morning. I
6 saw your representative, Bruce Moyer, here, and I've
7 had a chance to speak before your group, but I didn't
8 get to say hello to you personally.

9 MR. KEATING: Thank you, Chairman Blair and
10 members of the Commission.

11 CHAIRMAN BLAIR: I'll take this opportunity
12 to do that.

13 MR. KEATING: I am pleased to appear before
14 you on behalf of the 34,000 members of our association
15 who are responsible for the management and supervision
16 of mail processing, delivery, and support operations.

17 Before proceeding to address the universal
18 service obligation and related issues under
19 consideration by the Commission, I want to take this
20 opportunity to congratulate the Commission and its
21 staff for the impressive number of regulatory and
22 oversight achievements you have accomplished over the
23 past two years, all with considerable speed and
24 intellect.

25 The regulatory framework you have

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1 established on the new postal reform law has helped to
2 provide a strong foundation for the law's
3 implementation. The American postal system is better
4 today for your efforts, and we thank you for your hard
5 work and the products of your labors.

6 Two months from now, on September 7,
7 delegates to our national convention will gather in
8 Louisville, Kentucky, to celebrate and honor the
9 vision and courage of 50 postal supervisors who, on
10 that very day 100 years ago, came from post offices in
11 13 states to create an association dedicated to the
12 welfare of postal supervisors and the improvement of
13 the United States Post Office Department.

14 At that moment in 1908 the nation's postal
15 system was already a century old. Yet America's
16 postal system was far, far different than the
17 extensive network of mail collection and delivery we
18 enjoy today. Rural free delivery was still in its
19 infancy. Postmasters were appointed by patronage.
20 There was less mail, far fewer customers, and
21 considerably less delivery points.

22 Today the United States Postal Service has
23 grown to become the most trusted part of our
24 government, delivering more than 700 million pieces a
25 day to 160 million addresses, and generating \$77

1 billion of revenue a year. It is indeed a national
2 institution unlike any postal system in the world.

3 Our members are proud to have played a role
4 in that growth. They maintain a strong interest in
5 the Commission's inquiry into universal service
6 obligation and the postal monopoly in the United
7 States, because they play a fundamental and critical
8 role in the delivery of postal services to all parts
9 of the nation in fulfillment of the universal service
10 obligation.

11 The universal service obligation represents
12 an enduring public policy commitment rooted in the
13 Constitution, and reaffirmed by Congress most recently
14 through the enactment of the Postal Economy
15 Enhancement Act. The universal service obligation
16 recognizes that every American citizen should have
17 access to basic reliable and affordable postal
18 service. The corresponding responsibility on the part
19 of the government to ensure accessibility to the post
20 is in our deepest traditions, an American tradition of
21 fairness and responsive government.

22 While there are economically potent forces
23 that may be thought to put the universal service
24 obligations at risk, the multiple business
25 opportunities and flexibilities afforded to the Postal

1 Service by the new law should be tested to a far
2 greater degree before injecting further change into
3 the nation's postal system.

4 We believe the Commission would be ill-
5 advised to recommend major changes at this time that
6 alter the character and scope of universal service by
7 the postal monopoly.

8 As you know, the specific terms of universal
9 service obligation are not defined by law. We believe
10 this is a strength of our system, not a weakness.
11 Given that changes in postal service, technology, and
12 market conditions over the time period, and especially
13 in the last several decades, the United States is best
14 served by the continuation of an adaptive, flexible
15 approach to its universal service.

16 We also oppose the relaxing of the letter
17 monopoly and the mailbox rule. Considerable harm to
18 the economic vitality of the Postal Service would come
19 about if private carriers were permitted to receive
20 and deliver market-dominant postal products. The
21 Postal Service's financial base would be endangered,
22 because not all delivery routes are profitable, and
23 private competitors would attempt to secure the most
24 profitable routes, leaving the less profitable routes
25 to the Postal Service.

1 The security of the current mail system
2 would be threatened if the mailbox rule were
3 liberalized to afford accessibility to competitors of
4 the Postal Service to place materials in the mailboxes
5 of Americans. Multiple materials belonging to
6 multiple carriers in mailboxes would create endless
7 confusion, and debase the sanctity of the mail.

8 Finally, we support the preservation of six-
9 day delivery. We recognize that delivery cycles have
10 expanded and contracted over the more than 200 years
11 of the Postal Service, driven by customer needs and
12 economic realities. Affordability, indeed, is a
13 necessary contributor to the character of universal
14 service.

15 While declining first-class mail volume and
16 rising fuel costs will require the Postal Service to
17 consider and undertake the measures necessary to
18 assure the viability of secure, efficient, and
19 affordable mail service, we believe six-day delivery
20 service should continue at this time.

21 Over the course of the past 231 years, our
22 nation's postal system has demonstrated a remarkable
23 capacity to adapt and endure. The history of the
24 United States Postal Service is rooted in the
25 principle of universal service; that every person in

1 the United States, no matter who, no matter where, has
2 the right of equal access to secure, efficient, and
3 affordable mail service.

4 Our association and its members continue to
5 look forward to continuing to play a role in
6 preserving universal service and the economic
7 viability of the postal system that continues to bind
8 the nations together.

9 Thank you, Mr. Chairman and members of the
10 Commission, for the opportunity to appear before you.
11 And if I can add one personal comment.

12 You have at this table today approximately
13 200 years of Postal Service experience. I think it is
14 significant that postal management and postal unions
15 sit at this table together and give you the same
16 message.

17 Thank you.

18 CHAIRMAN BLAIR: Thank you, Mr. Keating. I
19 appreciate your comments.

20 I'll start off the round of questioning.
21 And I kind of have a big-picture question, and I hope
22 I'm not taking anyone's -- it might take some thought
23 to answer, so I appreciate if you want to take a while
24 to think about what your answer would be.

25 The Postal Service, by all reports, is

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1 hitting a rough patch. Declining first-class mail
2 volumes, a tough economy, increasing competition on
3 many different fronts has prompted many to look at the
4 service and ask themselves whether the existing
5 universal service obligation and postal monopolies are
6 right for the future.

7 Our recent proposal by Rep. Jack Kingston
8 that was included as report language in the House
9 Appropriations, by the House Appropriations Committee,
10 suggested delivery be reduced to five days per week,
11 and that has caught the attention of many.

12 There is no one that has more of a stake in
13 the future of the Postal Service than your members.
14 As Mr. Keating just referenced, 200 years of
15 experience sitting here at this table. So I want to
16 tap into that experience.

17 Where do you see the Postal Service in five,
18 10, 15 years? And how can our report, what can we
19 include in our report to ensure its viability? And
20 anyone who wants to take a stab at that, please go
21 right ahead.

22 MR. YOUNG: Well, Commissioner Blair, I'll
23 start first.

24 CHAIRMAN BLAIR: Thank you.

25 MR. YOUNG: Five to 10 years, I think the

1 Postal Service will be what it is now: a delivery
2 institution. But what exactly we're delivering and
3 how we're delivering it remains to be seen.

4 You asked the question how can you
5 strengthen the Postal Service and prepare for the
6 future. By leaving things the way they are; by giving
7 the Postal Service the advantage to get out and get
8 involved in other types of deliveries.

9 The freeways are crowded. Gasoline prices
10 are out of sight. It doesn't look like any relief is
11 in store. And it doesn't make any sense to me that
12 this Commission would do anything that would destroy
13 the continuity that the Postal Service offers.

14 As I said, we deliver to 160 million
15 addresses six days a week, on every street, every
16 city, every town in America. That's a treasure that I
17 think is not being fully utilized now. Clearly, with
18 the events that you've been talking about --
19 electronic diversion of mail, the economy, and the
20 other things -- having a damper on the volume of mail
21 being received, now is the time for us to look as to
22 what other services can be provided to the American
23 public.

24 But I have to caution the same way as every
25 one of these representatives did, and I mean no

1 disrespect to my friend on the end of the table, but
2 his 200 years doesn't come close. Burrus and I have
3 got 100 between us; that would mean the others have
4 only got --

5 (Laughter.)

6 MR. YOUNG: So you're probably looking at
7 closer to 300 years' experience here, to be honest
8 about it.

9 But the fact of the matter is this. We
10 don't want this Commission to do anything that will
11 have a negative effect on the Postal Service. The
12 economy will improve. If it doesn't, there's going to
13 be a whole lot of problems, just the least of which
14 will be the Postal Service. The economy will improve,
15 and we want to make sure when it does, that we're
16 well-positioned to meet whatever the needs of the
17 American public are.

18 It's very difficult, as you said, to predict
19 what those needs will be, sitting at this table today.
20 But the fact of the matter is there will always be a
21 need for delivery of goods and services in America,
22 and I happen to believe that the internet and the
23 other electronic sources will probably accelerate that
24 need, rather than deteriorate that need.

25 MR. BURRUS: Yes, I'd like to add my voice

1 to the response to the question. I see the Postal
2 Service five or 10 years from now as being a strong
3 and viable instrument in the communication needs of
4 our country.

5 Human beings have the need to communicate.
6 The Postal Service has served as the nation's vehicle
7 to facilitate that communication. Certainly there
8 have been expansion and technology, there have been
9 electronic communications, the telephone and others.
10 But we provide communication via the written word.
11 And I believe that five years from now, 50 years from
12 now, civilization will still find the need to
13 communicate via the written word.

14 I think the danger is from those who look
15 into the future and panic, and think that it requires
16 immediate change in order to meet the future. I think
17 that is really a real threat, and I'm concerned about
18 the report that is scheduled to be made by the
19 Commission. And I caution, not to panic; that we have
20 survived now for almost 400 years providing the
21 communication needs of the country.

22 The use of technology is not new. You go
23 back 100 years, telephone. The first was the smoke
24 signals; that was the first, other than the voice
25 communications. We went from smoke signals to the

1 telephone, telegraph. The faxes, the email, the
2 computer, the internet. And untold, unthought-of new
3 ways to communicate into the future.

4 But through all of that, and I predict that
5 through all the future, new means of communications
6 that will occur, there's been a constant; a constant
7 of the written word. And we have been the vehicle for
8 transferring, transmitting the written word from one
9 point to the other.

10 And it's more than just the mere exercise of
11 communicating. It's the connection between
12 individuals to their world. Every American citizen,
13 by virtue of our activity in the international mail
14 community, every citizen has communicated not just to
15 people in their community, but to the entire world.
16 And that has occurred through the mail services.

17 So I caution the Commission that be careful
18 for what you do, in terms of making a change based
19 upon current events. The economy drives volume.
20 During the postal reform debate, there was a lot of
21 discussions about new business model, and the ability
22 to compete, and a lot of rhetoric. We rejected most
23 of that during the debate, because we just certainly
24 did not believe that those things were a major factor,
25 and our predictions have been borne out by recent

1 events.

2 The economy drives volume. The economy, not
3 discounts, not regulations with large mailers, the
4 economy drives postal volume. If the economy is bad,
5 volume is down. If our country is going to survive,
6 then the economy will rebound. And I think all the
7 predictors are our economic engine is too powerful to
8 remain in a recession stage. So it will bounce back.

9 And when it bounces back, there will be a
10 bounce-back of the volume of United States mail. And
11 with that, a need to be innovative. And you have
12 provided management the opportunity to be innovative,
13 to try different things. These experiments around the
14 edges, about priority mail, express mail, tracking;
15 that's not going to save the Postal Service.

16 The economy bounces back, hard-copy volume
17 bounces back with it. And just provide good service
18 to the American public and world, as we have in the
19 past, and there will be a postal system as we've
20 experienced for the last 400 years, for the next 400
21 years.

22 CHAIRMAN BLAIR: Thank you, Mr. Burrus. Any
23 other panelist have a point of view they want to put
24 forward?

25 MR. GOFF: Mr. Chairman, I'd like to say in

1 reference to that, you know, when the Post Office
2 Department was replaced by the Postal Service, we
3 struggled, too. For those of us that have been around
4 200 or 300 years, we struggled for a long time after
5 that, too.

6 But I'm convinced that we became stronger
7 because of that, when the Postal Service was created.
8 And I know for 35 years we prospered well. We needed
9 a change. And I see the same happening here with the
10 new law that's come about, that as we get through
11 these next five, 10 years, we define universal
12 service, we define how we're going to be as the Postal
13 Service, that we're going to be even stronger for it.

14 Is it going to be the same as Don and I
15 talked about this morning, the Postal Service when we
16 first started? No, it's not. Times change, and it's
17 going to be drastically different than I saw 38 years
18 ago. And I've seen that happen all through my career.

19 I'd like to just relay a little story from
20 one of the postmasters out there that, she said yes,
21 in the age that we're in now, I can send you an email,
22 and in anywhere in this vast country of ours you can
23 pick it up and read that email. Or I can send you a
24 postcard, and when you get back to Alexandria,
25 Virginia, you'll get that chance to read it, whether

1 it's two weeks or three weeks that you've been on the
2 road.

3 She said, but if I asked you to send you
4 some supplies to me here out in the field, pertaining
5 to NAPUS, how would you get them to me? Could you
6 send them to me over the internet? No, I couldn't.
7 And she said, ta-da. We have package delivery. We
8 have services that the Postal Service is going to have
9 to do. We have opportunities.

10 So I think we're still going to be there,
11 just as Bill referenced. It's going to be different
12 than what we've done. We don't know what we're going
13 to be delivering. It's going to be a different Postal
14 Service, but I still look for it to be a strong and
15 viable Postal Service.

16 CHAIRMAN BLAIR: Thank you, Mr. Goff. Mr.
17 Mapa.

18 MR. MAPA: When I went to university, and it
19 was a long time ago, I took a design class,
20 Environmental Design. And one of the maxims that came
21 out of that class was form follows function.

22 And I would submit to you that the Postal
23 Service never was created by the Postal Service or by
24 the Post Office Department; it was created by the
25 needs of the people. And as a community grew and they

1 needed a post office, voila; that's the only time they
2 really got involved with the Postal Service. They
3 asked for permission to be called a post office.

4 Other than that, throughout our country from
5 one end to the other, the Postal Service was not
6 created by an entity; it happened on its own.

7 So you have out there a network of
8 communities served by the Postal Service now. That's
9 not going to change in five or 10 years. Those needs
10 will still be there. The Postal Service has some
11 flexibility now in pricing. I think we have the
12 opportunities to go after business that we didn't, we
13 couldn't get before.

14 A good example: eBay, I think it's been
15 mentioned already once today. On eBay the American
16 people take advantage of eBay. Ninety percent of
17 everything mailed on eBay, bought through email -- or
18 excuse me, 90 percent of the things purchased on eBay
19 go through the United States mail. That shows the
20 trust of the American people. And as our economy gets
21 back into the swing of things, when people do more
22 eBay, when they see that the cost of gasoline is high,
23 they're going to start relying, as they do in my
24 community, very heavily on the mail.

25 From Gold Run, California, they don't drive

1 down to Sacramento to do their shopping; they get
2 online, and they order many, many things. Whether
3 it's size 14 tennis shoes for our basketball players,
4 to clothing for the older folks, a lot of the commerce
5 is conducted through the mail. And I think we'll see
6 even more of that in the coming years.

7 CHAIRMAN BLAIR: Mr. Keating.

8 MR. KEATING: I just would pretty much add
9 to what my colleagues are saying. I think five or
10 seven years from now, we may be at the point that
11 difficult decisions will have to be made. But we are
12 not at that point now.

13 And I think it would be premature to make
14 decisions affecting the universal service until we see
15 how it's going to play out.

16 I can remember, I spent most of my career in
17 finance. And I can remember a finance manager back in
18 the late seventies, early eighties, who was telling me
19 that the fax machine was going to put us out of
20 business. The fax machine. We're still here. We
21 will still be here five years from now.

22 We have downsized. We have 100,000 less
23 employees than we had a few years ago. We are
24 continuing to downsize. That will affect our
25 financial situation.

1 Again, it's just, I think, premature to make
2 any changes to universal service at this time. Thank
3 you.

4 MR. YOUNG: Chairman Blair?

5 CHAIRMAN BLAIR: Yes, sir.

6 MR. YOUNG: Could I ask just briefly two
7 points? You asked about the future, and shame on me.
8 How about vote by mail? There is something that
9 offers a lot of hope. We've had a lot of problems
10 with people and their ballots, and their ability to
11 vote. Oregon has successfully experimented with vote
12 by mail; 86 percent of all the citizens in Oregon last
13 year voted in the election. That speaks very well to
14 democracy in this country.

15 So I should have mentioned to you, when you
16 asked me about the future, that I'm hopeful that vote
17 by mail will be part of that future.

18 The second brief point I wanted to make is a
19 cautionary point. Don't put a lot of faith in the
20 fact that Kingston slid an amendment in an
21 appropriations bill, and got it successfully passed,
22 calling for a study of Saturday delivery. During our
23 12-year debate on postal reform, there were many
24 attempts to talk about eliminating Saturday delivery,
25 and it was very clear that almost everyone was against

1 that.

2 And I have to tell you, sir, I'm a letter
3 carrier. You could eliminate one day of delivery,
4 Saturday delivery; all that's going to do is make my
5 Mondays and Fridays heavier. You're not going to save
6 the money that you think you've going to make doing
7 that.

8 And what bothers me is if we didn't deliver
9 mail on Saturday or any other day of the week, it
10 would give these private firms the opportunity to come
11 in and say to the American public well, the Postal
12 Service is not serving your needs; we'll do it for
13 you. That just adds more vehicles, more problems to
14 this inner structure that I was talking to you about
15 earlier.

16 And I apologize for not having those right
17 on hand when you asked the question. But I thank you
18 for allowing me to get it in now.

19 CHAIRMAN BLAIR: Well, I hope I didn't catch
20 you off guard, and I appreciate the value that you
21 provided with that answer.

22 Anyone else want to chime in on what your
23 thoughts are now? How our study can help ensure a
24 future viable postal system in our country?

25 MR. MAPA: One last thing. I did talk about

1 those small post offices. And you asked what should
2 you take forward as something to remember from us.

3 Remember that those post offices cost just a
4 tiny fraction of the post office budget. And going
5 after them is a silly way to solve any of the Postal
6 Service's woes. And so keep that in mind.

7 Also, you know, we talked about opening the
8 Postal Service to competition; let other people come
9 in and strip away some of our services.

10 You want to talk about impacting the Postal
11 Service? That would. You would have people coming in
12 to take over the parts of the Postal Service that are
13 profitable. And that would be devastating to the
14 Postal Service. And if you want to talk about a
15 different Postal Service in five or 10 years, try that
16 and see what happens. It would be the death knell for
17 the Postal Service.

18 CHAIRMAN BLAIR: Thank you all very much.
19 At this point I'd like to yield to the Vice Chair, Mr.
20 Acton.

21 MR. ACTON: Thank you, Mr. Chairman. There
22 is a lot of discussion about the societal value of the
23 Postal Service, and the Commission's focus in some of
24 our earlier work on this subject with respect to the
25 economics of universal service.

1 And it strikes me, and I think a good place
2 to start with would be with Postmaster Goff, it
3 strikes me that in the wake of Katrina, this is
4 probably a very unique and special opportunity for the
5 Postal Service to be providing the sort of benefits
6 that people who advocate for that aspect of the
7 universal service to offer.

8 And I wonder if there's an example or two,
9 or whatever you might share in terms of how the Postal
10 Service rose to the occasion there, and why it's
11 something that the Service is uniquely postured to
12 provide.

13 MR. GOFF: Commissioner, I could talk for a
14 long time, and I don't think we have much time this
15 morning or this afternoon. And I could tell you the
16 things we did after Hurricane Katrina as the Postal
17 Service.

18 I can remember the first days after, I think
19 everybody knows it was the end of August and then it
20 was the 1st of the month, the 3rd of the month. And
21 that's very important to a lot of our customers
22 through the Postal Service, because Social Security
23 checks, SSI checks come out. And everybody was
24 wondering are we going to get our checks? Are we
25 going to be able to pick them up from the Postal

1 Service?

2 And as some of the people have testified,
3 the other thing is we deliver a lot of the medications
4 in the mail, too. And that was a concern by
5 everybody.

6 But I can see the day, I can remember us
7 rallying around in a parking lot in a neighboring
8 city, in Hammond, Louisiana, where all the postmasters
9 came in; the little mail that we could get there, the
10 checks that were available that we could get to bring
11 back to our communities. We did it.

12 I can remember us draining the gas tanks of
13 LOVs so that we could get some gas. It wasn't
14 available. There was no electricity for many weeks.

15 But I just saw that as the post offices
16 started doing their things, that the communities
17 started to get active again, and everybody was coming
18 out of the daze.

19 And you know, maybe we didn't deliver those
20 first few weeks right after the storm, or the first
21 few days; but the rallying point for everybody was
22 their local post office. Whether we had their
23 medication or their Social Security check, or that
24 they were looking for something that somebody sent
25 them, it was the Postal Service that was there to

1 provide that service to them.

2 And you know, we did that for a long time.
3 I know in my office, some of the communities that were
4 totally wiped out towards the mouth of the river, five
5 of the post offices were set up in my back parking
6 lot, in trailers, where we served those communities.
7 Yes, they had to drive 50 miles to get their mail, but
8 we were the ones that brought it back. And if you
9 could have seen the families and the people as they
10 picked up their mail and said you're alive -- they
11 didn't know if each other were still living, they
12 didn't know where they were around the country. But
13 it was the Postal Service that brought these families
14 and these communities back together.

15 And that's just some of the things that we
16 provided right after that storm.

17 MR. ACTON: And perhaps in communities where
18 there wasn't a post office, do you feel like there was
19 a comparable level of support, or a place where folks
20 would go for that type of assistance? Say, a library,
21 or the local diner, or something of that nature? Or
22 is it something that the Postal Service was providing,
23 that otherwise wouldn't have been available?

24 MR. GOFF: If you're asking in reference to
25 the communities that had the vast devastation, there

1 was nothing left in those communities. The Postal
2 Service wasn't there, either; but we were able to
3 provide some type of staging area where they could
4 bring those communities back.

5 MR. ACTON: Okay. Thank you, Mr. Goff.

6 I'm finished, Mr. Chairman.

7 CHAIRMAN BLAIR: Commissioner Goldway.

8 MS. GOLDWAY: Thank you. This has been a
9 really interesting panel, and for me raises more
10 questions that we really need to explore.

11 I guess my fundamental question, all of you
12 have been advocating that we maintain a flexible
13 definition of the USO. But I'm concerned that, under
14 the new PAEA regime, that the Postal Service will
15 respond to its financial pressures in such a way that
16 it may choose to reduce the universal service
17 standards, to deal with its costs.

18 And wouldn't it be better to have a clear
19 definition, a precise definition of what the universal
20 service obligation is? So that the Postal Service has
21 to meet that bar?

22 I know there are real benefits in
23 flexibility, but I was -- after we had our hearing in
24 Portsmouth I went to visit friends in a small town in
25 Maine, which has a post office on its little village

1 square. But for many years the population in that
2 town had gone way down. And it's only been in the
3 last 10 years that it's gone back up again.

4 And one could imagine a scenario where there
5 would be an economic justification for closing that
6 post office, but it wasn't allowed. And now the post
7 office is needed again.

8 So is there a need for some sort of minimum
9 standard that is clearly defined, rather than just the
10 flexibility? And I wondered whether you might respond
11 to that.

12 MR. YOUNG: I'll take a shot at that. I
13 think not. And I'll tell you why. Because you've got
14 Congressional oversight now.

15 If the Postal Service was to do what you
16 suggested, Ruth, and start to cut back services, what
17 usually happens there is the patrons, the ones that
18 are receiving the cutbacks in services, they start
19 complaining to their Congressional reps. Then the
20 Congressional reps get involved with the Postal
21 Service. And largely those kind of things don't
22 happen because of that.

23 I don't think defining universal service
24 could stop an over-zealous employer from making cuts
25 that they thought they had to make in and of itself.

1 But I do think Congressional oversight has served that
2 purpose.

3 And I think that because the Postal Service
4 is in the Constitution, that the government and the
5 Congress should retain a role of oversight,
6 notwithstanding the role that they've given to you
7 all. I think that they should retail this role and
8 oversight so that they can address those problems as
9 their constituents raise them up to them.

10 So I don't see the value. I see a lot of
11 harm, because of what's happened in Europe, with the
12 strict definition of universal service. And so I
13 don't see the value to offset the potential harm in
14 defining it more strictly.

15 MR. MAPA: Commissioner Goldway, addressing
16 your specific question about that particular post
17 office in Maine, I have to tell you there is a process
18 in place that does protect post offices. It's a
19 difficult thing to go in and close a post office, and
20 rightly so. Part of that process involves the
21 community. You can't just go in and close a post
22 office and say that's it, we did that for financial
23 reasons.

24 You have to take it before the community.
25 You've got to have public hearings. And oftentimes

1 it's at that point, if a community feels particularly
2 in jeopardy, that they will contact their Congressman.
3 And over the resistance of a community and Congress,
4 it makes it even more difficult to close a post office
5 in a viable community.

6 If there's no community there to fight for
7 its right to have a post office, then perhaps that is
8 the time when a post office should be closed. But
9 there is a process in place to prevent it.

10 MS. GOLDWAY: So, and what about six-day
11 delivery? Should we specify that?

12 MR. MAPA: Anybody that wants to champion
13 five-day delivery needs to go into any post office in
14 America on a Tuesday morning after a holiday. It is,
15 it's a zoo in there. It's a very busy place. You've
16 got mail stacked up to the ceiling and a lot of
17 offices. And you know, overtime is a for-sure thing
18 on those days.

19 So as Bill Young said, you're not going to
20 save a whole lot of money going to five-day delivery.
21 Before people say you need to go to five-day delivery,
22 they need to actually go out to post offices on a
23 Monday morning, or better yet, a Tuesday morning after
24 a holiday, and they would probably agree that it's not
25 a reasonable thing to expect.

1 MR. GOFF: Commissioner Goldway, if I could,
2 I'd like to chime in a little bit here.

3 I think Congressman McHugh says it best in
4 his, in his letter that was written to the Commission.
5 That, you know, for the past 12 years, and during the
6 time of a bipartisan consensus forum that held
7 universal service should be broadly defined to serve
8 all Americans, rich and poor, urban and rural,
9 nationwide.

10 It is an inherently governmental function,
11 and we have to continue to looking at that, as an
12 inherently governmental function.

13 I can tell you the minute that any
14 Congressman's post office is threatened to be closed,
15 or they're going to lose their post office in their
16 community, believe me, the Postal Service hears from
17 that Congressional office about I don't want you to
18 touch the post office in my community.

19 So I know it's the Commission's part to
20 recommend to Congress or to give a report back to
21 Congress. And I strongly believe deep down that
22 Congress is going to say let's have this broad
23 definition of universal service, and let's keep the
24 postal services open, the post offices open in our
25 communities. And let's make sure that they continue

1 to be that inherently governmental function out there.

2 MS. GOLDWAY: I guess if I could, I have one
3 other question. And that I think relates to what
4 Commissioner Acton was asking about.

5 We've been asked to measure the costs of
6 universal service. And the question also is the
7 benefits, the economic benefits, how you measure in
8 dollars the kind of social networking and community
9 support that's provided by this communications
10 delivery network that's universal, so that you can
11 balance the two.

12 Do you have any ideas of how you measure, in
13 economic terms, those benefits?

14 MR. YOUNG: Commissioner, I'm not sure how
15 you measure it, but I was really interested in
16 Commissioner Acton's question. And I'd just like to
17 enter for the record a few things that I hope are in
18 the record already, but to be honest with you, I'm not
19 sure they are.

20 First of all, I'd like to talk about the
21 annual food drive that letter carriers do, that raises
22 about 70 million pounds of food for hungry communities
23 throughout our country. Put a value on that.

24 I'd like to talk about our carrier alert
25 program, where, when mail starts stacking up in an

1 elderly patron's box, we contact community centers,
2 and somebody in the family goes and looks in on these
3 people.

4 I'd like to talk about the anthrax
5 experience that we had, and I'd like the Commission to
6 think about what a difficult time that was, and how
7 reassuring to the American public it was to see postal
8 workers and letter carriers, and everybody else, out
9 doing their job; and how difficult that matter would
10 have been to contain if there were 60 different
11 entities delivering mail into that box. It would have
12 bene next to impossible.

13 I'd like you to think about muscular
14 dystrophy and the \$2 million that letter carriers
15 raise every year to assist that. That's just one of
16 our charities.

17 I'd like you to think about that fact that
18 when the federal government, the Homeland Security had
19 a need to deliver vaccinations, they came to us. And
20 they said look, in the event that there's a biological
21 attack in America, would the letter carriers and the
22 rural carriers be willing to go out and deliver
23 vaccinations. And we said, without a doubt, yes. And
24 we've tested it in several different cities, and it
25 works. And I'm wondering what the economic value of

1 that is.

2 So I can't do the math for you, I'm not
3 smart enough on that side of the table. I can just
4 tell you that there are a lot of value added to the
5 American Postal Service that if you took it away,
6 wouldn't be there. And somebody's got to do that, and
7 somebody's got to make those figures, and make it come
8 out right.

9 I think what's happened here is the old
10 American story; people get used to having a certain
11 level of service provided, and they resist mightily
12 when it starts to be deteriorated. These are all
13 services that are not called for by the Postal
14 Service, in the Constitution or anywhere else. But
15 they're provided each and every day to people across
16 this country in a number of different ways.

17 I spoke solely to the ones my members; I'm
18 sure these presents could tell you other activities
19 that their members engage in that are equally as
20 important as the ones that I discussed.

21 So my hope is that you're right, that this
22 does get some value assigned to it when you look at
23 the overall structure. But I caution, as one of the
24 management reps said, it's not all about economics.
25 Economics is there; it's got to be considered. We

1 never lose sight of that, we understand that.

2 The four of us negotiate contracts, the
3 three of us negotiate contracts. And one of the
4 things that we have to consider is the effect on the
5 American public, the effect of our contracts on the
6 postage and the increases in postage, and we do. And
7 if we don't strike the proper balance, then things are
8 not going to go well.

9 I think that history has shown we have
10 struck the proper balance. I mean, when you look at
11 wages, for instance, since 1970, they simply tracked
12 inflation. I see little wrong with that. There's
13 nobody hitting a home run, but there's nobody getting
14 murdered, either.

15 So I think all these things have to be
16 considered. And I thank you for raising that. I
17 thank Commissioner Acton for raising that. I think
18 those are important considerations that you all should
19 be aware of; the wrong solution could have an adverse
20 effect to any of those things. And then decide what
21 it is that you think is necessary, and I guess you'll
22 issue your report based on that.

23 MR. BURRUS: I would like to have a word on
24 the question of cost. While cost, in a capitalistic
25 society, certainly is a factor and should always be

1 considered in everything that we do, but I think it
2 would be a serious, a very serious mistake to make
3 decisions, particularly in a function like
4 communications, the mail service, to reduce it to
5 cost. I think it would be a serious mistake.

6 You would not know in advance what the
7 consequences would be. There are, my grandchildren
8 and great-grandchildren will be engaged in activities
9 that I can't even dream about. They will communicate,
10 they will interact in ways that civilization has never
11 done before.

12 To assign a cost in the year 2008 with the
13 body of knowledge that we have in 2008 to impact the
14 Postal Service and the communication systems in the
15 world 10 years down the road, 20 years down the road,
16 when our vision is cloudy, I think that would be a
17 serious, very serious mistake. Because what you would
18 be doing is tying the hands. You would be influencing
19 what those great-grandchildren will be doing 40 or 50
20 years from now, without having any knowledge of the
21 effect of your decision.

22 So I think while cost is always something to
23 be considered and will be factored into PAEA, put in
24 the CPI cap on rates, it hasn't addressed that
25 question of cost. Within that cap, I think the Postal

1 Service should have the flexibility of providing the
2 communication needs of our nation, as it has done in
3 the past.

4 MR. GOFF: Commissioner, if I may, I'd like
5 to just add a little bit here, too.

6 You know, if cost was the whole bottom-line
7 thing of the law when it was passed, Congress would
8 have named us the U.S. Postal Service Company.
9 Instead, they left us, they named us -- they still
10 left the name as the United States Postal Service.

11 Nothing bothers me more than to hear people,
12 whether it's within the Postal Service or somewhere
13 else, say the company has done this, or the company
14 has done that. We are a service. And we can, you
15 know, be designed to act like a business, or asked to
16 be more like a business. But we're going to get to a
17 point that we can't be that business that they're
18 looking for, or to model ourselves after some big
19 business that's out there in our country.

20 We are a service. And once we get to that
21 point where we start cutting back on service, and we
22 start trying to be that company, then we're losing the
23 whole function of the United States Postal Service.

24 And I think cost is something very hard that
25 we have to look at, but it's also not the defining

1 factor when we keep the United States Postal Service
2 for the next five or 10 years.

3 MS. GOLDWAY: Thank you.

4 MR. MAPA: Regarding cost, I think we maybe
5 should be looking at value. If yo look at a small
6 post office, what is the value of that small post
7 office to a community? I would say that that small
8 post office is the absolute center of that community.
9 And I'm only speaking from experience, because that's
10 the way it is in my small town.

11 If there's a forest fire -- I did talk about
12 forest fires -- they don't call the California
13 Division of Forestry, because they're too busy. They
14 call me. If there's a problem out on the freeway with
15 the snow, they call me. If there's an emergency in
16 the community, they call me.

17 And why do they do that? Because I am the
18 face of the federal government. They know that the
19 Postal Service is the one place where the United
20 States Government has given them some bang for their
21 buck, every day.

22 They also know that I care about them. I
23 have formed friendships and relationships with those
24 people over the course of that last 22 years. They
25 know that Charlie down at the post office is going to

1 take care of them.

2 We talked a little bit about Congress.
3 Let's take a look at the Constitution. There aren't
4 many services defined in the Constitution that the
5 government will give to its people, but there is one
6 service that they do promise, and that is postal
7 service. So we need to look at the post offices and
8 really determine what the value is, not the cost.

9 Thank you.

10 MR. KEATING: I just want to agree with my
11 colleagues. You cannot make decisions on a service
12 organization based on cost. I think you, as a
13 commission, have a responsibility, along with Congress
14 has a responsibility, to deliver a postal service
15 which is what the American public wants.

16 And I think it's quite clear what the
17 American public wants. Because every time you try to
18 change a post office or close a post office or close a
19 facility, the American public speaks. And they speak
20 volumes of it.

21 I think, as going to my previous comments, I
22 think it's premature to be even thinking about these
23 decisions at this time. Maybe five years down the
24 road, we might be here talking to you again. Maybe
25 things might be worse, things might be better; we

1 don't know that at this point.

2 And I urge you to keep in mind that the
3 decisions that you make should be reflective of what
4 the American public wants.

5 Thank you.

6 CHAIRMAN BLAIR: Thank you. Commissioner
7 Hammond.

8 MR. HAMMOND: Thank you, Mr. Chairman. I
9 could ask a lot of questions, but I would become
10 repetitive with all of the questions we've had before.
11 So I will forgo most of my questioning.

12 But I did have to ask Mr. Cantriel one
13 question. You're a Missouri rural letter carrier. My
14 father was a Missouri rural letter carrier for, and a
15 small-town postmaster, for 30 years.

16 I was just wondering where is your route at?

17 MR. CANTRIEL: Linn, Missouri.

18 MR. HAMMOND: Oh, over at Gasconade?

19 MR. CANTRIEL: We're just a little bit west
20 of Gasconade. I'm in Osage County.

21 MR. HAMMOND: You're in Osage, okay.

22 MR. CANTRIEL: The river defines the
23 boundary. And I want to address just a little bit,
24 the customers on my route, if you're going for
25 profitability, you're not going to get it from where

1 they are.

2 If you had to ask some of those customers
3 what they would do if we didn't have mail service,
4 some of them would be put in a very tight position,
5 because a lot of the medicines, a lot of the things
6 that they get, for a big portion of the customers on
7 the route that I serve. And I'm not unique in the
8 rural, in truly rural areas. It would be 20-plus
9 miles one way for them to get to either a post office
10 or any kind of a business that would offer any kind of
11 service.

12 What we offer to them every day, if nothing
13 else, is just contact with the outside world. And I
14 know that today, whenever we look around here, and the
15 growth that we have. But when I get out on the far
16 stretches of my route, it's me and the deer and the
17 turkey and the customer every once in a while. I can
18 go one and two miles between boxes in some pretty
19 rural areas. When I talked about 40 miles of gravel
20 road, that's exactly what I mean.

21 So there are still some real rural areas out
22 there that the Postal Service binds together. And in
23 case of an emergency that Bill spoke of earlier, I
24 don't know how those people would get any service
25 other than the Postal Service. You're not going to

1 have someone on the private sector decide that they
2 want to run 17 and a half miles from Linn out to
3 halfway between there and Des Moines, the river, to do
4 any kind of business with those people.

5 MR. HAMMOND: Well, Linn is a large town
6 compared to where I come from.

7 (Laughter.)

8 MR. CANTRIEL: We moved from Bland to Linn.
9 And when I moved there, the kids thought we were
10 moving to the city.

11 MR. HAMMOND: Well, Bland is about 500?

12 MR. CANTRIEL: Yes.

13 MR. HAMMOND: Yes, well, I'm a town of 400,
14 so you've got us beat big time. So I can understand,
15 especially coming from a postal household, I can
16 understand what you're talking about. But I won't ask
17 any more questions.

18 Thank you, Mr. Chairman.

19 CHAIRMAN BLAIR: Well, I just wanted to
20 follow up on that.

21 Mr. Cantriel, do you say Missoura?

22 MR. CANTRIEL: Absolutely.

23 CHAIRMAN BLAIR: Okay. I just wanted to
24 clarify that for the record, that is was Missoura, and
25 not Missouri.

1 MR. CANTRIEL: We're south of the river.

2 (Laughter.)

3 CHAIRMAN BLAIR: Commissioner Langley.

4 MS. LANGLEY: Thank you. You all have put a
5 good face on the difficulty that we have in putting a
6 price tag on the services that your members provide to
7 the country.

8 And one of the things that we've heard time
9 and again throughout these hearings and proceedings
10 is, you know, the value of the Postal Service in rural
11 and isolated areas. There is just no way that we can
12 actually quantify that. And having the understanding
13 of the impact that any changes on universal service
14 might have on these regions is important to us.

15 Mr. Goff mentioned how unfilled postmaster
16 positions are undermining universal service. So I'd
17 really like to hear from Mr. Goff and from Mr. Mapa,
18 whether or not the use of contract postal facilities,
19 I guess they call them CPUs now, will have an impact
20 on universal service. Is it having an impact now? As
21 well as the impact on the accountability that the new
22 law is seeking. Either one of you may go first.

23 MR. MAPA: It's hard to draw a similarity
24 between a contract postal unit and a post office.
25 There's another -- I like those adages, though.

1 There's another one that says you get what you pay
2 for.

3 If you're talking about a contract postal
4 unit, you're paying somebody nine bucks an hour, or a
5 series of people who are making nine dollars an hour.
6 There is nobody in that facility who is really
7 responsible for that facility. They're not providing
8 the same level of service that you get in a post
9 office.

10 I've got a contract facility about 20 miles
11 from me, it's that far away; and almost every day I
12 get a call from them asking me how to do something. I
13 almost every day get somebody from that contract
14 postal unit coming to my post office to mail something
15 because they didn't know how to do it at that other
16 office, or they didn't trust those people.

17 We've had some theft in our area over the
18 last 20 years. Never once was it from one of our post
19 offices. It was always a problem at that contract
20 postal unit.

21 So I don't know if I've answered your
22 question. There's just not the same level of service,
23 there's not the same level of trust, there's not the
24 same level of expertise in a contract postal unit that
25 you're going to find in a post office.

1 That particular CPU is in a gas station.
2 Can you expect the same service from a gas station as
3 you would from a post office, whose sole purpose in
4 life is to deliver the mail and do it efficiently and
5 securely?

6 MS. LANGLEY: Thank you.

7 MR. GOFF: Just to reiterate some of what
8 Charlie said, even though he took my statement of you
9 get what you pay for, you do. And we had that
10 discussion when we talked about CDS routes, that the
11 unions had talked about, and I still live by that
12 statement.

13 As a manager of one of the CPUs in my city,
14 it complements our post office. It serves, you know,
15 a benefit there that there is a complement that the
16 people can go into this grocery store, walk out and
17 mail a package or buy some stamps. However, they
18 can't do a bulk mailing or anything else that we would
19 offer at the post office.

20 My concern with the CPUs is if we go further
21 and further away from the big cites, the urban areas,
22 to the rural areas -- South Dakota comes to mind,
23 where you have a post office maybe every 60 to 200
24 miles apart -- how many people are going to actually
25 ask, or to bid on a contract to put a service in

1 there? It's not going to happen. They're not going
2 to do it.

3 So I don't see that as the future of the
4 Postal Service. And I don't think it's -- in some
5 ways it's cost us money instead of helped us save
6 money.

7 MS. LANGLEY: Thank you. I have one final
8 question that I'm hoping the panelists can answer
9 briefly.

10 Just curious whether or not competitive
11 products and market-dominant products should be
12 treated equally under a definition of universal
13 service obligation? And I'll just open it up to the
14 panel.

15 MR. YOUNG: I think they should be treated
16 equally.

17 MS. LANGLEY: Thank you.

18 MR. BURRUS: Yes, I agree. I think they
19 should be treated equally.

20 MR. CANTRIEL: Yes, I think they should be
21 treated equally.

22 MR. GOFF: I will say yes, created equally,
23 looking at some of the things we've done recently at
24 the Postal Service, where we've offered the express
25 mail and we've changed the prices on the priority and

1 express mail. And we didn't have to go through that
2 lengthy process. And it's helped us as far as moving
3 things along and offering the discounts, the volume
4 discounts, without having to go through a lengthy
5 process.

6 And I think that with some of our non-
7 competitive products, that would certainly help, too.

8 MR. MAPA: And I'd agree with Dale. If
9 you're talking about giving us the same flexibility
10 with our non-competitive products as we have with our
11 competitive products, I see a tremendous upside to
12 that. That would allow us to respond more quickly to
13 forces in our economy.

14 For example, the price, the fact that fuel
15 prices went up so drastically over the last year.
16 That was a tremendous hit on the Postal Service, and
17 probably a monster hit on our rural carriers. So I
18 don't think that would be a bad thing.

19 MR. KEATING: I think we're all in agreement
20 on that.

21 MS. LANGLEY: Thank you.

22 CHAIRMAN BLAIR: Thank you. I want to thank
23 our panelists again for taking the time to come before
24 the Commission. Your views are very important. While
25 we may not agree on everything, I think the --

1 (Away from microphone.)

2 (Laughter.)

3 CHAIRMAN BLAIR: So, with that, I again
4 thank you. I appreciate it and look forward to our
5 continuing dialogue.

6 (Whereupon, a short recess was taken.)

7 CHAIRMAN BLAIR: I want to welcome to the
8 Commission our next distinguished panel of witnesses.

9 First we have Rick Geddes, who is an
10 Associate Professor at Cornell University. I had the
11 pleasure of working directly with Rick when he was on
12 the Council of Economic Advisors at the White House,
13 and I'm very pleased that we could have Rick here this
14 afternoon, and welcome.

15 I'm also pleased to welcome Murray Comarow.
16 When we were talking about 300 years of experience on
17 postal issues on the previous panel, do we have 400 --

18 (Laughter.)

19 CHAIRMAN BLAIR: We would not be complete if
20 Murray Comarow, Professor Comarow, wasn't testifying
21 and giving the benefit of his keen insights and
22 thoughts here today.

23 I'm also pleased to recognize Linda Sherry
24 of Consumer Action. Thank you for coming.

25 We had extended an invitation to Don Soifer

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1 of the Postal Council, but he was unable to make it
2 here today. And he recommended Linda stand in his
3 place. Linda, thank you for coming in. We greatly
4 appreciate it.

5 So on that note, why don't we start with
6 Professor Geddes? Thank you for coming down from
7 upstate New York, and bearing the heat of July in
8 Washington. So with that, we'll start off with you,
9 sir.

10 MR. GEDDES: Thank you, Mr. Chairman and
11 fellow commissioners, as well as fellow panelists and
12 other guests. It's my honor to be invited to appear
13 today, and it's not an inconvenience at all to come
14 down and serve in the capacity of making some comments
15 regarding this critical report that you all have to
16 make to Congress on very important issues.

17 My name is Rick Geddes, and I'm an associate
18 professor in the Department of Policy Analysis and
19 Management at Cornell University.

20 My remarks today have a very specific focus
21 and purpose. My goal is to simply evaluate one
22 statement. That statement is that the twin postal
23 monopolies -- that is, a monopoly of the delivery of
24 mail and on access to the mailbox -- are necessary to
25 ensure the universal delivery of mail service. That's

1 my focus, that the postal monopolies are necessary to
2 ensure universal service.

3 That statement is false. It is false both
4 from a theoretical and from an empirical perspective.
5 It is false based on both the experience in the United
6 States in other industries that are similar in
7 structure to postal services, as well as postal
8 services in other countries.

9 Concerns about universal delivery service
10 simply cannot be used to justify those joint postal
11 monopolies.

12 Before discussing the reasons why, however,
13 in the limited time we have here, I want to address
14 what I think is a key prerequisite in the process of
15 analysis that I would recommend you undertake. I
16 believe that it is critical to separate out the
17 question of universal delivery service, and what we
18 mean by that, from the best policy approach to
19 ensuring universal service.

20 Let me repeat that. It's critical to
21 separate out the goal of universal delivery service
22 from how we should achieve the goal of universal
23 delivery service.

24 I believe we should proceed as follows.
25 First, we should define exactly precisely, in detail

1 and with careful consideration, exactly what it is we
2 mean by universal delivery service. Because that is
3 the policy goal we seek.

4 I was very concerned listening to the last
5 panel to hear some commentators suggest that we should
6 let that be fuzzy, or undefined, or unclear. I think
7 if any student of mine wrote that back in a paper,
8 that the policy goal on which we base the
9 justification for a delivery monopoly -- keep in mind,
10 that's the justification for the delivery monopoly --
11 should be amorphous, that student would probably
12 receive a low grade for that.

13 That's the first step. Be careful, be
14 precise, be exact. What do we mean by universal
15 delivery service?

16 Second, and only after that step is taken,
17 we should then decide, consider what is the least-cost
18 way for society to meet that policy goal of universal
19 service, once defined. And that universal service
20 definition may include these rural post offices that
21 we want to stay open in small towns; that's fine.

22 But my point is the second step should be
23 what is the socially least-cost way of ensuring that
24 we meet this well-defined policy goal of universal
25 service.

1 There's a number of approaches that can be
2 taken to ensure that we meet that goal. I can
3 guarantee you most assuredly that government-owned
4 monopoly is not the least-cost way of ensuring
5 universal delivery service.

6 Rather, it's likely to be one of the
7 highest-cost approaches to ensuring universal delivery
8 service of any approach we can imagine. Indeed, if
9 you want, in questioning I can give you a number of
10 reasons why a government-owned monopoly is likely to
11 be a higher cost on society than a similar private
12 monopoly.

13 The social costs of a government monopoly
14 are going to manifest itself in a number of ways,
15 including higher costs for a given level of service,
16 higher rates that would obtain under competition,
17 slower innovation, and the slower adoption of
18 technology that does exist presently.

19 There's a number of approaches that preserve
20 universal service -- however you wish to define it,
21 but please define it precisely -- without legally
22 enforced monopolies. But I want to emphasize why I
23 believe that competition is so, so important.

24 The introduction of competition to other
25 network industries in the United States, including

1 airlines, trucking, and railroads, all similar to
2 postal services in structure, called "network
3 industries," proves that allowing competition creates
4 massive social benefits.

5 I don't have time here to go through the
6 evidence on lower costs, lower prices, improved
7 efficiency, increased innovation. I'll just summarize
8 the evidence from a person who I believe is really the
9 expert in the effects of deregulation of these network
10 industries, who is Clifford Winston of the Brookings
11 Institute.

12 He stated, in a well-regarded journal
13 article, said that, "The intensified competition
14 resulting from deregulation causes firms to make
15 innovations in marketing, operations, technology, and
16 governance that enable them to become more efficient,
17 improve their service quality, introduce new products
18 and services, and become more responsive to customer
19 preferences." I believe this would also apply for the
20 Postal Service.

21 In my written comments, I offer a number of
22 reasons why concerns about universal service do not
23 justify legally enforced monopoly. I'll just review a
24 couple here in our limited time.

25 First, competition has been introduced in

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1 other industries with a similar network structure to
2 Postal Service, and universal service has been
3 maintained. Ensuring universal service to small
4 communities was a major concern when airlines were
5 deregulated, and first faced competition. Those
6 concerns proved to be unfounded. Competition in
7 airlines actually accelerated the use of innovations
8 that improved air service to small communities.

9 I could go through a number of examples, but
10 let me just give you two. Competition in airlines
11 increased the use of the hub-and-spoke system. The
12 hub-and-spoke system allowed customers in small
13 communities access to hubs from which they could go to
14 a number of other places.

15 Second, and completely unexpected, airline
16 deregulation caused air carriers to use a number of
17 different sizes and types of aircraft. Prior to
18 deregulation it was a one-size-fits-all aircraft
19 essentially. When you had competition, they used a
20 bunch of small aircraft, which actually increased the
21 access to small and rural communities.

22 I think there is a general lesson here to be
23 drawn from airline deregulation. Competition drives
24 innovation. Let me repeat that. Competition drives
25 innovation.

1 Competition in mail delivery, I believe,
2 would similarly drive innovations that we cannot
3 conceive of sitting here, that would improve service
4 to rural communities, rather than diminish it, as some
5 have thought.

6 Second, there are other much lower-cost ways
7 to achieve the policy goal of universal mail service,
8 once precisely defined, than through legally enforced
9 monopolies. And the economics profession essentially
10 speaks with one voice here. The economics profession
11 has long recognized these alternative lower-cost
12 approaches that still allow competition.

13 One alternative is to simply contract
14 competitively with private firms to ensure universal
15 service. In an influential 1998 article, the well-
16 known Harvard economist Andre Shleifer actually
17 singled out postal services as an example of how this
18 would work. And I'll quote from his article.

19 "A common argument for government ownership
20 of the Postal Service is to ensure the government to
21 force the delivery of mail to sparsely populated
22 areas, where it would be unprofitable to delivery it
23 privately.

24 "From a contractual perspective, this
25 argument is weak. The government can always bind

1 private companies that compete for a mail delivery
2 concession to go wherever the government wants, or it
3 can alternatively regulate those companies when entry
4 is free."

5 Now, one might respond that private firms
6 would not contract to serve money-losing routes. And
7 we heard that in the last panel. They would not
8 contract to serve and keep open rural postal services.
9 But this does not preclude competition.

10 The form of the contract with the private
11 firm simply changes. Firms can bid on the basis of
12 the lowest acceptable subsidy that would allow them to
13 serve the route. So let me repeat that. Firms bid on
14 the basis of the least acceptable subsidy. This
15 ensures that the subsidy that you need -- suppose we
16 make a decision that we want to keep post offices in
17 every town under 1,000 open, because that improves the
18 community, it's cohesive, et cetera, and we define
19 universal service in some precise, clear way.

20 Suppose that that loses money. That does
21 not mean it has to be, those services have to be
22 provided by a government-owned monopoly. You can
23 simply have a private firm bid, private firms
24 competitively bid, on the basis of the least-cost
25 subsidy that they require to do that. And then they

1 will provide those services.

2 This is not an economic blackboard theory.
3 There's a number. I've been studying toll roads in
4 Spain. Oddly enough, there's a number of toll roads
5 in Spain -- Spain, by the way, has a lot of toll
6 roads -- a number of them lose money. So they just
7 don't make enough money off the tolls to maintain the
8 road. That doesn't mean it has to be a government-
9 owned monopoly that provides that road service. They
10 just have private firms bid for the concession on the
11 basis of the least acceptable subsidy.

12 So this logic that seems to have permeated
13 the postal discussion that because it loses money, it
14 must be provided by a government, only by the
15 government, is false.

16 I realize I'm at the end of my time. I
17 refer you to my written comments for evidence on
18 countries, such as New Zealand and Sweden, and note
19 that it's not simply Europe that is introducing more
20 competition in postal services, unless you consider
21 New Zealand part of Europe. They've actually repealed
22 their postal monopolies in those countries, which I
23 detail in my written comments, and universal service
24 has been maintained.

25 In short, the postal monopolies, both of

1 them, could easily be relaxed, and we do not have to
2 sacrifice universal service once precisely defined.

3 Competition will not put the universal
4 service obligation at risk. Rather, I think it will
5 improve it.

6 And I'll stop there, and look forward to
7 answering any questions you might have.

8 CHAIRMAN BLAIR: Thank you very much. Mr.
9 Comarow.

10 MR. COMAROW: Thank you, Mr. Chairman. My
11 comments and testimony will speak for themselves.

12 Today I'd like to offer my views on the
13 level of evidence required to justify changes in
14 universal service in the letter and mailbox
15 monopolies.

16 The Commission will surely recommend
17 changes. They may be ignored by Congress. They may
18 generate hearings, where the old battles will be
19 refought. They may end up in some form as
20 legislation.

21 The last scenario is on everyone's mind.
22 That's why the postal community has responded in
23 considerable detail, and at considerable expense.

24 Most mailers say if it ain't broke, don't
25 fix it. And they believe that it ain't broke. The

1 unions agree, but would like their already strong
2 statutory protections further enhanced.

3 I doubt that universal service and the
4 monopolies need to be changed, but I am not
5 comfortable rejecting recommendations before they are
6 made. And before I see their rationale.

7 That doesn't mean that I agree with one of
8 the prior panelists that if we leave things as they
9 are, the Postal Service will be okay. I don't believe
10 that for a minute. I think that certain changes are
11 necessary, and perhaps inevitable.

12 In my former incarnations, I have advocated
13 changes in policies and in organizations. I felt
14 then, and now, that those who advocate change have a
15 duty to provide credible data, relevant facts, sound
16 logic, and, where appropriate, economic projections.
17 A corollary to this self-evidence proposition is that
18 extraordinary changes require extraordinary evidence.

19 Contrary to Professor Geddes, nobody can be
20 absolutely sure of the consequences of changing
21 universal service, or of changing and/or eliminating
22 the two monopolies. But what kind of evidence should
23 be required?

24 To use the criminal law standard of beyond a
25 reasonable doubt would be unrealistic. On the other

1 hand, change should not be based on a belief, however
2 sincere, that government is always better; nor should
3 it be based on confident assertions. Certitude is not
4 certainty.

5 The Commission's recommendations should be
6 based on compelling, objective evidence. That is a
7 high hurdle, but a reasonable one for changes that
8 could affect every person and business in the nation.
9 That evidence should include the most respected
10 professional projections on the likely economic and
11 social effects on the Postal Service and those who
12 depend upon it.

13 The European Union postal experience strikes
14 me as a weak read to lean upon, as my formal testimony
15 notes.

16 The Postal Service is struggling. It does
17 have fierce competition from electronic
18 communications, and in other respects. It has cut
19 man-hours and overtime, rerouted vehicles to save
20 fuel, reorganized its marketing and related divisions,
21 and recruited private-sector executives. Inflation
22 would mean higher COLA payments.

23 Despite the statute's Section 404(b) command
24 to use "best practices of honest, efficient, and
25 economical management," Congress commonly thwarts such

1 best practices. That should and must change. The
2 Postal Service should be able to make business
3 decisions within very broad limits.

4 Perhaps the Commission can develop changes
5 that will clearly benefit the Postal Service and our
6 society. If not, they should be viewed with grave
7 skepticism.

8 Thank you again, Mr. Chairman, for this
9 opportunity to contribute whatever I can.

10 CHAIRMAN BLAIR: Thank you, Mr. Comarow. I
11 appreciate your being here this morning.

12 Ms. Sherry, welcome to the Commission.

13 MS. SHERRY: Chairman Blair and members of
14 the Commission, thank you for this opportunity to
15 speak on behalf of Consumer Action, a national
16 nonprofit consumer education and advocacy
17 organization.

18 Our comments are made from the perspective
19 of individual consumers, especially single-piece
20 mailers who use the post office for personal,
21 household, and family needs.

22 In setting standards for universal service,
23 the consumer should be central to the discussion and
24 the solution. A universal service obligation can be
25 the means of promoting fundamental balance and

1 fairness in the marketplace. At minimum, it should
2 include all market-dominant products.

3 Consumers expect universal service from the
4 post office. This expectation is built on decades of
5 collective experience. We rely on the Postal Service
6 and trust it to send and deliver our mail. Without a
7 universal service obligation, we fear that low-revenue
8 services will be dropped. Often referred to as red-
9 lining, this phenomenon has brought disastrous effects
10 on communities when practiced by other industries,
11 including insurance and banking.

12 We urge you to keep six-day mail delivery
13 and current post offices and business hours.

14 The mail has tremendous value in consumer
15 protection and civic functions. It is used not only
16 as a safe, secure way to pay bills and communicate
17 with companies, but also to provide safety notices,
18 send product warranties and recall alerts, conduct the
19 census, submit voter registrations, and distribute
20 absentee ballots.

21 Individual consumers, not corporate bulk
22 mailers, who use first-class mail should be protected
23 from further increases in the price of first-class
24 stamps. Basic postal service should be subsidized for
25 residential consumers, instead of the unfortunate

1 situation in which first-class mail has subsidized
2 other mail products.

3 Universal service implies products that are
4 fairly priced, not free or cheap, that are transparent
5 and uncomplicated. Plainly written guides and rate
6 charts to help consumers make the best, most cost-
7 effective choices must accompany these products.

8 Consumers must be accurately informed of the
9 pros and cons of mail products. We need to know the
10 benefits and the drawbacks of priority mails, delivery
11 confirmation, CODs, and postal insurance, to name just
12 a few. Statistics on how often the post office meets
13 its standards should be easy for consumers to find.

14 When they go to the post office counter,
15 consumers need to be confident in knowing how to send
16 mail: how long it will take to get there, and that it
17 will not be returned for insufficient postage.
18 Everyone loses when we mail items that do not have
19 enough postage, or when we add unnecessary postage
20 just to ensure delivery.

21 We need to preserve the number of drop-off
22 collection boxes in rural areas and in the urban core,
23 put more collection boxes in areas where access is
24 limited, and step up twice-daily collections at busy
25 locations.

1 Collection boxes must be labeled with the
2 true pick-up times. It seems unlikely that a postal
3 employee can pick up mail from several nearby boxes
4 simultaneously, even if all of them say 10:00 a.m. If
5 consumers can't rely on signage, then universal
6 service standards will be less reliable, less
7 convenient, and less useful to consumers.

8 We urge you to preserve the mailbox
9 monopoly. If the mailbox is open to just anyone, bulk
10 mailers may find alternative carriers and drop out of
11 the postal system. This could lead to an increase in
12 first-class mailing costs that would hurt consumers.

13 In many homes and buildings, mailboxes are
14 locked, and the postal employee has a key to open them
15 when delivering mail. To allow entities outside the
16 post office to have keys would open up residents to
17 tampering, privacy violations, theft of mail, and
18 identity theft.

19 Postal laws require the creation of a
20 stakeholder Postal Service advisory council. Why
21 don't we honor this mandate, and bring consumer voices
22 to the table? We need to do consumer opinion surveys
23 and focus groups to get at the issues that really
24 matter to individual postal consumers, and to gauge
25 their attitudes about the universal service

1 obligation.

2 It's often said that deregulation and
3 resulting competition in other industries, such as
4 airlines, have resulted in lower prices and increased
5 efficiency. Conversely, we see that deregulation
6 often results in a confusing array of products, and
7 rapidly fluctuating prices, in which consumers are the
8 losers.

9 On a typical plane ride, you have one
10 economy class passenger who paid \$200, while another
11 paid \$500, an inequity that results from chance
12 perhaps, but still an inequity.

13 We should endeavor to prevent similar
14 inequities from tarnishing the proud tradition of our
15 U.S. Postal Service.

16 Thank you for the opportunity to speak
17 today.

18 CHAIRMAN BLAIR: Thanks, Ms. Sherry. I
19 appreciate your comments here this morning.

20 I'm glad that all three panelists are in
21 complete agreement on all issues before the Commission
22 here today, so I have no further questions.

23 (Laughter.)

24 CHAIRMAN BLAIR: This is interesting.

25 Usually I like to try to draw the Venn diagram to see

1 where the areas of agreement might be, but I'm not
2 sure that that Venn diagram is going to work here
3 today. So let me just throw out some questions, and
4 I'd urge my colleagues up here to feel free to chime
5 in as well. Because I think, especially with the
6 ideas that were just thrown out here by the panelists,
7 it's best if we engage in a conversation, rather than
8 just a strict back-and-forth between the witnesses and
9 each of the commissioners. So I enjoy this. I think
10 this is going to be an interesting one.

11 Mr. Geddes, you said that a government-run
12 monopoly cannot present the least-cost way of
13 providing universal service. But the U.S. with a
14 government-run monopoly, arguably broader than other
15 countries, including that in Europe or in other parts
16 of the world, still provides postal service at prices
17 considerably less than the other countries.

18 How do you reconcile this? How do we, with
19 a government-run monopoly, and with the barriers to
20 competition that are inherent with a monopoly, how do
21 we still provide the lowest-cost service as compared
22 to other countries that are deregulating and
23 liberalizing?

24 MR. GEDDES: Thank you, Mr. Chairman. I
25 think it's a good question. I think it would be

1 interesting to examine that in detail.

2 One instant reaction I would have is that
3 labor markets in a lot of these other countries may be
4 less flexible. One of the great things about our
5 economy that keeps our unemployment rate -- people
6 complain about our unemployment rate now, but it's
7 tiny compared to most European countries -- and that's
8 because of the flexibility of our labor market here.
9 That we don't have the rigidities that a lot of
10 European countries, for example, have.

11 So if you were to take the same, you know,
12 approach in the United States, you might say well,
13 compared to Germany, for example, our postal services
14 are less expensive. But if you were to take a
15 different approach in the United States that allowed
16 competition, you would get even more social benefits
17 in the form of lower costs, because it would take
18 advantage of the flexible labor markets that we have
19 here.

20 So I think there's other sort of structural
21 differences between us and them. And there also may
22 be, again, quality differences. In other words, I
23 would want to know that that's an apples-to-apples
24 comparison. In other words, is that exactly comparing
25 the same level of service, same quality of service in,

1 say, Germany with the United States, and you get the
2 same cost. So I would want to know it on a quality-
3 adjusted basis. But that's sort of my initial
4 reaction.

5 So you could easily get, you know, you'd
6 still get the benefits of competition, which would get
7 us even to a lower cost, controlling for a given level
8 of service, in the United States, and still see this
9 difference between our Postal Service and Germany, for
10 example.

11 CHAIRMAN BLAIR: But is there a balance to
12 be struck between having -- I think anyone would argue
13 that the monopolies, while important, don't protect
14 the Postal Service from competition because of the
15 internet, because of other media. Is there a balance
16 to be struck here of allowing the government to
17 maintain certain monopolies and certain regulation and
18 certain ownership of this service, while providing
19 access to the private sector, such as we've done
20 through work sharing? It's because of work sharing
21 that we have roughly eight million people employed in
22 the postal industry today; it's a trillion-dollar
23 industry. And it's because of work sharing, which is
24 not seen in Europe at this point, that we've had such
25 a vibrant system.

1 I mean, is it an either-or choice, is it an
2 either-or choice for policy makers to make?

3 MR. GEDDES: Well, I guess I have to take a
4 step back and say we, as policy makers, should assess
5 the justification and the reasons for having a
6 monopoly. But just as an aside, I agree with you that
7 competition introduced through work sharing I think
8 has created tremendous efficiencies within the Postal
9 Service. And I think that it's been good. It's been
10 good for mailers, good for customers. And I believe
11 that that concept can be taken farther.

12 So then the question is well, why don't we
13 have competition throughout? There has to be a public
14 policy justification for a monopoly. Keep in mind
15 that we have a giant section of law called anti-trust
16 law that tries to prevent monopolies. And the
17 students in law school study it, and there's a ton of
18 people that apply it. So as a society, we abhor
19 monopolies. We try to stop them everywhere we can.

20 Now, why is it, for the U.S. Postal Service,
21 that we enforce one? We go on the other side. Not
22 one, we enforce two. We have one over the mailbox,
23 and one over the delivery of addressed matter.

24 So why exactly is that? There has to be a
25 very, very strong, compelling justification for going

1 against the whole body of anti-trust law, and actually
2 enforcing, using the power of the government to
3 enforce a monopoly. And the historical justification
4 for that has been to provide universal service. And
5 all the analysis I can come up with suggests that that
6 link is illogical. There is no logical link, no
7 logical statement that you can make saying in order to
8 ensure universal service, we must have a monopoly.
9 That statement is false.

10 So I sort of come at it from that public
11 policy perspective, that what we've seen in airlines,
12 what we've seen in trucking, what we've seen in
13 railroads, what we've seen in telecommunications, what
14 we've seen in postal services in other countries, what
15 we've seen in work sharing in the United States Postal
16 Service, competition -- and what Adam Smith told us
17 200, if you want to get into hundreds of years,
18 several hundred years ago, 1776, told us that
19 competition creates these social benefits -- we can
20 apply that same logic to the Postal Service and obtain
21 these social benefits.

22 So that's the compelling reason that I think
23 Murray might be looking for.

24 CHAIRMAN BLAIR: Well, one of the things
25 that I was going to point out was that with this

1 government monopoly, it's a regulated monopoly,
2 though. I mean, that's why you have these five people
3 up here, and that that regulation is supposed to
4 provide some kind of counter-balance that an
5 unregulated monopoly would not have.

6 And I wanted to ask a question of Mr.
7 Comarow, is that, you know, your writings in the past
8 have been less than sympathetic towards the idea of
9 the Commission. I know that that's not anything
10 personal towards the five of us up here.

11 But do you think that since the -- and I
12 know how you felt about the enactment of the Postal
13 Accountability and Enhancement Act. But since that
14 time, do you think that the actions of the Commission
15 have contributed to the viability, post-PAEA
16 environment, have the actions of the Commission
17 contributed to the viability of the Postal Service?

18 And, well, first let's go with that
19 question. How do you think our regulatory actions
20 have been in this post-PAEA environment?

21 MR. COMAROW: I think the Commission has
22 done its job in a manner which has enhanced the whole
23 atmosphere. The Commission could have taken a very
24 tough regulatory role; it has not. And I have
25 complimented the Commission privately and publicly on

1 the way it's going about its job.

2 But that doesn't alter the theory that this
3 is the only commission that, whose job it is to
4 regulate the activities of another government agency.
5 That has struck me as an inappropriate way to govern.

6 With your permission, may I comment on
7 something that Rick Geddes said?

8 CHAIRMAN BLAIR: Oh, absolutely. And I'll
9 give Mr. Geddes the opportunity to reply, as well.

10 MR. COMAROW: Two years ago I was part of a
11 panel at AEI. We got the galleys of Rick's book, and
12 we all commented upon the book. And I tried my best
13 to be helpful. In fact, at his invitation, I wrote to
14 him and made a number of suggestions.

15 And in spite of that, he published the book.

16 (Laughter.)

17 MR. COMAROW: You know, there's a problem
18 here. Adam Smith and I discussed this monopoly
19 business --

20 (Laughter.)

21 MR. COMAROW: And as I recall, he was
22 talking about private-sector monopolies. Rick's
23 statement that "we abhor monopolies" I think is a bit
24 broad. There are 18 government monopolies, of which
25 the Postal Service is one.

1 The difference between a government monopoly
2 is that it is run by people who cannot make a profit.
3 They cannot personally profit from that operation.
4 Nor can their shareholders nor boards of directors.

5 In the case of a private monopoly, profit-
6 making is the essence of what a monopoly is about.
7 That is why they have to be regulated.

8 None of these 18 government monopolies are
9 regulated, except the Postal Service. The historic
10 justification that Rick talks about it seems to me is
11 correct if you're talking about regular monopolies.

12 You asked him about how come the Postal
13 Service rates are lower than anybody else's, and he
14 said, correctly, well, we can't really know whether
15 the service in the other countries is the same as the
16 service here. And I don't know that. But Postal
17 Service delivery system has been doing a pretty good
18 job, according to almost everyone. Not perfect, and
19 there will always be complaints. But they have been
20 doing a good job, and their rates are lower than any
21 other developed country. And it seems to me it will
22 take more than just a reference to the possible
23 differences in the quality of service to deal with the
24 question.

25 If abolishing monopolies are all that good,

1 how come we have the monopoly, and it's doing better,
2 on the face of it, than the non-monopoly delivery
3 systems?

4 MR. GEDDES: Do you want me to continue with
5 my --

6 CHAIRMAN BLAIR: I'm happy, and I'd invite
7 Ms. Sherry to feel free to interject herself into this
8 conversation, as well.

9 MS. SHERRY: I'll let Mr. Geddes respond.

10 MR. GEDDES: Thank you. I do have to let
11 Murray know that if I hadn't have published the book,
12 I wouldn't have received reimbursement for my travel
13 expenses to the AEI conference. Had it not been for
14 that, I would have taken his advice and failed to
15 publish the book. You have to understand these things
16 as an academic, Murray.

17 But I did incorporate a number of comments.
18 He did make very extensive written comments, for which
19 I am still grateful -- this is a number of years
20 later -- which I did incorporate into the book.

21 A couple of responses. So it is correct,
22 it's a nonprofit organization. No one directly
23 profits from the residual that's left over at the end
24 of the year from the Postal Service's operations.
25 That does not mean that no one benefits from the

1 profits that the Postal Service makes, or benefits
2 from its current organizational structure. I think a
3 number of people do benefit from that structure, and
4 they're generally, just like the economics of
5 regulation literature predicts, highly organized
6 pressure groups do tend to benefit from government
7 monopolies.

8 A second point is regarding -- there's now
9 an understanding in economics that with a private
10 monopoly, private competitors can find ways around the
11 monopoly. So if you think there's a -- Microsoft,
12 whatever. You know, I don't want to malign any
13 particular private company, but pick one. Microsoft.
14 A big company, has a lot of market share out there; it
15 seems to have this network advantage.

16 But private-sector competitors are able to
17 find ways around another private monopoly. They are
18 able to innovate and come up with a new approach.
19 They're able to come up with new, an entirely new
20 standard perhaps that would work around the monopoly.
21 Or perhaps they can compete with the monopoly on the
22 basis of price, or some other innovation in the way
23 they manage.

24 But with a government monopoly, there's no
25 way a private competitor can innovate to get around

1 the monopoly. In other words, the monopoly is
2 enforced by law. You cannot compete, and the law will
3 come after you if you do. There is no way that you
4 can, you can move around that monopoly.

5 So I think that's the sense in which I meant
6 it as a higher cost, likely to be a higher social cost
7 imposed by a government-mandated monopoly than one
8 which may come and go with technology. I mean look,
9 you know, the Postal Service 200, 300 years, whatever
10 number we want to use, that's a long time for a
11 monopoly to be in existence.

12 And while we're on this topic, I just want
13 to come back to your earlier point. You said it is a
14 regulated monopoly, and it's under the control of
15 government. And yes, there's a set of industries for
16 which I think a lot of economists recognize a
17 regulated monopoly is sensible, where you want to have
18 one firm providing a service, and you want to regulate
19 the price that that one firm charges, because there's
20 benefits of having one firm.

21 And we typically think of an electric
22 utility, or the term natural monopoly comes up. You
23 think of a regulated electric utility. You think of a
24 water utility, maybe. You think of something else
25 with a cable coming into your house, right?

1 There is a ton of, I mean, there's a lot of
2 economists that have exhausted their careers focusing
3 on the question of what is a valid natural monopoly,
4 and what is not.

5 It's worth noting that the body of
6 literature called contestable markets theory, which
7 said basically firms can do hit-and-run entry; they
8 can control, the market can control a natural monopoly
9 through hit-and-run entry. When prices get too high,
10 a firm will enter; and then if they start to lose
11 money, they'll come out. If profits get too high
12 again, they'll enter.

13 And the original industry for that vast
14 literature that influenced a lot of thinking about
15 regulation was postal services; that it's not a
16 natural monopoly you need to regulate through law,
17 because hit-and-run entry, this contestable markets
18 will take care of it.

19 So I think there's a fundamental distinction
20 between trucking, airlines, postal services, and
21 something where there's a physical line that runs into
22 your house, like a water main or electricity. Postal
23 services are not a natural monopoly.

24 CHAIRMAN BLAIR: Ms. Sherry, did you want to
25 comment?

1 MS. SHERRY: Yeah. I just want to say that
2 we're very grateful, as consumer advocates, for the
3 thought and analysis that's provided by economists on
4 all these questions.

5 But we really sometimes just want to hear
6 from the people that use the post office a little bit
7 more, to hear what their opinions are. I think
8 sometimes the opinions are a tremendous learning
9 experience for us, and also a surprise in some ways
10 about how people value the post office.

11 And is it always necessary to provide
12 services at the lowest cost? I mean, we don't
13 personally feel it is at Consumer Action. Is it a bad
14 thing to have a group of organized employees who earn
15 a robust wage, because they're organized? Private
16 companies don't always operate that way.

17 I mean, we know a lot of people earning
18 minimum wage at some of these companies that, you
19 know, do union-busting and the rest of it. So is that
20 necessarily, you know, something that we should focus
21 on here.

22 Then we talked a little bit about the value,
23 setting a value on universal service. Well, it occurs
24 to me that if you look first at the value of the
25 monopoly to the post office, to the Postal Service,

1 that you can then somehow frame the cost of providing
2 the universal service obligation against it. It's a
3 trade-off. The government monopoly is given to the
4 USPS, and in return they provide the universal service
5 obligation. So it seems to be inextricably linked, in
6 our view.

7 CHAIRMAN BLAIR: I don't want to monopolize
8 my colleagues' time up here, so I'll yield to
9 Commissioner Goldway to engage, to begin the
10 conversation, as well.

11 MS. GOLDWAY: I guess, you know, I had lived
12 in Europe for a while and looked at the privatization
13 models that were going on there, and thought, in the
14 late nineties, that that might be a model that would
15 work for the Postal Service.

16 But in the last several years we've seen
17 this dramatic change in the economy for postal
18 products. And there is this marked decline in volume,
19 and real shift to other kinds of communications
20 networks. And even those privatized organizations in
21 Europe that looked like they might be promising, that
22 would have additional capital to innovate and come up
23 with new products are struggling.

24 And they're in a situation where they have a
25 lot more flexibility to go into other fields, because

1 they don't have the concerns about monopoly and
2 government interference in the marketplace that we
3 have in this country, which has limited the Postal
4 Service to such a narrow group of products.

5 So let's say, you know, that the Congress
6 miraculously said privatize. I don't think there's
7 anyone who's going to buy it. I don't think there's
8 anyone who's going to bid to take over this system,
9 and provide the level of service to the rural areas,
10 to the inner cities. Even if, you know, even if
11 there's some sort of subsidy trade-off for it. I just
12 don't think it's going to happen right now.

13 I think we're in a situation where we're
14 really looking at a Postal Service that at least for a
15 short period, five years, maybe 10 years, is in a
16 contracting market, and has to hold its own. And so
17 the level of service that's provided currently is
18 really of importance to me. And I don't see how you
19 can use your formula to maintain that level of
20 service.

21 MR. GEDDES: That's a wonderful question,
22 Commissioner, thank you. You have to appreciate how
23 difficult it is for me to speak without a blackboard
24 behind. But I would use Venn diagrams.

25 MS. GOLDWAY: I notice you want to repeat

1 everything, because you want us all to write our --

2 MR. GEDDES: In this case, I'm trying to
3 give you time to take notes for the exam.

4 But I want to make a very clear distinction,
5 and this, in the whole postal discussion, that I've
6 been guilty of myself. I think I've purged myself of
7 this, and so I'm trying to pass it on.

8 There are two distinct concepts that should
9 really remain distinct. One is privatization.
10 Privatization means actually having an IPO. You know,
11 you get the investment bank, you sell shares in the
12 market; that's one way of privatizing.

13 The other concept that should remain
14 distinct is de-monopolization; that is, allowing
15 competition, right? And if you think about it, the
16 Venn diagrams need not overlap at all. You could have
17 a firm that still remains a government-owned firm.
18 There's no shareholders, there's no private investors
19 of any form, but it's de-monopolized. In other words,
20 private-sector competitors can come in and compete
21 directly with that firm in its core market, but it
22 remains government-owned.

23 So those two concepts I would, I really,
24 really would like folks to keep those two concepts
25 distinct. So again repeating, privatization is an

1 overused term. It is used in an amorphous way. We
2 should be careful that privatization means selling it
3 to the private sector, with private investors. It
4 could be done through private equity, but typically,
5 with a firm this size, it would be done in a publicly
6 traded equity market. You'd have an IPO and list it
7 on the New York Stock Exchange.

8 That firm could still be a monopoly, right?
9 There's no logical reason why it couldn't be. So the
10 concepts of de-monopolization and privatization are
11 entirely distinct.

12 I have come to the conclusion that to
13 privatize the Postal Service without first de-
14 monopolizing it would be diabolical. You do not want
15 to do that. Because you create a private monopoly,
16 right?

17 And then, you know, that is what the anti-
18 trust laws abhor. You don't want to do that. You
19 certainly want to de-monopolize first, before you
20 consider any sort of privatization. So you want to
21 take the steps of introducing competition, I believe.
22 You introduce competition before you introduce --

23 So what you do when you privatize a firm is
24 you introduce high-powered, profit-maximizing
25 incentives. That means raising revenue and lowering

1 costs, in an aggressive way, to maximize the
2 difference between revenues and costs. High-powered,
3 powerful incentives, right?

4 Do you want to do that? Now, Adam Smith
5 says, in a number of areas, profit-maximizing
6 incentives are good, right? They create social
7 salutary benefits. But in some contexts, you do not
8 want those high-powered profit-maximizing incentives.

9 And there is again literature on this.
10 Maybe, you know, on a hospital, for example. You may
11 not want a hospital to be a for -- I hope I'm not
12 offending anyone -- be a for-profit hospital, because
13 it might be hard to control things that you can't
14 watch, okay?

15 But in a lot of industries, and I'm
16 convinced that postal service is one of those
17 industries, you eventually do want those high-powered
18 profit-maximizing incentives that we accept in the
19 vast majority of industries in the United States, and
20 we recognize are good.

21 But what's the order that you want to do it?
22 You want, you certainly want to de-monopolize first,
23 before you privatize. I don't know if I'm getting, I
24 mean, I can get at the, we can get at the -- you're
25 asking me about the balance sheet. You're asking me

1 about the balance sheet of the Postal Service if you
2 were to privatize, right?

3 Now, that value of the Postal Service --

4 MS. GOLDWAY: But I think even if --

5 MR. GEDDES: It matters a lot if it has a
6 monopoly or not, right?

7 MS. GOLDWAY: If you were to de-monopolize,
8 who is going to come in on the private side to bid
9 these contracts?

10 CHAIRMAN BLAIR: Right. Oh, you mean who's
11 going to handle the universal service obligation?
12 You're going to have to reduce that USO for the Postal
13 Service, or you're going to have to impose that upon
14 private-sector entrants.

15 MS. GOLDWAY: The private sector is going to
16 have to pay for it?

17 MR. GEDDES: You're asking me who would
18 enter to --

19 CHAIRMAN BLAIR: Yes, how are you going to
20 assure service to Linn, Missouri?

21 MR. GEDDES: Oh, you mean to a money-
22 losing --

23 CHAIRMAN BLAIR: Yes.

24 MR. GEDDES: Well, presuming, I don't know
25 if it is or not.

1 CHAIRMAN BLAIR: Okay, let's assume, well,
2 if it's for profit --

3 MR. GEDDES: Let's say how are you going to
4 do it, or to -- what was the other?

5 MS. GOLDWAY: You could also take Kapaha,
6 which is the farthest reach in, you know, the Hawaiian
7 Islands outside, you know --

8 MR. GEDDES: Oh, I like that, okay.

9 MS. GOLDWAY: I mean, we're talking about
10 Hawaii. Take something where --

11 MR. GEDDES: Is the general, let's take it
12 somewhere in rural Alaska? I mean, or is the idea
13 that it's a money-losing route? Is that the key
14 point?

15 MS. GOLDWAY: No, if you --

16 MR. GEDDES: But do we all agree that if
17 it's a for-profit route, a firm will enter to serve
18 that route because they can make profits? Do we agree
19 on that?

20 MS. GOLDWAY: But, see, I'm not sure that
21 that's the case anywhere now.

22 MR. GEDDES: You mean that, you don't think
23 for-profit firms would enter to provide delivery
24 services.

25 MS. GOLDWAY: I think the market is so shaky

1 now, given the dynamics of declining volume. I think
2 it's --

3 MR. GEDDES: Oh, I see.

4 MS. GOLDWAY: So I think any of these
5 alternatives --

6 MR. GEDDES: But that's called, that's risk.

7 MS. GOLDWAY: So what I'm trying to look at
8 is, you know, how we can maintain basic service.

9 MR. GEDDES: Right, I understand.

10 MS. GOLDWAY: And I think that the, you
11 know, the current monopoly --

12 MR. GEDDES: Let's deal with a more
13 difficult case. Let's say we're concerned about,
14 we've defined precisely some basic service that we
15 consider to be the universal service obligation.

16 In the towns that you all named, that loses
17 money, okay? So your question to me is how are you
18 going to get that type of service provided by the
19 private sector. Am I phrasing the question properly?

20 My view is that the best way to do that from
21 a policy perspective is you concession the routes to
22 firms. So a firm says for a certain period of time,
23 and we can argue about what the right concession
24 length is, you have the right to exclusively -- you, a
25 private firm -- have the right to exclusively serve

1 this route, and for this price, okay?

2 Now, suppose that price doesn't cover the
3 firm's costs, so it doesn't make profits. It won't
4 enter. You target a subsidy to that. And you say
5 firms bid, you firms bid on the lowest-cost subsidy
6 you will accept to serve the route. We're going to
7 pay you out of general revenues, we're going to pay
8 you to serve these routes. But what's the lowest cost
9 you'll accept to make it profitable to you?

10 And firms, you know, you'll have five, six
11 firms come in, and those five, six, whatever the
12 number is, firms, bidding for a fixed contract. So
13 you fix the quality of service in that contract,
14 right? So there's no question about them skimping on
15 quality, because the contract says quality of service
16 will be X; and if it's not X, there are penalties.
17 That's a whole other issue I would like to discuss,
18 which is how do you penalize the Postal Service for
19 bad service. What's the stick?

20 Well, with a private contract, boy, the
21 stick is clear. You can take, you can reduce equity
22 through a penalty. So you hurt the profit-maximizing
23 firm. So the firms simply bid on the basis of the
24 least-cost subsidy.

25 Let's go back to my example. I know it

1 sounds, you know, it sounds like it's pie in the sky,
2 but this is what they do on toll roads in Europe. If
3 the toll road doesn't make money, they simply bid,
4 they have firms bid on the basis of the lowest
5 acceptable subsidy to get them to provide the service.

6 MR. ACTON: Dr. Geddes, were you here for
7 the first panel?

8 MR. GEDDES: This morning?

9 MR. ACTON: Yes.

10 MR. GEDDES: Yes, Commissioner, I was.

11 MR. ACTON: How does the concept of what the
12 gentlemen on the first panel were discussing in terms
13 of universal service -- not universal delivery
14 service, but universal service -- fit into your model?

15 MR. GEDDES: As distinct from delivery?

16 MR. ACTON: Yes. You used the term
17 "universal delivery service," which I suppose has some
18 distinction from universal service.

19 MR. GEDDES: That's just -- no, I'm not
20 making any distinction. If part of --

21 MR. ACTON: But don't you think there's a
22 distinction to be made?

23 MR. GEDDES: I'm happy to explore one, sure.
24 If part of that -- again, we can go back to the
25 Chairman's Venn diagrams. If universal service is

1 bigger than, the Venn diagram is bigger than universal
2 delivery service, maybe those extra elements are
3 keeping rural post offices open? Is that the added
4 factor?

5 MR. ACTON: I'm talking about the set of
6 services that the gentlemen on the first panel were
7 outlining for us, outside of delivering the mail.

8 MS. GOLDWAY: Things like being responsible
9 for delivery in an emergency, or, you know, notifying
10 relatives when the mail piles up, and somebody may be
11 sick in a home.

12 MR. GEDDES: All of these can be made part
13 of the contract. It's all part of the contract.

14 CHAIRMAN BLAIR: My concern is that, I
15 understand where you're coming from in the name of
16 efficiency, but we're breaking up a relatively
17 efficient system. And albeit it's not perfect. I'm
18 concerned that -- and Mr. Comarow referred to it
19 earlier -- what assurances do we have that in
20 rearranging this in the name of economic efficiency,
21 that we're going to have a better system?

22 And maybe it will be a better system in 10,
23 15, 20 years, but what does it take -- you know, what
24 about the transition period between here and now? And
25 those are the things I think that the policy makers,

1 especially in Congress, will look at, is that in year
2 of this reform, you know, should the Commission make
3 recommendations of some kind, and the Congress adopt
4 them? And those are lots of big ifs. You know, would
5 postal customers be better off? And how long would it
6 take for them to be better off?

7 MR. GEDDES: Well, again, you know, the
8 economists love to borrow from experience in other
9 countries, borrow from experience in other similar
10 industries.

11 In addressing that, I'd like to go back to
12 the person who I think has done the most research in
13 this country on the effects of -- I mean, we had this
14 wave of deregulation of network industries. I mean,
15 my colleague, Alfred Kahn, who is still a guest
16 speaker, by the way, in my class on airlines, but
17 there were a lot of other similar network industries
18 that were deregulated in that wave, like trucking,
19 railroads, et cetera.

20 And that was, we had a long time since then.
21 And we learned a lot about what that did to the U.S.
22 economy. A lot of economists assign the growth of the
23 eighties and nineties to the freeing up of the U.S.
24 economy that occurred, first under President Carter,
25 and then under President Reagan.

1 So I'd just like to read part, if I may,
2 from my written testimony from Clifford Winston, who
3 has really studied this and summarized it. And he
4 said, "Some policy makers and economists appear
5 reluctant to draw generalization from the U.S.
6 experience with deregulation over the last two
7 decades. Industries, it is said, are different. They
8 have different technologies, entry requirements, and
9 so on.

10 "That deregulation works in one industry
11 does not imply it will work in others. This paper,
12 which summarizes it all, suggests, however, that
13 industries are likely to behave quite similarly when
14 it comes to adjusting to deregulation; and that their
15 adjustment, while time-consuming, will raise consumer
16 welfare, significantly even at first, and increasingly
17 over time.

18 "Markets will become more competitive.
19 Firms will develop innovations to become more
20 efficient and more responsive to consumers. The
21 benefits to society will grow as the adjustment
22 continues."

23 The clause in that I want to emphasize is
24 that consumer welfare will go up significantly, even
25 at first. So even, you know, there's going to be

1 adjustment over time by the market and the industry,
2 but even at the beginning you'll see improvements in
3 consumer welfare.

4 To me, grabbing those benefits, obtaining
5 those benefits through better policy is worth whatever
6 adjustment we have. I mean, isn't this really all
7 about consumers in some profound sense?

8 So I think that quote from Clifford Winston,
9 which is a summary -- I mean, he's summarizing the
10 work of literally hundreds of other researchers. It's
11 not just his paper; it's a meta-study of hundreds of
12 other research papers on the effects of deregulation.

13 But to me, yes, there's adjustment. There
14 will be dislocations, there will be people upset, et
15 cetera. But for society, for the United States, this
16 will create benefits out of the get-go, out of the
17 block. But the benefits over time will grow even more
18 because of industry adjustment. That's what we've
19 seen.

20 So I don't know if I'm being responsive, Mr.
21 Chairman.

22 CHAIRMAN BLAIR: I appreciate that. You're
23 presenting a point of view that we haven't heard from.
24 And I think that in order for us to do our job, I
25 appreciate this, you know, your willingness to take

1 our questions.

2 MR. GEDDES: I'm honored to take your
3 questions.

4 CHAIRMAN BLAIR: Ms. Sherry, you look like
5 you wanted to interject yourself in here.

6 MS. SHERRY: Yes, I did, for one minute.
7 Mainly because I think, I just want to caution against
8 change for change's sake, even if it's based on what
9 people feel is, you know, adequate evidence from other
10 industries, et cetera.

11 It seems to me that the USPS at this point
12 has got kind of the best of both worlds, and really
13 should be capitalizing more on the side that allows it
14 to, at least as I understand it, it's free to create
15 new competitive products, as long as they don't spend
16 revenues inappropriately that were made from the
17 competitive side. I mean, the non-competitive side.

18 So I think that some of this problem is that
19 inside the USPS, there's not this ability to create
20 research and develop new products that, you know, in a
21 way that isn't just, as they got into trouble before,
22 borrowing money from the non-competitive side.

23 They have the best of both worlds. They
24 could become increasingly efficient in other areas.
25 They could add other products perhaps to their, to

1 their offerings that were not monopoly products under
2 the monopoly. And yet this doesn't seem to be
3 happening.

4 So I think part of that problem is the way
5 that they're looking at their reliance on the
6 monopoly, and their position as competitive on the
7 side that they can be competitive on.

8 CHAIRMAN BLAIR: Mr. Comarow, you wanted to
9 make a point?

10 MR. COMAROW: Yes, I was wondering when Rick
11 explained his rather dazzling, and perhaps radical,
12 approach to this issue, how we would cope with the
13 areas that would not be profitable. And I finally
14 learned: subsidies.

15 Now, if you're talking about subsidies, you
16 are talking about a whole different postal service.
17 The Postal Service is designed to be, and has been for
18 some years, self-supporting. To the degree that you
19 have services which will be subsidized by the
20 taxpayer, the Postal Service once again will be drawn
21 into an intensely political network, even more
22 political than it is today, because taxpayers' funds
23 are involved.

24 And I think that that would be a complete
25 total difference in the way the Postal Service should

1 be designed.

2 The historical justification for the Postal
3 Service and similar organizations began with the
4 Hoover Commission, the first Hoover Commission, well
5 over 50 years ago, which recommended -- and President
6 Truman agreed -- that government monopolies, I call
7 them government corporations, should be carefully
8 considered when the government is providing a service
9 or a product.

10 And since that time, one after another of
11 the government agencies have become basically self-
12 supporting, some of them not entirely, and have not
13 been subsidized.

14 Mr. Winston's prophecies, if you don't mind
15 my calling them that, I would need the strongest kind
16 of evidence to be persuaded. And again, I listened
17 carefully, so please correct me if I'm wrong. I think
18 he was talking about private-sector monopolies. Is
19 that right?

20 MR. GEDDES: You mean deregulating them?

21 MR. COMAROW: Yes. Yes, the section that
22 you read.

23 MR. GEDDES: He's talking about the
24 deregulation of private firms.

25 MR. COMAROW: Exactly. He was not talking

1 about a government monopoly.

2 MR. GEDDES: He was, yes. The airlines had
3 a monopoly, trucking had a monopoly --

4 MS. GOLDWAY: But they were privately owned.

5 MR. GEDDES: But they were privately owned.

6 MS. GOLDWAY: That's the distinction I think
7 he's making.

8 MR. GEDDES: Yes, they were privately owned.

9 MR. COMAROW: So what you are saying has
10 nothing to do with a government monopoly.

11 MR. GEDDES: No, it has everything to do
12 with a government monopoly.

13 MR. COMAROW: But he was talking about
14 private-sector monopolies.

15 MR. GEDDES: He was talking about firms that
16 have a government-mandated monopoly being de-
17 monopolized, but they're privately owned firms. I
18 mean, if you want evidence on the benefits to a state-
19 owned enterprise and facing competition, I can provide
20 that to the Commission.

21 MR. COMAROW: Well, I'll come in when you
22 have office hours, so you can explain it to me.

23 (Laughter.)

24 MR. GEDDES: Dress appropriately.

25 MR. COMAROW: The labor market that Rick

1 talked about, the flexible labor markets in the United
2 States, that seems to me generally true. But I would
3 suggest that the postal labor market is not very
4 flexible at all.

5 I know of no private company that has its
6 wages settled by binding arbitration. That's not very
7 flexible.

8 In addition, the unions have a number of
9 statutory protections, which they have fought for and
10 lobbied for and gotten over the years. That's not my
11 notion of flexibility.

12 I have one other general comment for the
13 Commission, and for Rick. The statute and the whole
14 legislative history talks about running a business-
15 like efficient, economical organization. Why don't
16 you say to the Congress, why don't you eliminate all
17 that stuff? Because every time the Postal Service
18 tries to do something to cut costs, to be more
19 efficient, the Congress, as a result of pressures from
20 its various interest groups, stops them from doing
21 that.

22 The contradiction between the statutory
23 mandate to be efficient and economical and business-
24 like is absurd. Every business has to operate on the
25 basis of a certain amount of authority and

1 flexibility. The Postal Service does not have that,
2 because many people don't trust it. They don't trust
3 it.

4 A question came up earlier at some point if
5 you give the Postal Service flexibility, how do you
6 know what they'll do with it. That seems to me a fair
7 question, but it does demonstrate that you really
8 can't trust them to use their authority in the way
9 that they should.

10 I believe that that's basically a mistake.
11 If you don't trust them, then remove the command to
12 see to it that they run efficiently and economically.
13 If you do trust them, give them the authority to run
14 it as much as possible like a business, which
15 includes, ipso-facto, the ability to make mistakes.
16 Because no business can run with the necessary
17 flexibility without making mistakes.

18 So I humbly suggest a very modest proposal
19 that the Commission should make to the Congress. Get
20 rid of all that language about being efficient and
21 economical.

22 MR. ACTON: Note taken. Professor Comarow,
23 what's confirmation bias?

24 MR. COMAROW: Confirmation bias is an either
25 conscious or unconscious tendency on the part of

1 almost all of us, when they are looking, when they
2 have a firm position, and when they're looking for
3 material, even if they're trying to be objective,
4 there's a natural tendency to react positively to
5 material that will support their ingoing bias.

6 MR. ACTON: You had expressed some concerns
7 about that in earlier commentary. And it's akin, I
8 think, somewhat to what witness Burrus was speaking of
9 when he spoke of some of our contractors, and their
10 previous views on these matters.

11 MR. COMAROW: I'm sorry, could you repeat
12 that?

13 MR. ACTON: Yes. The earlier witness, Mr.
14 Burrus, had spoken about some of his concerns and his
15 organization's concerns about some of the contractors
16 that we've engaged in this effort, and some of their
17 remarks in this respect in the past. I think that's
18 related somewhat to your concerns about confirmation
19 bias.

20 MR. COMAROW: Yes, it is.

21 MR. ACTON: So confirmation bias is a pretty
22 acceptable problem when you engage in these sorts of
23 studies. Are there ways to reduce it or avoid it?

24 MR. COMAROW: Yes. By being aware of it,
25 and examining the results of the data with great care.

1 That's the best I have been able to do in the past
2 many years.

3 MR. ACTON: But also, wouldn't you say that
4 hearing from a variety of views in a variety of
5 different forums, such as public hearings and
6 workshops, the call for public commentary and
7 response, wouldn't that be another way to ameliorate
8 that sort of concern?

9 MR. COMAROW: Absolutely.

10 MR. ACTON: Thank you.

11 MS. GOLDWAY: I'd like to ask Ms. Sherry,
12 first of all, I want to thank you for coming. And my
13 question relates to the fact that it's so special to
14 have you here. It has been very difficult to identify
15 groups who are involved as consumer representatives,
16 to participate in the postal proceedings that we've
17 had over the last 10 years. I think in part because I
18 say, well, my experience, my friends think of the post
19 office as, you know, the way they do the sewer system
20 or the roads; it's just there.

21 And on top of that, you only spend five or
22 six dollars a month, if you're an individual. But as
23 you pointed out, there are real concerns about an
24 individual using the post office, once you pay
25 attention to them.

1 So how do we get more people involved in
2 joining our dialogue, so that we get, in addition to
3 all of the mailers and the publishers and the
4 stakeholders who run or work in the Postal Service,
5 how do we get the average citizen more involved?

6 MS. SHERRY: Well, I know there's many
7 people out there that just hear the word "focus group"
8 or "survey," and they kind of blank out. But I think
9 there's far more consumers out there who, when they
10 see a request for comment on a proposal from a
11 government body of some kind, blank out.

12 So I think that the outreach is extremely
13 important. I think that you need to hear from the
14 individuals. The Federal Reserve Bank, for instance,
15 has been struggling with some rule changes around
16 credit cards. They held a very in-depth series of
17 focus groups around the country, and I think really
18 came up with some insights around this issue that were
19 able to help them put out some proposed regulations
20 that are, really go a lot farther than anything I've
21 ever seen to protect consumers.

22 MS. GOLDWAY: These were focus groups, they
23 weren't public hearings.

24 MS. SHERRY: Those were focus groups,
25 exactly. And they were, you know, bringing in random

1 consumers from here and there, people who had credit
2 cards, et cetera.

3 But there's also I think an opportunity to
4 actually survey postal consumers, people who use the
5 Postal Service, either at the point of contact, or at
6 where, perhaps using online surveys, which are really
7 cheap at this point.

8 But I think that we're all just kind of
9 stuck in our own, in our own mindset, as Murray's
10 point about confirmation. And I think that we might
11 really be surprised if we heard from people, as you
12 known if you threaten to get rid of a post office you
13 hear from everybody. If we could tie into that same
14 kind of electricity by allowing consumers to know that
15 they, postal consumers to know -- which is pretty much
16 just about everybody in this country -- that they
17 could have input into this process, I think that at
18 this level, it's a little dry for them.

19 I mean, I know even consumer groups we work
20 with, they don't, they really don't get it. They
21 don't get a lot of the issues, and the issues are very
22 important. And issues that we were brought into
23 through Don Soifer and through Shelley Dreifuss, et
24 cetera, the issues that really mean a lot to
25 consumers, but they just don't realize it.

1 So if we could survey them, hold focus
2 groups for them. And I know that costs money, but
3 it's my understanding that there is some budget for
4 this sort of thing, and to try to figure it out. I
5 think most people would want to, would want to
6 participate if they were asked for their personal
7 opinion.

8 MS. GOLDWAY: Well, our contractor is doing
9 some survey work, so we will have some of it now.

10 MS. SHERRY: That will be --

11 MS. GOLDWAY: But I think your suggestion
12 perhaps that we should do this on a more regular basis
13 would be useful.

14 MR. COMAROW: I would just like to mention
15 that the Pew Research Groups have done an enormous
16 amount of individual surveys. You must be aware --

17 MS. GOLDWAY: That's right, yes.

18 MR. COMAROW: Yes, okay.

19 MS. GOLDWAY: In fact, they're working on a
20 voter registration project. I was trying to get them
21 to do some vote-by-mail stuff for us. But that's a
22 good suggestion, going to Pew. Thank you.

23 MS. SHERRY: I mean, I don't know. There's
24 probably privacy concerns. But even the people that
25 have used the post office to get passports in the

1 past, you know, through this thing, if somehow they
2 could be, you know, contacted in some way to bring up
3 their, you know, thoughts about how experiences.
4 Because they're obviously people that use the post
5 office anyway.

6 CHAIRMAN BLAIR: I would just note that for
7 our study that we're conducting, we will be doing a
8 public assessment. And that our George Mason
9 University consultants will be helping us with that.
10 So we are going out to the public on those areas. So
11 I appreciate you bringing that up.

12 If we could yield to Commissioner Langley.

13 MS. LANGLEY: Thank you very much. The
14 discussion has been fascinating, and I do want to
15 second some of what Commissioner Goldway was saying.

16 You know, the whole issue is about
17 consumers, whether it's somebody sending a first-class
18 one-ounce letter for a uniform price, people buying
19 and selling on eBay, or individuals receiving and
20 sending back remittance mail. I mean, these, the
21 Postal Service exists in order to serve the consumers.
22 And whether you're a business or whether you're just
23 an individual, you are a consumer of the services of
24 the Postal Service.

25 And I do have a question for Mr. Geddes. I

1 know that door slots and like the troughs in my former
2 condo are not regulated by law. They are free of the
3 postal monopoly. And I was wondering whether or not
4 there has been any study or review of private courier
5 use of the mail slots. Is anybody taking advantage,
6 let's say, of inserting, you know, things into the
7 mail slots?

8 MR. GEDDES: I'm unaware of any studies.
9 That's an interesting question on that. My sense is
10 that the only reason it isn't monopolized is because
11 it's very hard to monopolize a slot. It's easier to
12 monopolize a mailbox.

13 But one question that I have had that I
14 would love to see a study done on is, are the costs of
15 the mailbox monopoly. If you think about it, I
16 receive a newspaper every morning. That newspaper has
17 to be in a plastic bag. It's thrown into a driveway.
18 It cannot be put in my mailbox because of the mailbox
19 monopoly. Half the time, because I live in Ithaca,
20 that newspaper is wet, because it wasn't put in my
21 mailbox.

22 Some people put up a separate receptacle, a
23 plastic thing. Well, that's plastic at every address.
24 What's the social cost of having to put up this extra
25 receptacle because the mailbox monopoly is there?

1 I would love to see a study that added up --
2 of course, those things don't apply to a slot -- I
3 would love to see somebody sit down and really think
4 through the cost of this. We've heard something, you
5 know, about privacy concerns and what-not, and
6 therefore we need the mailbox monopoly. But of
7 course, on the other side there are costs associated
8 with that monopoly.

9 But also, you know, well, we could go into
10 some other details about it being an essential
11 facility for competitors, and make it more difficult
12 for competitors to compete. But the essential
13 question in my mind is that the United States is the
14 only country that has a mailbox monopoly. I'm
15 unfamiliar with any other country that has one.

16 Why is it that the mail seems to work okay
17 in these other countries, and they don't adopt a
18 mailbox monopoly? When we hear that gee, it would be
19 a problem if we were to repeal it in the United
20 States? In other words, why does it function
21 seemingly well in other, in other countries.

22 So to me, that has never been sufficiently
23 explained. But the costs, to me, I observe the costs
24 of the mailbox monopoly pretty clearly.

25 MS. LANGLEY: I don't think any of the other

1 countries that don't have mailbox monopolies provide
2 the two-way communication that our mailboxes do. You
3 can't, you as a consumer can't leave a letter in your
4 mailbox in Europe, and have a postman pick it up.
5 That doesn't happen.

6 So there is an efficiency to that mailbox
7 monopoly, as well as a cost.

8 MR. GEDDES: I'm unaware, unfamiliar, I
9 should say, of those laws. You may be right.

10 MS. GOLDWAY: I'm pretty sure of that.

11 MR. COMAROW: Just another detail to
12 supplement Commissioner Goldway's remark. In most of
13 the European countries, according to reports that I've
14 received, the mail is delivered through slots in doors
15 or in walls. In one country, I mentioned in my
16 prepared remarks, only 12 percent of the mail was
17 delivered into an accessible letterbox. So if that is
18 indeed the widespread situation, that would account
19 for some of it.

20 MS. LANGLEY: Thank you.

21 MS. GOLDWAY: Thanks.

22 CHAIRMAN BLAIR: Commissioner Hammond. Did
23 we save the best for last?

24 MR. HAMMOND: No, I just wanted to get a
25 little clarification for the last two remarks from Mr.

1 Comarow and Geddes.

2 Are either of you implying or flat-out
3 saying that European countries have a better postal
4 service than we do?

5 MR. COMAROW: No, not at all.

6 MR. GEDDES: No.

7 MR. COMAROW: I have yet to be convinced
8 that they have as good a postal service.

9 MR. GEDDES: Murray and I agree.

10 MR. HAMMOND: Okay. I just wanted to --

11 MS. GOLDWAY: Having lived there, I'm not so
12 sure. I think, you know, we do a good job, and we
13 have a much bigger country. But the service you get
14 in most northern European countries is, is much faster
15 and more reliable.

16 MR. HAMMOND: Oh, so it's you who thinks
17 they have better service.

18 MS. GOLDWAY: But they cost more. It costs
19 more.

20 MR. HAMMOND: No, I just wanted to clarify
21 what you -- yes.

22 MR. GEDDES: Could I respond, Commissioner?

23 MR. HAMMOND: Sure.

24 MR. GEDDES: My point has never been that
25 the U.S. Postal Service is bad, or does a terrible job

1 or anything. I just think that it, that this service,
2 however we want it, we define it, could be done a heck
3 of a lot better, under different policy approaches.
4 That's all.

5 MR. HAMMOND: Okay, thank you.

6 CHAIRMAN BLAIR: Well, I want to thank the
7 panel for your forbearance, and to your submitting to
8 multiple rounds of questions from us.

9 I also appreciate you bringing forward to
10 the Commission some different points of view. I
11 think, again, we benefit from that. And so I think
12 this will be part of a continuing conversation. But
13 again, thank you for coming in today. Greatly
14 appreciated.

15 Ms. Sherry, it's good to see you. We
16 haven't had you here before. Mr. Comarow, your points
17 of view are well known, well taken, and greatly
18 appreciated, though. And your interest and passion in
19 the Postal Service I think is unparalleled, and I
20 think that we all benefit from that.

21 And Mr. Geddes, thanks for coming down from
22 Cornell, and for bringing your points of view that we
23 haven't heard before for the Commission. I think that
24 this will make our study better.

25 Thank you very much.

1 MR. COMAROW: Thank you, Mr. Chairman.

2 CHAIRMAN BLAIR: Do you want to break for
3 five minutes before we go to the next round? Why
4 don't we do that? And we'll reconvene in five
5 minutes.

6 (Whereupon, a short recess was taken.)

7 CHAIRMAN BLAIR: I want to thank our final
8 panelists for your endurance here today. We really
9 have gotten some very interesting points of view
10 before the Commission today. Given the three field
11 hearings and the workshop, I thought we'd heard about
12 every point of view, but I think that today has
13 certainly provided us with a much, much-needed
14 additional much-needed perspectives on the work that
15 we're going to do.

16 So with that, I want to introduce Mr. James
17 Martin of 60-Plus. I want to thank you for coming in.
18 And I want to thank you for providing the views of
19 your organization, and especially for seniors in the
20 country.

21 And I want to welcome Mr. Corn-Revere as
22 well. You're a noted First Amendment expert. And I
23 know that there are certain issues out there right
24 now, especially involving do not mail. And I
25 appreciate your testimony in these areas as well.

1 So, with that, Mr. Martin, would you like to
2 give your summarized statement, please?

3 (Away from microphone.)

4 MR. MARTIN: -- a couple of them. I'm Jim
5 Martin; I'm President of the 60-Plus Association.
6 We're a 15-year-old national seniors group. And I
7 greatly appreciate the opportunity to testify before
8 the Commission today.

9 Preparing a few remarks for this morning's
10 testimony, I spoke with one gray-hair, as I like to
11 call them, who recounted a joke he gathered about what
12 postal service would look like in the year 2029, about
13 20 years from now.

14 He said the headline would read, Postal
15 Service raises price of first-class stamp to \$17.89,
16 and reduces mail delivery to Wednesdays only.

17 Well, that's a cute story as far as it goes,
18 and I know we can all agree we hope it does not go
19 that far.

20 The 60-Plus Association represents seniors
21 in the United States who depend on the Postal Service.
22 On that there can be no question. Seniors, as one
23 might expect, have migrated to the internet and things
24 like email very slowly. We're getting there, but
25 we're not there yet.

1 And the quality of timely and reliable
2 service that the Postal Service provides, particularly
3 for first-class letter mail and other market-dominant
4 products and services is extremely important to
5 seniors. It is our hope and expectation that as the
6 Postal Service moves forward with service standards
7 for these products, that they will continue to ensure
8 that the services they receive do not lose out to the
9 competing interests, such as those of big corporate
10 mailers.

11 We followed recent discussions about
12 possibly moving to a five-day-a-week mail delivery
13 with some concern. Some of us can remember when
14 twice-a-day delivery was a regular occurrence, as well
15 as some of you may. We've seen a trend toward mail
16 delivery to cluster boxes, instead of to the front
17 door, in many communities. And it seems that there
18 are always fewer collection boxes and fewer pick-up
19 times.

20 We recognize that declining mail volumes and
21 other factors create a climate where cost-cutting is
22 an important priority for the Postal Service. We hope
23 that the Postal Regulatory Commission will continue to
24 do everything it can to ensure that such cost-cutting
25 does not come at the expense of the prompt and

1 reliable mail service that seniors depend on.

2 While many seniors have been slow to join
3 the online revolution, many do actually rely on online
4 and catalog purchases for better prices and wider
5 selections. Many others depend on timely and reliable
6 delivery of checks and other important documents.

7 For these seniors, the Postal Service's
8 monopoly on the use of the mailbox is increasingly, we
9 think, inefficient and inconvenient. The higher cost
10 of using private delivery companies as an alternative
11 is a problem for seniors on fixed incomes.

12 Seniors must purchase and maintain their
13 mailboxes; we ask, why can't they choose who has
14 access to them. It is a significant concern to
15 seniors that first-class letter mail continues to
16 contribute more to the Postal Service's institutional
17 overhead than other products and services, including
18 parcel post, priority mail, and periodicals.

19 I'll conclude this morning this way -- this
20 afternoon, I notice. The U.S. Postal Service enjoys
21 two monopolies we all know about. The first is letter
22 delivery; the other is the use of mailboxes.

23 Since it's my opinion that seniors at 60-
24 Plus refer to the latter more frequently in comments
25 to me, I'll end it this way. Why cannot prohibition

1 on the use of mailboxes be lifted? I think it would
2 be a great help to senior citizens all across America
3 if simple acts of community communication could be
4 conducted via the mailboxes they purchased in the
5 first place.

6 Invitations to birthday parties, circular
7 coupons from local businesses, notices about community
8 activities, street-cleanings or special trash pick-
9 ups, et cetera, are real choices denied seniors. Many
10 less mobile and infirm, they would really appreciate
11 the lifting of this mailbox monopoly.

12 As a matter of fact, it's my understanding
13 it was mentioned here earlier today that the United
14 States is the only country in the world that operates
15 with this mailbox monopoly. I would respectfully ask
16 the Commission to give this some serious thought.

17 I'll close on a couple of personal notes.
18 At the 60-Plus Association, we are pleased to have Mr.
19 Pat Boone as our national spokesman. Pat Boone, now
20 that he admits he is 60-plus, has become our
21 spokesman. And at the risk of adding substantial
22 years to the Chairman's age, I notice that he was
23 wearing a pair of white bucks today.

24 (Laughter.)

25 MR. MARTIN: Of course, Pat Boone made those

1 white bucks famous. Pat Boone is still out on concert
2 tours. And someone earlier mentioned a song by Joni
3 Mitchell, I believe. Well, I remember the all-time
4 great of Pat Boone's, and I think we've moved a long
5 way from Love Letters In The Sand, to first-class
6 letters.

7 One other comment I'd make, I did come to
8 Washington back in 1953 the first time, in the first
9 year of the Eisenhower Administration, as a 17-year-
10 old U.S. Marine. And after a couple of tours of duty,
11 I went back home to Florida. I came back finally in
12 1962 as a newspaper reporter. I covered John F.
13 Kennedy in the White House, and yes, I covered that
14 tragic moment in our nation's history in 1963.

15 But I would point out, too, that President
16 Kennedy's Postmaster General was Lawrence F. O'Brien,
17 who had also been his political campaign manager. So
18 we've moved a long way. But we have a long way to go.

19 I thank you for your time.

20 CHAIRMAN BLAIR: Thank you, Mr. Martin.

21 Mr. Corn-Revere, welcome to the Commission.

22 MR. CORN-REVERE: Thank you, Mr. Chairman
23 and Commissioners. I appreciate being invited today.

24 My name is Bob Corn-Revere. I'm a partner
25 at the law firm of David Wright Tremaine, where I

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1 practice primarily in the First Amendment area.

2 At the outset I should clarify, I'm not here
3 testifying on behalf of any client. I am simply
4 giving my personal views on the subject. And also let
5 me just say that my testimony will be rather narrowly
6 focused. I've been asked to address some of the legal
7 implications of proposals that have been made in
8 recent years among the states for do-not-mail
9 regulations, and so I'll confine my testimony just to
10 that.

11 First, it's useful to survey a little bit
12 the activity that's been going on out there in the
13 states. In the past year, 18 states have considered
14 various forms of do-not-mail regulation. These are
15 summarized in the appendix to my testimony, so I won't
16 go into them here.

17 But it's worth noting that the various
18 proposals vary to a great degree. At least eight
19 states would empower the State Attorney General to
20 manage do-not-mail lists; others would use public
21 service or commerce commissions. Some would have
22 registered agents. Some of the proposals would
23 combine do-not-mail regulations with do-not-call
24 lists, and some are, again, fairly narrowly focused.
25 Missouri, for example, would limit the ability to put

1 a recipient's name on a do-not-mail list to those 65
2 and over.

3 These proposals seem to be inspired, at
4 least in part, on the popular do-not-call regulations
5 that were adopted about five years ago, to block
6 telemarketing calls. There are various state
7 regulations, but the ones that were adopted more
8 recently were adopted by both the Federal Trade
9 Commission and the Federal Communications Commission.

10 For that reason, many of the proponents of
11 do-not-mail regulations have suggested that the
12 constitutionality or the legality of such regulations
13 adopted by the state level is already a forgone
14 conclusion, because the federal do-not-call
15 regulations have been tested in the courts, and the
16 courts that have looked at the issue so far have held
17 that they are constitutional.

18 The purpose of my testimony is simply to
19 provide a fairly high-level outline of some of the
20 legal issues to test whether or not the legal
21 conclusions that have applied in the do-not-call
22 context necessarily relate specifically as well to the
23 do-not-mail context.

24 Now, in this regard I'm not going to attempt
25 to analyze any of the specific proposals out there.

1 As I mentioned before, they all differ. But simply to
2 outline some of the basic constitutional principles
3 that apply in this area.

4 My bottom-line conclusion is that the
5 findings with respect to the validity of do-not-call
6 regulations do not translate well to any analysis of
7 whether or not particular do-not-mail regulations
8 would also be found to be valid.

9 First of all, with respect to First
10 Amendment issues. At the outset, it's important to
11 recognize that any regulation that would block the
12 recipient of mail implicates the constitutional
13 command that Congress shall make no law abridging
14 freedom of speech or of the press.

15 At the same time, in our constitutional
16 jurisprudence, the Supreme Court has long recognized
17 that the First Amendment does not guarantee a right of
18 any person to press even good ideas on an unwilling
19 recipient. So it's important, and the case law has
20 recognized, that there is a necessary balance that
21 takes place.

22 Some narrow regulations that have been
23 approved over the years protect those who want to
24 avoid unwanted speech, while at the same time
25 attempting to preserve the ability of Americans to

1 express their views.

2 For example, in recent years the Supreme
3 Court has held that sidewalk counsellors who want to
4 talk to women on their way into abortion clinics have
5 to stay a certain distance, but not so far that they
6 can't actually deliver the message.

7 There have been restrictions approved on
8 residential picketing that target specific residents.
9 But again, they provide certain narrow restrictions,
10 while at the same time preserving the ability of the
11 group that is doing the picketing to still get their
12 message out.

13 And there have been limitations approved in
14 the case of certain commercial appeals, as in the case
15 of the do-not-call regulations.

16 These principles of protecting people from
17 unwanted speech, while at the same time preserving the
18 basic First Amendment command of recognizing and
19 protecting free speech, apply equally to both
20 commercial and non-commercial appeals; that is, that
21 they need to be applied both narrowly and neutrally.
22 And you'll find that theme running through pretty much
23 all of the cases.

24 In the context of postal regulations, these
25 principles were upheld probably most directly in a

1 1970 case, Rowan v. Post Office, which approved postal
2 regulations that said that patrons can have opt-out
3 notices; they can have prohibitory notices enforced by
4 the local postmaster that will block mail that they
5 consider to be sexually oriented or salacious. That
6 is, you fill out your card at the post office, and
7 mail from that sender is thereby blocked.

8 An important feature of that decision and of
9 that regulation is that it is the postal recipient
10 themselves that determine what mail falls into the
11 prohibited category. That is, there is no government
12 test for whether or not the mail actually meets that
13 category; it is simply the homeowner deciding, in
14 their own individual discretion, to decide what sender
15 should be blocked by that regulation.

16 While such individualized blocking requests,
17 as approved in the Rowan case, are plainly
18 constitutional, there are differences in a blanket do-
19 not-mail regulation. The regulation would face
20 greater constitutional challenges, I believe, for
21 three basic reasons.

22 First, unlike the individual prohibitory
23 orders authorized under federal law, a state
24 regulation would impose by law a requirement that
25 entire categories of speakers be cut off. You

1 wouldn't have the individualized decision of a
2 homeowner deciding that a particular sender should be
3 blocked; rather, that would be a question prescribed
4 by law.

5 Second, the governmental interest is really
6 different in the case of blocking postal service in
7 this way, or particular senders using postal service
8 in this way, than it is in the do-not-call context.

9 For example, in the federal regulations
10 adopted by the FTC and the FCC, those agencies found
11 after lengthy rule-making that the intrusion of
12 unwanted telemarketing calls was significant, and that
13 the existing rules were not adequate to protect
14 consumers from getting unwanted messages that they
15 received in their homes.

16 By comparison, mail that comes to the
17 mailbox or is dropped through the slot in your door is
18 silent. It does not interrupt you at the dinner
19 table. And courts have consistently held that the
20 fact that unwanted mail could be annoying to someone
21 is not enough to justify this kind of regulation.

22 In a case that was decided after the Rowan
23 case, the Court made clear that the short, though
24 regular, journey from the mailbox to the trash can is
25 an acceptable burden for mail recipients, at least so

1 far as the Constitution is concerned.

2 And then finally, third. A do-not-mail
3 regulation would impose a greater burden on speech
4 than we saw in the case of do-not-call. One reason
5 for this is that the Postal Service is really
6 different from phone service. The Postal Service has
7 been, from early in the 20th century, recognized as an
8 essential component of preserving First Amendment
9 values, and has a different tradition from regulating
10 the phone system.

11 But another reason is that an added layer of
12 regulations blocking categories of speakers from using
13 the service, or in this case writers from using the
14 service, would have a somewhat different effect. It's
15 illustrated pretty well in the Tenth Circuit decision
16 that upheld the do-not-call lists, where it said that
17 one reason why do-not-call might be considered to be
18 consistent with the First Amendment is that those
19 people who want to communicate could still always use
20 the mails. Because, as that tradition, as I just
21 mentioned a minute ago, suggests the mails have always
22 been held open for that purpose of permitting
23 communication. So you have a different level of
24 burden.

25 Finally, and the last part of my testimony

1 that touches on this, other principles of federalism
2 would apply in the case of state do-not-mail
3 regulations, that did not arise in the same way in the
4 do-not-call context.

5 There, in the most recent incarnation we
6 were talking about, both a federal and state joint
7 system of do-not-call regulations that were meant to
8 operate together, as a result we were talking really
9 about a federalized system that assumed there would be
10 lower levels of government also participating.

11 Here, however, we're talking about a federal
12 postal monopoly that would have a number of state
13 regulations adopted, that could, in many cases,
14 conflict with the provision of universal service.
15 Under the Constitution's supremacy clause, state
16 regulation is preempted where Congress expresses a
17 clear intent to preempt what's going on at the lower
18 levels of government; or where comprehensive federal
19 regulation occupies a field, as in this case; or where
20 conflicting state laws would undermine compliance and
21 make it impossible to comply with both the federal and
22 state regulations at the same time.

23 As I mentioned with the federal postal
24 monopoly, I think the prospect of having a number of
25 states determine what mail is going to be permitted

1 into the mail system or not raises the prospect for
2 that kind of conflict.

3 Secondarily, there is the issue of state
4 regulation of interstate commerce, where you have
5 states deciding what matter can be put in the mail or
6 delivered in their jurisdictions. You have various
7 state policies that could potentially run into
8 conflict with the federal control over interstate
9 commerce.

10 It's a situation that's analogous to various
11 states that have attempted to regulate internet
12 communication. And both in New York and a number of
13 other states, regulations on that communication has
14 been, those types of laws have been struck down
15 because of not just First Amendment conflicts, but
16 also conflicts with the interstate commerce clause.

17 As I mentioned earlier, my written testimony
18 goes into somewhat more detail. But this will
19 conclude my summary statement, and I'd be happy to
20 answer any questions that you may have.

21 CHAIRMAN BLAIR: Thank you, Mr. Corn-Revere.
22 My first question is for Mr. Martin.

23 You had given us that tongue-in-cheek
24 example when you first began your testimony. But
25 there are proposals before Congress right now to study

1 reducing six-day-a-week delivery to five-day-a-week.
2 How would that impact seniors if we went to less than
3 six days a week?

4 MR. MARTIN: I think it would have a
5 negative impact on --

6 MS. GOLDWAY: Would you speak into the
7 microphone?

8 MR. MARTIN: Yes. Thank you for the
9 question, Mr. Chairman. I think it would have a
10 negative impact on seniors, who, obviously that's
11 their only -- lots of times that's their only contact
12 with the outside world, through the mail. And the
13 telephone, obviously. But they would be terribly
14 impacted, I believe.

15 CHAIRMAN BLAIR: And also you advocated
16 opening up the mailbox. And you also mentioned that
17 many seniors have not adapted quite as readily to the
18 internet as some other folks have.

19 How do you think seniors feel about opening
20 the mailbox to someone other than the Postal Service?
21 And why do you advocate opening it up?

22 MR. MARTIN: Well, the seniors are -- first
23 of all, about the internet, I'm getting there slowly
24 but surely, thanks to 14 grandchildren who pushed me
25 right along.

1 CHAIRMAN BLAIR: Well, I know you have one
2 son who is quite adept at the IT side, as well.

3 MR. MARTIN: Thank you, thank you very much.
4 I agree with that remark whole-heartedly.

5 But with those grandchildren pushing me,
6 I've learned to get with it. I like to tell people
7 when I came here as a newspaper reporter, first I was
8 trying to conquer and adapt to the radio, and then TV;
9 but the internet is awesome. And as I'm learning it,
10 I wish I'd have gotten there sooner.

11 But the mailbox for more and more seniors
12 are, you know, the mention here of going from the
13 mailbox to the trash can. Well, some seniors can't
14 even do that, obviously. And so it's a real burden to
15 them. And so some of them are saying why can't we get
16 other things in our mailbox.

17 One pointed out -- and I wasn't sure this is
18 true, but apparently it is -- he said, you know, we
19 buy that mailbox, but it says property of the
20 Postmaster General. It's a little bit incongruous
21 with the way we grew up in this country.

22 CHAIRMAN BLAIR: Well, on that note, I had
23 to repair my mailbox the other day. We found it out
24 on the street. And having to repair that, but you
25 know, feeling that it's not owned by me, does kind of

1 point out that incongruity.

2 One thing you mentioned was that seniors
3 having to go to the mailbox and pick up their mail,
4 and that kind of segues into the work that Mr. Corn-
5 Revere has done. In reading about the do-not-mail
6 movement, some have decided the needs of seniors, in
7 complaining about the amount of mail that they
8 receive, of unwanted mail that they receive in their
9 mailbox. Have folks in your association raised this
10 concern? Have you followed this at all? And what
11 impact do you think, and to the extent that you can
12 comment on it, do you have any comments on this
13 movement, how it would impact seniors?

14 MR. MARTIN: Well, you know, it cuts both
15 ways. A lot of my seniors say just what you just said
16 about a cluttered mailbox with a lot of, some refer to
17 it as junk mail. Others that send out that mail may
18 not like that terminology.

19 But on the other hand, an awful lot of
20 seniors also say boy, I sure like to get that mail.
21 That's sometimes their only contact with the outside
22 world.

23 So they're attuned to it, the mail, the
24 printed letter that comes, or even the circulars, if
25 you will. So it's a two-way street.

1 But I get more complaints about really the
2 clutter mail, and the do-not-mail that they do get.
3 But again, you know, I don't know how it always
4 happens, but a senior responds to one thing. And of
5 course, in our advertising world, that's the way the
6 system works in a, in a great way. They wind up on
7 numerous mailing lists. And so sometimes they
8 complaint about it, but then later I can be talking to
9 another senior and he'll say well, you know, I used to
10 get all this junk mail, and I got off the list. But
11 some of that mail I didn't really mind. Well, how do
12 you tell which piece is so-called junk and which is
13 not? So it is a constant problem for seniors, but it
14 is a two-way street for them.

15 CHAIRMAN BLAIR: Well, I think it's all in
16 the eye of the beholder. What might be one person's
17 unwanted piece of mail may be someone else's valued
18 piece of information, and a sales promotion that they
19 want to access.

20 Mr. Corn-Revere, we've been talking about
21 universal service and providing reasonable and
22 reliable mail service to each and every household
23 throughout the country.

24 How would, how does do-not-mail impact that?
25 Or does it?

1 MR. CORN-REVERE: Without having empirical
2 data, it's hard to answer that question directly. But
3 just as a matter of logic, I think that anything that
4 would take entire categories of mail potentially out
5 of the system would radically reduce the volume, and I
6 think couldn't help but make the system less viable.

7 CHAIRMAN BLAIR: You approach this from the
8 First Amendment aspect. Why is this such an important
9 First Amendment issue?

10 MR. CORN-REVERE: Sometimes when the tool
11 that you have is a hammer, everything in the world
12 begins to look like a nail. And because I do First
13 Amendment work, that is one of the places that I
14 start.

15 But more specifically, the post office does
16 have a tradition in this country of being an essential
17 component that operates in tandem with our First
18 Amendment freedoms. And for the first half of the
19 20th century and a little beyond that, many of the
20 cases that arose in the post office, involving the
21 post office, raised the question of whether or not the
22 government could really keep certain categories of
23 mail out of the system.

24 So as a result, there was a rich body of
25 First Amendment law that emerged from the control over

1 the postal system.

2 Now, as we see various consumer movements
3 trying to use various instrumentalities of
4 communication to enact a web of regulations, to enable
5 people to protect themselves from communication, it
6 brings us back to another era, perhaps, if these laws
7 are adopted, of looking at what regulations are
8 permissible or not when operating with the Postal
9 Service.

10 So that's where I started with the analysis,
11 because of that tradition, and because of the recent
12 activity in the case law in that area. But by no
13 means is it the only constitutional or policy issue
14 that will be raised if state do-not-mail regulations
15 were adopted.

16 CHAIRMAN BLAIR: Thank you. I'm going to
17 mix it up a little bit, and I'm going to yield to
18 Commissioner Hammond at this point for questioning.

19 MR. HAMMOND: Thank you, Mr. Chairman. Mr.
20 Corn-Revere, and I probably won't put this correctly,
21 I'm not a constitutional -- well, as our legal
22 department cringes many times when I remind them that
23 while I am not a lawyer, I watch a lot of Court TV.

24 But there are those in the mailing community
25 that I have had informal conversations with on the do-

1 not-mail and that, who express the concern that these
2 do-not-mail bills in individual state legislatures
3 could be held constitutional, I guess, because it has
4 been held that essentially, that states can regulate
5 business. Whereby certain bills would restrict
6 essentially, not restrict -- well, of course, they
7 can't restrict bills of presentment -- but could
8 restrict advertising mail. And in that way they are
9 regulating business, and are allowed to do so.

10 What is your opinion on that, if you
11 understand my question?

12 MR. CORN-REVERE: I do, and it's a very good
13 question. And it's I think where the major defense of
14 these state laws would begin if they are adopted, and
15 if the issue is later litigated.

16 The question often comes up in the First
17 Amendment context of what kind of speech is involved,
18 because it has only been since 1976 that First
19 Amendment protection has been fully extended, or at
20 least extended to commercial speech, and then varying
21 levels of protection for commercial speech. Which is
22 defined as speech that does no more than propose a
23 commercial transaction.

24 It is protected as political speech is, but
25 to a somewhat lesser degree. The judicial scrutiny of

1 regulations of commercial speech is somewhat less.

2 But as I was mentioning earlier in my
3 testimony, in the summary of it, when you're talking
4 about particular kinds of regulations, if the quality
5 of the speech that you're seeking to regulate has
6 really very little to do with its commercial nature,
7 then there is not a good reason to treat that speech
8 as less protected than political speech.

9 In the case of avoiding unwanted speech, for
10 example. As in the case of women going to abortion
11 clinics and being accosted by sidewalk counsellors.
12 There is a right to avoid unwanted speech in political
13 speech, just as there is in commercial speech. But
14 the government's ability to do that is not greater
15 because the message is commercial, than it is because
16 the message is political.

17 And so I think there would be a good
18 argument that if you try and justify state do-not-mail
19 regulations on the fact that it is a regulation of
20 commercial speech, you would not get the benefit of a
21 lower level of scrutiny if all you're really doing is
22 trying to say we want to stop annoying speech.

23 Again, it is a theory that has been tested
24 most recently in the do-not-call context; and there,
25 the commercial speech argument was used and upheld,

1 but for the reasons that I outlined in my testimony.
2 I don't think that analysis translates as directly to
3 do-not-mail.

4 MR. HAMMOND: And the other thing I've been
5 wondering about, and I don't know which amendment you
6 want to put this under, but if you, if a do-not-mail
7 legislation of an individual state did provide that
8 certain classes of mail can be restricted -- and say
9 even that legislation admits you can't stop certain
10 first-class mail or periodicals or whatever, but could
11 stop other classes of mail from being mailed -- would
12 that not potentially put the U.S. Postal Service,
13 which is a federal monopoly, a federal agency, would
14 it not put the U.S. Postal Service in the position of
15 having to essentially open the mail to find out what
16 it is?

17 If you do want to restrict certain items in
18 the mail stream, who's going to be the enforcer? And
19 it would be, you would think, the U.S. Postal Service
20 itself, which would that not put them in a position of
21 having to open our mail to see what the content was?

22 MR. CORN-REVERE: Yes. It's a very good
23 question, and it's complicated further by the overlay
24 of state laws that may place the enforcement
25 elsewhere. Which raises the question of how you would

1 reconcile that with the duties of the Postal Service
2 versus the local officials who would be empowered to
3 enforce the law.

4 The question of how you decide which mail is
5 protected and which mail is excluded is a very good
6 one. And it's one of the reasons why those kinds of
7 regulations that have been upheld in the past with
8 respect to postal service have been the ones that
9 allow the recipient to decide whether or not they
10 think that mail is something they don't want to
11 receive. And then they can put in their request, and
12 that prohibitory order can be enforced.

13 It becomes a much more complicated problem
14 under the First Amendment if someone at some level of
15 government is deciding which types of mail are going
16 to be blocked. And in those cases, the courts have
17 typically held that the regulations were
18 unconstitutional.

19 For example, in 1983 the Supreme Court
20 struck down a regulation that said that you could
21 restrict the mailing of information on contraceptives
22 because it was, it required for the enforcement to
23 look into the content of the mail. That was held to
24 be unconstitutional.

25 I imagine you could make the same argument

1 for different classes, as well. But we've seen this
2 come up in at least those contexts.

3 MR. HAMMOND: Okay. Thanks very much.

4 MR. CORN-REVERE: Sure.

5 CHAIRMAN BLAIR: Commissioner Langley.

6 MS. LANGLEY: Thank you. I really have more
7 of just a statement, and to thank our two witnesses.
8 Because I think you again bring a very different view
9 that we haven't had the opportunity to hear before.

10 In reference to Mr. Martin, I want to bring
11 up my dad who, at 85, has a computer; got rid of his
12 land-line phone; carries around his cell phone in his
13 pocket. You know, he's great.

14 But he's always complaining about, you know,
15 having to walk to his cluster box, even though he has
16 a single-family residence. He wants to know why can't
17 he have a mailbox. But he complains walking to the
18 cluster box, which he says is stuffed with pieces of
19 mail he doesn't want, and yet he runs home with his
20 supermarket circular so he can then circle those items
21 that are the least expensive, and go all over Phoenix
22 trying to find them.

23 So I think he's a very good example of
24 postal customers who are conflicted. You know, he
25 doesn't want all the mail; he doesn't understand why,

1 when he sends a check to a charity, he may end up
2 getting 10 more pieces of mail from organizations he
3 has no interest in.

4 So it's really just a statement to thank you
5 both for coming. You know, I know when he applauds
6 getting his medicine by mail that he's ordered through
7 the internet, you know, he is a good example of the
8 changing demographics that the Postal Service is being
9 faced with. So your testimony has certainly provided
10 value to us today.

11 Thank you.

12 MR. CORN-REVERE: Thank you, Commissioner
13 Langley. And I might add, the example that you just
14 gave with what may be wanted mail versus unwanted mail
15 is one of the things that makes the enforcement of
16 these types of regulations so dicey.

17 The do-not-call list, for example, excluded
18 charitable calls and political calls. And yet I think
19 it's quite likely that those kinds of communications
20 may be equally, if not more, annoying than supermarket
21 circulars that people might actually find value in.
22 Not to say that the others don't; it's just that
23 everyone is different. They can make their own
24 choices about what they find to be valuable.

25 And when you have a bureaucratic response

1 that puts certain communications in one category and
2 others on the excluded list, it becomes a very
3 difficult issue.

4 MS. LANGLEY: I think that's a very valid
5 point. Thank you.

6 MR. MARTIN: It's in the eye of the
7 beholder, I think, as the Chairman pointed out
8 earlier.

9 MS. LANGLEY: It definitely is.

10 CHAIRMAN BLAIR: Thank you, Commissioner
11 Langley. Commissioner Acton?

12 MR. ACTON: Mr. Corn-Revere, I'd like to
13 think about a hypothetical, a thought experiment we
14 call them here sometimes.

15 MR. CORN-REVERE: Okay.

16 MR. ACTON: Let's say a state enacts a do-
17 not-mail legislation. A client comes to you, and his
18 resources are equal to the state's. All other aspects
19 of the --

20 MR. CORN-REVERE: That's rarely true, but --

21 MR. ACTON: Pardon me?

22 MR. CORN-REVERE: That's rarely true, but
23 I'll take it for hypothetical purposes.

24 MR. ACTON: So all other aspects of the
25 playing field are also equivalent. He asks you, your

1 client asks you for a candid assessment of his
2 opportunity to prevail in this case. And you are
3 going to give him an honest answer.

4 Would it be there's no chance? There's a
5 poor chance? There's an average odd? Your odds are
6 good? It's a sure thing?

7 MR. CORN-REVERE: Well, the last
8 hypothetical question is the easiest to exclude: I
9 never say a case is a sure thing, because you never
10 know what's going to happen when you go into
11 litigation.

12 But that being said, I think the arguments
13 for why a do-not-mail regulation would be held
14 unconstitutional are really quite good. Because you
15 cannot equate what courts have done, and it's a fairly
16 limited sampling in the do-not-call context, with the
17 do-not-mail context, and for the reasons that are
18 outlined in my testimony.

19 Courts have not been as willing to accept
20 the notion that people feeling annoyed by mail which
21 they can simply dump in the trash basket rises to the
22 same level of government interest of people getting
23 calls that they can't avoid at various times of the
24 day or night. And that issue has come up in various
25 contexts. And in each case, at least two times that I

1 can think of where the Supreme Court has made the
2 statement, that the prospect of being annoyed by mail
3 isn't of sufficient interest to justify those kinds of
4 regulations where the state is making the choice.

5 I think, too, the fact that you have a
6 declining number of avenues of communication. And for
7 that reason, courts would take the First Amendment
8 burdens I think quite seriously.

9 So the bottom-line answer is I think the
10 arguments against the constitutionality of a do-not-
11 mail regulation are quite good.

12 MR. ACTON: Okay, thank you. And one last
13 question, Mr. Martin. Do you, given what you had to
14 say about the sort of needs of your constituency and
15 how the Postal Service meets those needs, do you think
16 that a carefully crafted contract could be arranged
17 that would provide that service from a private
18 provider?

19 MR. MARTIN: You mean allowing the mailbox
20 to be used for --

21 MR. ACTON: I'm talking about the full range
22 of concerns that you have with respect to universal
23 service obligation, and how those concerns could be
24 heightened or lessened by a change in the present
25 arrangement.

1 Could, for instance, a private provider,
2 someone who offers the same range of services that the
3 Postal Service currently does, be contracted, in a
4 careful fashion, with lots of provisions, to provide
5 the same service? Do you think it's reasonable to
6 expect that?

7 MR. MARTIN: Yes.

8 MR. ACTON: Thank you.

9 CHAIRMAN BLAIR: Commissioner Goldway.

10 MS. GOLDWAY: Thank you. Your testimony
11 here, both of you gentlemen, is greatly appreciated.

12 Mr. Corn-Revere, for you to share your
13 expertise with us voluntarily is a really remarkable
14 expression of your interest in the issue, and I feel
15 really fortunate that you gave us this careful time
16 and attention.

17 I wanted to ask you whether, in the history
18 of the development of the do-not-call law, whether
19 states had attempted their own state regulations of
20 do-not-call before the federal law was enacted.
21 Typically in the United States, national regulatory
22 efforts come after individual states have
23 experimented. Do you know whether that occurred with
24 the do-not-call legislation?

25 MR. CORN-REVERE: It did, but the two levels

1 of government operated on simultaneous tracks. The
2 first federal law was adopted in 1991, and followed
3 shortly by the law empowering the FTC to regulate in
4 this area, as well.

5 And during that period a number of states
6 began to adopt their own do-not-call regulations. So
7 that by the end of the 1990s, there was a growing
8 number of states that regulated, and two federal
9 agencies that separately regulated, but did so in
10 somewhat different ways.

11 And then in the early part of the 21st
12 century, beginning 2001/2002, that period, the FTC
13 started looking at more actively adopting a more
14 restrictive do-not-call solution that didn't require
15 people to opt out from particular companies that
16 called. That then prompted the FCC to act, and the
17 overall regulatory structure incorporates the various
18 state regulations that have been adopted by state law.

19 MS. GOLDWAY: Were there problems about the
20 conflict between state and federal regulation, when
21 those first state laws were enacted?

22 MR. CORN-REVERE: There are areas in which
23 the state and federal schemes are not entirely
24 identical. It does make those who attempt to comply
25 with the laws, both the state and federal laws, to the

1 extent they differ, somewhat more complicated.

2 One of the areas in which the two have not
3 always been applied in the same way involves the issue
4 of established business relationships; whether or not
5 having an established business relationship is an
6 exception to the do-not-call restrictions that permit
7 someone to make a call to their existing clients.

8 The federal government recognizes an
9 established business relationship exception. Most
10 states do, but not all. And one of the issues that
11 had to be accomplished when the federal regulations
12 became effective was to try and reconcile, to the
13 extent possible, the divergent state and federal
14 approaches.

15 MS. GOLDWAY: Were there any challenges to
16 those state do-not-call legislations?

17 MR. CORN-REVERE: Yes, there have been. And
18 again, at this point, the challenges to the do-not-
19 call regulations at the state and federal levels have
20 not succeeded.

21 Another issue that comes up is trying to
22 decide which types of callers are going to be blocked.
23 I had mentioned earlier that one of the exceptions in
24 the federal scheme is for both charitable and
25 political calls. There is even a further wrinkle to

1 that, where if you are a charity that makes your own
2 calls, then you're not covered by the list. But if
3 you hire a third-party telemarketing company to make
4 those calls for you, you are covered by it.

5 So, you know, there are ways in which it can
6 become quite complex.

7 MS. GOLDWAY: Well, we'll see how it
8 develops then in the next legislative session. But I
9 think this overall view is really helpful to us.

10 And Mr. Martin, I had a question for you.
11 In your interest in wanting to open the mailbox, there
12 has been a lot of concern about safety and security;
13 and in particular, about identity theft. And my
14 understanding is that it's seniors who feel the most
15 vulnerable about identity theft issues.

16 Would the people that you speak with, your
17 constituency, feel more vulnerable if their mailbox
18 were opened, and other people could take letters out
19 of it, and perhaps use that information to steal
20 identities, or confuse people? Or do they feel this
21 inconvenience about having to stoop down to pick up
22 papers, or not being able to get everything they want
23 in one delivery box? Does that overcome their
24 concerns about security? Because the security issue
25 was mentioned before.

1 MR. MARTIN: Well, a lot of my seniors are
2 asking that something be done, as I said earlier,
3 about allowing other deliveries to be put in, besides
4 what's delivered by the Postal Service.

5 And it's not an easy solution, obviously,
6 because of identity theft and other things. But they
7 have asked me, they've said why can't the Postal
8 Service itself and the other delivery systems out
9 there, whether it's FedEx or UPS or DHL or others, why
10 can't they craft an agreement that there's some
11 accountability has to be there, that allows the use of
12 this? You can't just have everybody coming along
13 throwing things into this --

14 MS. GOLDWAY: Oh, I see.

15 MR. MARTIN: -- mailbox. It seems to me, I
16 mean, they are aware that something would have to be
17 done along that line.

18 But again, I hear from more and more
19 saying -- and it's not just a matter of stooping down
20 to pick up something that's been left there. Too
21 often there are notices left that something couldn't
22 be delivered because of the mailbox; you can't put it
23 in that box, so it's sent back. And then they have to
24 worry about having to try to retrieve that. And
25 whether they have transportation or not, then they

1 have to rely on others to help them retrieve some of
2 these packages.

3 So it's a continuing problem. But I'd even
4 comment on the telemarketing scheme. I testified
5 before Congress a few years ago on this matter. And
6 seniors, besides the mailbox, the phone. And many of
7 them are harassed by these calls, these scams, and
8 that's what a lot of them are.

9 But on the other hand, a lot of these
10 seniors will say but you know, I didn't know it was a
11 scam. I was lonely, I was home. I'm homebound. I
12 have no relatives around. And they're needy to hear
13 other people. And what they're doing is they're being
14 ripped off and scammed by these groups. So it's a
15 continuing problem in the telemarketing calls, as well
16 as a more efficient use of the mailbox, which they
17 own.

18 MS. GOLDWAY: Thank you.

19 CHAIRMAN BLAIR: Well, I think that
20 concludes today's hearing. I want to thank the
21 witnesses. I appreciate your patience in waiting
22 until this afternoon, so I like to say we saved the
23 best for last.

24 So with that note, thank you. This
25 concludes the Commission's four public hearings on the

1 universal service obligation and postal monopoly
2 study.

3 I want to thank all the witnesses that we've
4 had for their efforts in assisting the Commission
5 report to Congress on a very important aspect of
6 public service, and that's the Postal Service

7 So on that note, thank you, gentlemen. I
8 appreciate it very much. I want to thank those in
9 attendance, as well. Thank you very much.

10 (Whereupon, at 2:16 p.m., the hearing in the
11 above-entitled matter was concluded.)

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REPORTER'S CERTIFICATE

DOCKET NO.: _____


CASE TITLE: Postal Regulatory Commission USO/Postal Monopoly Hearing

HEARING DATE: 7/10/08

LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Postal Regulatory Commission.

Date: 7/10/08



Official Reporter
Heritage Reporting Corporation
Suite 600
1220 L Street, N.W.
Washington, D.C. 20005-4018

BEFORE THE
POSTAL REGULATORY COMMISSION

Before Commissioners:

Dan G. Blair, Chairman;
Mark Acton, Vice Chairman;
Ruth Y. Goldway;
Tony L. Hammond; and
Nanci E. Langley

Report on Universal Postal
Service and the Postal Monopoly

Docket No. PI2008-3

TESTIMONY OF WILLIAM BURRUS, PRESIDENT
AMERICAN POSTAL WORKERS UNION, AFL-CIO
(July 10, 2008)

Good morning Mr. Chairman and Commissioners. Thank you for scheduling this hearing on the subject of the postal monopoly and thank you for inviting me to testify on behalf of the American Postal Workers Union and its 300,000 members. The original law that established our nation's postal system and each subsequent modification decreed that the Postal Service is "a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people." Despite the fact that commercial communications such as advertising now dominate postal volume, the "basic function"

of the Postal Service is still the "obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people and is required by law to "provide prompt, reliable, and efficient services to patrons in all areas and [to provide] postal services to all communities."¹

As postal workers, we bring to the Commission our views on universal service from a unique vantage point. We are average Americans, residing in every community, and because of our employment we have a thorough inside knowledge of postal operations. We work on a daily basis to bring prompt, reliable, efficient and trusted postal services to every citizen in America. As postal employees we see and understand on a personal level how important our services are to individuals and to communities. The general theme of my testimony this morning is to urge the Commission to consider the universal service obligation, the role of the postal monopoly, and the importance of the privacy of mail boxes from the vantage point of the recipients of the mail – the average individuals (who may be technologically challenged), churches, community associations, and small businesses.

I am certain the Commission appreciates the importance that the business community and ordinary people alike attach to postal services and to their local post offices. Time and again during the consideration of Area Mail Processing surveys that questioned the economic viability of particular postal facilities, local communities rallied in impressive numbers to attend town hall meetings in support of retaining their local postal services. Even though the law provides that "[n]o small post office shall be

¹ 39 USC § 101(a)

closed solely for operating at a deficit,"² more compelling than these words were the reactions of people who learned that their postal facilities might be closed. Scores of individual citizens rallied to the preservation of "their" Post Office. These protests also took place in larger cities where individuals and political leaders expressed deep concern about the location and continued viability of their postal facilities.

The point that I make is illustrated by events that ensued when the Postal Service proposed to close the old and rather dilapidated post office in McCausland, Iowa, a town of approximately 300 residents. The plan was to close the local post office and provide the residents rural delivery only, with no post office in the community. The citizens of McCausland rallied and purchased a building at a cost of \$55,000 to house and to retain a community postal facility. The building needed an additional \$55,000 in renovations, so the citizens organized fundraisers for that purpose. As McCausland City Council Member Lloyd Claussen said, funds were raised "one pork sandwich at a time." In response to these efforts, the American Postal Workers Union made a substantial contribution to assist in the renovations. It is my understanding that to date sufficient funds have been raised and the Postal Service has agreed to lease the new post office. The citizens of McCausland will retain local postal services.

The commitment of ordinary citizens to preserve their postal service is summarized by Representative John M. McHugh of New York in his testimony to this Commission. Mr. McHugh was one of the staunchest supporters of postal reform

² 39 USC § 101(b)

legislation and is well respected for his knowledge and commitment to a viable Postal Service. He said:

"Congress debated the future of the Postal Service for 12 years and during that time a bipartisan consensus formed that held universal service should be broadly defined to serve all Americans, rich and poor, urban and rural, nationwide. That has historically meant six-day delivery, reasonable access to retail services as well as convenient access to collection boxes."

Representative McHugh also strongly supports the postal monopoly and has referred to the mail box monopoly as "crucial to America's sense of privacy and the security of the mail."

For these and many other reasons the American Postal Workers Union respectfully submits that your review of the universal obligation and the monopoly should be influenced by the history and role of postal services in the fabric of our country.

In addition to sharing our views on these matters, I will take this opportunity to express our concerns about the process the Commission used in undertaking the preparation of its Report on these issues. I have shared our views in a letter to the House Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, which I requested be included in the record. We are concerned about the published opinions of the contractors who have been selected to draft the Commission's Report. Included in their writings are the following opinions:

In testimony before the presidential commission James Campbell characterized the monopoly as having "insidious effects," stating that the postal monopoly:

- *Makes the Postal Service a victim*
- *Corrodes labor relations*
- *Intimidates customers*
- *Excuses endless political interference from members of Congress; and*
- *Is the 'chain that binds the Postal Service hand and foot.'*

I find their writings in to be short on original analysis and long on ideological wishful thinking. I disagree that this is the time and universal service is the vehicle to tinker with the postal monopoly.

The effects of the nation's economic stagnation has caused a slow but steady erosion of First Class mail volume, but these developments only emphasize the importance of maintaining the monopoly to ensure that universal service can be sustained even in hard economic times.

Advocates of dismantling the monopoly are fond of pointing to changes in European postal services as an example for change. I make two responses to those comparisons. The first is that the geography, history, experience and performance of European postal systems have been so different from ours that the differences are more significant than any similarity. The Europeans have found a need to coordinate a variety of different postal services across international borders; by contrast, the United

States Postal Service has operated as a unified service in a geographically large and very populous single country. Our delivery obligations range from large urban centers to sparsely populated and remote locations. Unlike the European system, we have provided door-to-door service and, despite all of the challenges that we have faced the USA, postal rates have tracked overall inflation trends for the entire history while service standards and public satisfaction have risen and remain high. There is no need or reason for this country to mimic a European model to cure problems we do not have.

I also point out the inconsistencies of those who would argue that systems adopted by other countries should serve as our models. As a nation we continue to engage in healthy debate about national health care, and it is often cited that the European and Canadian models are examples of superior service. But despite this healthy debate, it is generally accepted that the European health care model is not adaptable to the American system and should not be afforded serious consideration. We suggest that the European postal model is equally non applicable to our country.

The APWU urges the Commission to do all that it can to preserve the monopoly and preserve mail services for the American people.

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D. C. 20268

Report on USO and the }
Postal Monopoly }
_____ }

Docket PI 2008-3

Testimony of Don Cantriel,
Vice President of the National Rural Letter Carriers' Association

My name is Don Cantriel; I am the Vice President of the National Rural Letter Carriers' Association, representing 128,000 rural craft employees. Our craft is a vital & dynamic part of the U. S. Postal Service delivery network. Rural Carriers are a "post office on wheels". We provide all the services found at a post office to all our customers every delivery day.

My route is 71.4 miles with 400 boxes. Approximately 40 of those miles are gravel roads. I deliver ducklings, baby chicks, bees, seeds, farm supplies & parts on my route.

- NRLCA strongly supports the limited monopoly USPS has that enables us to fulfill a Universal Service Obligation (USO) at the World's most affordable rates and most reliable service.
- We agree with Congressional Postal Reform leaders who stated that USO means 6-day delivery to everyone, everywhere, in the largest geographic delivery country in the World.
- We support our customers' strong support of the mailbox monopoly and the resulting security and sanctity it provides for their mail.
- We strongly believe the USO in the USA is a result of collaboration between USPS and our partners. FedEx, DHL, UPS, & R. R. Donnelley are both our competitors and business partners. By working with them we increase their profitability and they increase our reliability. They help us process and transport postal products and we help them collect and deliver the last mile.
- Currently, NRLCA believes there is no reason to consider changing the monopoly, USO, or the mailbox monopoly.

I would like to address the current economic situation. By most economists' assessments we are in a recession. All of the U. S. mailing industry is very sensitive to the economy. The Postal Service acutely feels the loss of volume, hence revenue.

But Rural Carriers share their pain. We have a contractual reimbursement for; providing our own vehicles in order to perform our duties, which the majority of our carriers do. However, the escalator/deflator mechanism is adjusted quarterly, yet gas prices are going up each and every week. So our members are paying the difference out of pocket. Additionally, in the recent mail count (mileage, boxes, stops, and mail piece count) carriers lost between 2 and 12 hours per week. Each hour is worth \$1500 in annual salary. My route lost 2 hours per week.

I would also like you to understand that we work cooperatively with USPS management on necessary changes to the methods we employ in the workplace. We jointly worked on making the Delivery Point Sequence system (DPS) for letters a good system although rural carriers lost work hours as a result.

Currently, we are working with management on implementing a Flats Sequencing System (FSS) which will likely mean a further reduction in our members' work hours.

Lastly, on the economic front, Congress imposed a deadline on this study of the end of the year. However, the U. S. mailing industry expands and contracts with the economy. Therefore, we suggest that any conclusions now would be premature and would only be intuitive, not quantitative. A proper examination of the new law would necessitate a full economic cycle.

My Postal Customers believe that what I put in their mailboxes is safe. It doesn't matter if it is a check, a passport, a new credit card, medicine, or they are simply buying stamps from me, they trust their mailboxes' security. A recent FEC study showed that only 2% of identity thefts occurred through the Postal Service and most of those were customer-caused problems. The Ponemon Institute survey showed for the fourth year in a row 86% of citizens showed USPS to be the most trusted Government Agency. My customers believe we maintain the security and sanctity of their mail with quality of service at affordable rates.

I hope you will not attempt to utilize Europe or developing countries as a model for your conclusions. The USPS in the USA is not comparable because of the following factors:

- 1) Volume
- 2) Geography
- 3) Affordability
- 4) No labor problems
- 5) USO is 6-day delivery everywhere

6) Strictly postal revenue

I believe you know my bullet points but allow me to elaborate:

- 1) USPS collects and delivers 48% of the World's mail
- 2) My state of Missouri is almost the geographic size of Germany
- 3) USPS has the lowest postage prices in the World
- 4) Canada and Europe are full of Postal labor problems; we may have tensions but no strikes, stoppages, or slow-downs
- 5) PAEA's intent was to continue 6-day delivery everywhere in the U.S., documented by the Act's authors in the Congressional Record.
- 6) Unlike the rest of the World's Posts, all of USPS revenue is from Postal Services & Products

I would also like to offer some examples of how Rural Carriers go beyond their daily duties to help their customers and save lives and property.

Brenda Armitage of Brodhead, Wisconsin was nearing the end of her route when movement off the road caught her eye. She spotted a child with a dog walking out of the woods. She could see the boy was wearing a medical alert bracelet. As Armitage approached the child, he did not seem able to respond to her queries and the dog prevented her from getting closer to the boy. The carrier calmed the dog until he trusted her and then coaxed the child into letting her read his bracelet. It stated that he was autistic and provided a telephone number. Armitage called the number and spoke to the child's frantic mother—she had reported him missing more than three hours earlier and local authorities and family and friends had been unable to find him.

After the incident, Armitage was modest about her actions. OIC Fran Black sung her praises though, stating, "I am proud to be part of the Brodhead Postal Team with members like Brenda Armitage. She brings us all up a notch and raises the bar a little higher."

Janesville, Wisconsin rural carrier Mary Murray was delivering a certified letter to a customer when she noticed a barn on fire. Two young girls at home had just discovered the blaze and called 911. Seeing black smoke pouring out of the windows, Murray was not content to wait for the fire department and took matters into her own hands. She immediately found a garden hose and began spraying down the barn until the fire department arrived on the scene. Her heroic actions saved the lives of the pigs and cows that were inside the barn and kept the fire from spreading to the hay, keeping the damage to the barn confined to only one area.

It was one of the hottest days of the year in Columbia, South Carolina—the temperature was hovering around 105—when rural carrier Donna Aiken found a young man collapsed by the side of the road. She moved him to a shady area, wrapped a wet towel around his neck, gave him

water and called a member of the volunteer fire department. He explained that he had left in the early morning to walk from Greenville to Asheville and hadn't eaten all day. She gave him some food and waited with him until the firefighter arrived. Thanks to Aiken, the man was sitting up and talking coherently by the time help arrived.

An elderly man walking his dog in the pouring rain was trying to untangle the dog from his leash when he fell down. His wife was unable to help him up, so she did the next best thing—she flagged down rural carrier Bobby Balderas who was delivering mail nearby. Balderas immediately got out of his vehicle and walked over to the customer. Unfortunately, the man's dog wouldn't let the carrier get close to the customer on the ground. Balderas calmly spoke to the dog, walked around him and secured his leash, allowing him to assist the fallen patron. The appreciative customer wrote a letter to the postmaster stating, "He would take nothing for helping when we offered, even though he put himself in harm's way with the dog. He deserves a commendation."

While delivering mail to a house on her route, Helen Vice, an RCA from Sharpsburg, Kentucky, noticed a small box sitting outside of a garage had caught fire. It had already spread to the corner of the attached garage, causing the siding to melt and the studs to burn. She poured the drinking water she had on the flames, called 911 and summoned the help of a neighbor, who helped her put out the remainder of the fire before the fire department arrived. It was later discovered that a glass candleholder inside the box had started the fire with the help of the sun. The customer was out of state for the weekend, so Vice's quick thinking ensured that they didn't come home to a devastating situation.

You have a very complex assignment. You have been asked to define the Universal Service Obligation/monopoly, after Congress chose not to do it. You have data, but not under the new process. Most of the U.S. industries that were monopolies are now deregulated. The European Union is commercializing their posts. In spite of those facts, the U.S. has the most sophisticated and cheapest mail & parcel delivery network in the world. We believe that the monopoly in mail and our competitive partnerships allow a Universal Service Obligation that is unique in the World. Please be extremely cautious in proposing change to the World's most efficient and effective system.

Thank you for allowing me to testify representing the nation's 128,000 Rural Letter Carrier craft employees. I would be glad to answer any questions you may have.



NATIONAL ASSOCIATION OF POSTMASTERS
OF THE UNITED STATES

TESTIMONY OF

DALE GOFF

PRESIDENT

POSTMASTER OF COVINGTON, LA

BEFORE THE

POSTAL REGULATORY COMMISSION

WASHINGTON, DC

JULY 10, 2008

Mr. Chairman, distinguished Commission members, my name is Dale Goff. I am President of the 40,000-member National Association of Postmasters of the United States (NAPUS). But, more important, I am the proud Postmaster of Covington, LA, a town that resisted Hurricane Katrina's assault against our nation's Gulf Coast. Within my dual capacity, as President of NAPUS and as Postmaster of Covington, I fervently believe that I am uniquely qualified to assist the Commission in its examination of a "universal Postal Service" and the essential "universal service obligation."

The Commission has heard from four NAPUS members, three of whom testified on behalf of NAPUS, and one who spoke on behalf of the U.S. Postal Service. Each of these dedicated members of our Postal family has a unique and vital relationship with the communities they serve. Postmaster Mike Larson (St. Paul, Minnesota) gave the PRC a wide-angle perspective of serving a metropolitan area and the operations that are needed to deliver quality service; Postmaster Dennis O'Neill (Chokio, Minnesota) spoke of the social and economic importance of post offices to small rural communities; Postmaster Jeannie Schnell, of Monhegan, Maine, passionately and articulately explained the dependence that isolated communities have on their Post Office; and retired Postmaster Lyle Puppe educated the Commission about what happens to communities when Post Offices are closed or suspended, and to what lengths communities will go to protect their beloved Post Offices. These are personal and frontline perspectives of how universal retail postal service affects America – whether rural, suburban, or urban; whether on the U.S. mainland or non-contiguous areas of this nation. These Postmaster views must

resonate with the Commission. Therefore, I need not repeat the Postmasters' articulate explanation of the role that post offices play in providing universal service.

Indeed, the approximately 27,000 independent post offices are the bedrock of a universal postal system; they serve as outposts of commerce and connectivity to countless towns and hamlets across the American landscape. Our Founding Fathers recognized the importance of post offices to our national postal system when they enshrined this inherently governmental facility in the U.S. Constitution (Article I, Section 8). Congress has consistently and unambiguously reinforced the inherent linkage between the community, its post office and universal service. In 1976, Senator Jennings Randolph proposed an amendment to Title 39 of the United States Code, which is still applicable. Section 404(b) requires local participation in determinations to discontinue post offices or consolidate them, and that such determinations may be appealed to the Postal Rate Commission – now the Postal Regulatory Commission. This provision is unique to post offices; Senator Randolph justified the amendment when he stated: "It is important that the independence and integrity of communities continue and that good mail service be maintained" – 122 Congressional Record 6314 (1976). The premise underlying Section 404(b) is the association between an independent post office and the quality of an area's mail service.

Congress has consistently acknowledged the importance of post offices, especially to small communities and rural areas. Additionally, postal accountability to postal customers is tied to the local post office, and its Postmaster. Throughout Congressional

deliberations over PL 109-435, the commitment to post offices as integral to universal service did not change. In this regard, I urge the Commission to carefully consider the comments that Rep. John McHugh's submitted on June 30. His remarks are instructive as to his intent in advancing his legislation, the measure that authorized this proceeding.

The PRC must recognize that universal service and the Postal Service's obligation to provide it should be viewed in a broad social and political context, not purely in economic terms. Economic expediency must not define universal service. If economists circumscribed the postal footprint, the institution would not be where it is needed most. I hope that Postmasters O'Neill, Schnell and Puppe sufficiently illustrated this point to the Commission. From my vantage point, as a Postmaster, a universal Postal Service, heralded by post offices, fortified Louisiana communities in the wake of Hurricane Katrina, and strengthened Illinois, Iowa and Missouri communities inundated by Mississippi River flooding. In contrast, when profit-motivated businesses sauntered into many of these devastated communities, the citizens were exploited by privateers. The PRC must not be seduced into the misguided belief that for-profit entities can provide the same level of non-discriminatory service that the Postal Service can. It is not borne out by the facts, whether on our shores or countries with, so-called, liberalized postal regulations. By the same token, the Postal Service itself must not be permitted to deviate from its universal service obligations by understaffing postal facilities, thereby denying communities a uniform level of universal service.

Universal service – to be credible – must be consistently high-quality. Inferior or unpredictable service does not fulfill our nation's expectations of a universal postal service, or the federal government's obligation to provide it. Bestowing high volume areas with U.S. Post Offices, and turning over postal operations in low volume areas to "privatized" or "depersonalized" postal units is not universal service. The common denominator of universal service has been and must continue to be the post office. The Postal Service and this Commission must do everything in their power to maximize the opportunities for post offices to generate revenue and provide necessary public services. This includes appropriate staffing and the flexibility to offer a wide variety of postal products. This is the essence of our postal heritage and our postal future.

The commitment to universal service is not fulfilled when an excessive number of Postmaster slots remain vacant, and Postal Service statements indicate that Headquarters has no intention of filling those positions. As you may recall, retired Postmaster Lyle Puppe testified to this unfortunate situation at the PRC's St. Paul hearing. I have just one tidbit to add. I have been advised that a District Manager publicly told Postmasters at their Minnesota Convention that he had no intention of filling 50 Postmaster vacancies in his district. It is abundantly clear that the failure to replace a Postmaster renders the individual post office ripe for closure. In addition, as retired Postmaster Puppe mentioned to the Commission, so-called "temporary emergency suspensions" have become a much-too-often used ploy to close post offices. I am pleased to note that the Commission has taken a keen interest in Postmaster vacancies and suspensions. The USPS' unfortunate and ill-advised tactics undermine universal service

Indeed, in July 2003, the New York Times underscored the importance of Post Offices to universal service:

It is no mere metaphor to say that for many rural communities, the coming of the post office was a symbol of establishment, an essential connection with the fact and ideal of America. And in most communities – towns that have lost rail service and bus service and lack high-speed Internet connections – that symbol of establishment still means what it always has. Unless you have lived in a town whose only real business is its post office – hardly larger than a garden shed in some places – it is hard to know how vital that one business can be. To lose the post office feels, literally, like being erased from the map. In much of back road America, the presence of a post office is a benign symbol of the larger web of governance, of national community as a whole. That is a bond worth keeping, a building worth keeping open.

I hope that the Commission agrees with the wisdom of the NY Times.

Thank you.

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Report on Universal Postal Services
And the Postal Monopoly

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Docket PI 2008-3

Testimony of Charles W. Mapa
President of the National League of Postmasters
July 10, 2008

Chairman Blair, members of the Commission, thank you for inviting the National League of Postmasters ("League") to testify before you today. The task you have before you in this Universal Service Inquiry is very important to the country, and the League very much appreciates all the time and effort the Commission has obviously expended in this inquiry.

My name is Charles W. Mapa and I am the president of the National League of Postmasters. I am also the postmaster in Gold Run California, a small community of several hundred people, nestled in the foothills of the Sierra Nevada Mountains, between and Sacramento and Lake Tahoe. I have been postmaster at Gold Run for 23 years and was privileged to have been named California Postmaster of the Year in 1998. Currently, I am on leave from my postmaster position to serve with the League.

Started in 1887 to represent rural postmasters, the National League of Postmasters is a management association representing the interests of postmasters. Although we represent all postmasters from all across the country—from the very

smallest to the very largest post offices—rural postmasters are a sizable portion of our membership. The League speaks for thousands of retired postmasters as well.

My testimony today will address three issues: 1) the question of universal service and the monopoly, including the definition of the letter monopoly, 2) the lessons to be learned from Europe, and 3) the vital economic, social, political, and cultural role that small post offices play in rural America, and the relatively minuscule amount of money that it costs the Postal Service to operate such post offices.

In connection with the third point, I have submitted for the record as part of my testimony a very special short documentary video call *Post Roads*. I would ask the Commissioners and each of its staff to take a few minutes to watch it. That video, which uses Steve LeNoir's post office as a focal point, accurately discusses the nature of small rural post offices and documents the role small post offices play in rural America. Moreover, it does so with an eloquence that I could not match.

I assure you that what that video says about symbiotic relationship of small rural post offices and their communities in South Carolina is equally as true of small post offices and their communities in California, as it is for small post offices and their communities throughout the country. It is a symbiotic relationship that is critical to the health of rural America, and it is a relationship that goes far beyond the provision of postal services. It has a value that cannot be matched by a rural postmaster selling stamps from his car.

I. Universal Service, The Letter Monopoly And The Mailbox Monopoly.

As academia¹ and previous Comments² have pointed out, the Postal Service has played a crucial role in the development of American Civilization and Culture, as our country developed from a frontier-oriented backwater into a more sophisticated and ultimately powerful country. The Post Office, as Justice Story said long ago in his *Commentaries on the Constitution*, was “one of the most beneficent, and useful establishments under the national government,” and is one that “circulates intelligence of a commercial, political, intellectual, and private nature.”³ Among other things, it “enables political rights and duties to be performed with more uniformity and sound judgment.”⁴

It is for these reasons—to encapsulate a broad set of public policies into one statement for the sake of simplicity—that the Congress has chosen through the private express statutes to protect the postal system by ensuring sufficient funds to support universal postal service and the postal system.⁵ If this role is still sound today, the

¹ See for example, Richard R. John, *Spreading the News, The American Postal System from Franklin to Morse*. 88-89 (Harvard University Press 1995) (“*Spreading the News*”); David M Henkin, *The Postal Age, The Emergence of Modern Communications in Nineteenth Century America* (University of Chicago Press 2006) (“Postal Age”). Professors John and Henkin are history professors at, respectively, the University of Illinois at Chicago and the University of California at Berkeley.

² See for example, Comments of Discover Financial Services LLC in Docket PI 2008-3 (June 30, 2008).

³ Joseph Story, *Commentaries on the Constitution of the United States, a Preliminary Review of the Constitutional History of the Colonies and States, before the Adoption of the Constitution*. Chapter 3:§1120 (Boston: Hilliard, Gray and Company. Cambridge: Brown, Shattuck, and Co. 1833), found at http://www.constitution.org/js/js_000.htm. See also http://press-pubs.uchicago.edu/founders/documents/a1_8_7s7.html

⁴ Id.

⁵ As professor John has documented:

For Maryland Congressman William D. Merrick, it was the circulatory system that transmitted the “knowledge” that was necessary to keep “pure republicanism” alive. And for South Carolina Congressman John C. Calhoun, it was the nervous system of the “body politic” that, in conjunction with the press, transmitted sensory impressions from the extremities to the brain: “By them, the slightest impression made on the most remote parts is communicate to the whole system.”

Spreading the News at 10 (citations omitted).

continuation of universal mail service, the monopoly, and small post offices are absolutely necessary for the health of our economy and our society.

As postmasters, we submit that even today—in the electronic era of the 21st century—the Postal Service is still critical to the well-being of our country. We will leave it up to the mailing community to explain in greater detail why universal service and the monopoly are so important, in as much as they are the logical apologist for this task. We will address rural post offices in as much as they are critical to the health of rural America, about which the League cares very much, as the video Appendix to my testimony so thoroughly demonstrates.

The League will also address the issue of the definition of universal service. Before we do, however, we would like to caution the Commission on three fronts.

First, the Commission may well hear various individuals predict the demise of the postal system, as new communications technology offer new alternatives to the mail. The Commission should be aware that such predictions have been around since the late 1800s⁶ and we have yet to abandon the postal system. In fact, each time mail volumes were challenged by electronic diversion of one sort or another—starting with the telegraph—*exactly the same* dynamic has developed. When each new communications technology came along, each one did indeed take away some mail volume. However, in doing so, each of the new technologies changed American society in some fundamental way, and each of those changes created new and different uses for the mail. Eventually, the new volume replaced the old.

There is no reason to think that this time it will be any different this time. For instance, as Lenard Merewitz points out, increasing fuel costs mean that transportation and delivery costs are inevitably moving upward at a sharp rate. The significance of this fact of life is not that the costs of the Postal Service are increasing, but rather that it's dominance of the "last mile" of transportation to the home is going to become increasingly valuable. Perhaps, in the future, many household trips for shopping could be satisfied by use of the internet and mail.⁷ As the Comments of the Greeting Card Association point out, the "complementary" nature of postal and internet is something that is not yet fully understood or developed.⁸ It should not be counted out, and cannot be ignored.

Second, the Commission will no doubt see a certain degree of postal system "bashing" as this proceeding develops. The Commission should remember that, as one editorialist said in 1823, "Nothing is more easy to abuse than the post office, and nothing is more common."⁹ Indeed, it would be fair to said the postal system "bashing"—as opposed to intelligent, constructive criticism—has been an intramural sport of American commentators, editorialists, and op-ed writers since the early 1800s. As such, some of the more extreme comments one might see in this docket should be taken with a grain of salt, as they have been for over two hundred years.

⁶ See *Spreading the News* at 89.

⁷ See Testimony of Leonard Merewitz in Docket PI-2008-3 at 4.

⁸ Statement of George White, President and COO, Up with Paper LLC, on behalf of the Greeting card Association In Docket PI 2008-3, June 5, 2008 at Appendix I, 4 (discussing the complementarity relationship between postal and Internet).

⁹ *Spreading the News* at 89, citing the May 14, 1823 issue of the *National Intelligencer*. The *National Intelligencer* was the dominant newspaper in Washington D.C. at the time, and the prime source of news for Capitol Hill.

Finally, the League would not be surprised to see some argue that economic theory suggests that the needs of the marketplace would be met by the private sector if the postal market were thrown wide open. That argument, however, misses the point that the private express statutes *exist for equitable reasons, not economic ones*. While it may or may not be true that the marketplace could or would meet most of the postal needs, of most of the people most of the time, the private express statutes are there to *ensure* that all of the postal needs of all of the people are met all of the time, or the federal government will be held directly accountable. It is this equitable assurance, coupled with the transparency and accountability that the private express statutes assign to the federal government and the Postal Service that is the heart of the notion (and of the politics) of universal service and the private express statutes.

A. A Definition of Universal Service.

In terms of the definition of Universal Service, the League would think that a good definition of Universal Postal Service would be the following:

Universal Postal Service means providing *dependable* mail service to *every* American resident, *every* day, *everywhere*, at *reasonably affordable* rates, as well as providing sufficient access to the postal system. For rural residents, this means having a post office *readily available* in their community.

Among other things, adopting this definition would mean that there should be no picking and choosing among residents—i.e., who gets mail service and who does not. Adopting this definition would also would mean that there should be no picking and choosing among locations in the United States, with some getting mail service and some not. The definition would also embrace the notion that one should not pick and choose among time frames for delivery, with mail service only on some days of the

week and not on others. Nor would such a definition permit any combination of the above—i.e., some getting some service in some locations, only some of the time.

Moreover mail service would have to be dependable and affordable. While there should be a significant amount of flex in that definition, surely \$1 for a half ounce First Class letter would not be affordable and having mail successfully arrive only half the time would not be reasonable. Having rural post office available in villages is also a critical point, given the role rural post offices play in rural American society, as discussed part III below.

The League does not have a strong view about including different services and different products under the universal service mandate, so long as one service goes to everyone, everywhere, at the same price. Indeed, once one mail service is established on a nondiscriminatory basis to everyone, everywhere, the League believes that the market should handle the different postal need of different people and different communities for different products. Different services, going at different speeds, serve different needs of mailers and communities, and that is just fine as far as the League of Postmasters is concerned.

Finally, we would caution the Commission not to attempt to define universal service too closely. The League believes that the definition set forth above contains the proper level of detail, and providing any further detail would be counterproductive. Too much detail means too much rigidity. Too much rigidity takes away from flexibility and hurts, not helps, an institution such as the Postal Service as it evolves over the long term. This is shown by the fact that notions of universal service have changed over the years as the needs of the country has changed. Two of the biggest shifts were the

advent of Free city Delivery in 1863¹⁰ and Rural Free Delivery, which developed in the 1890s.¹¹

B. The Mailbox Monopoly.

As has been developed in the Comments of Discover Financial Services and others, there are two different rationales supporting the mailbox monopoly. One deals with security and one deals with cost. Opening up the Mailbox Monopoly would make the mail less secure and more costly. Neither of those are desirable consequences.

The League strongly supports the continuation of the Mailbox Monopoly.

C. Six Day a Week Delivery.

As the comments of a variety of parties indicate, there is not reason to consider reducing postal delivery from six days a week to five. Doing so could have very complicated and very negative consequences for the efficiency of the system and it is not clear that doing so would save a great deal of money.

The Commission should recommend continuation of six day delivery.

II. The European Model

When the debate on postal reform first started in the mid 1990s, some suggested that the Europeans posts were far ahead of the American Postal Service. However, when one looked at the facts, one realized that the United States Postal Service was far more advanced than its European counterparts.

For example, in 1999, if one compared the United States Postal Service to the next nine posts (Great Britain, France, Italy, Australia, Japan, Mexico, Germany, Switzerland, and Canada) one found that the US Postal Service moved 72% more

¹⁰ United States Postal Service Publication 100, The United States Postal Service, An American History 1775-2006 (2006) at 20.

pieces with 25% fewer people, and did so at generally lower rates.¹² When facts such as this became known, the notion of the European posts as being ahead of the USPS generally faded away into the background of the postal reform debate.

Curious about what has happened between 1999 and today, given that Europe has seen some opening of the monopoly, the League's legislative counsel updated those numbers. The results are significant and show that the lead between the United States Postal Service and the next nine posts is *widening*, not *narrowing*.

In 2006, when one compares the same nine posts to the United States Postal Service, one finds that the US Postal Service moved 93% more mail than the nine put together, with 42% fewer people, again at generally lower rates.¹³

We find that difference significant, particularly since the United States is larger territorially than eight of the nine other nations.¹⁴

Thus, while looking at developments in Europe is certainly an appropriate and sensible thing to do, it should be done with the recognition that our system is by far the most efficient system in the world. While we certainly can learn much from the European posts, in as much as the creativity of Europe is well recognized and appreciated, that examination must start with a realization that to assume that they are more efficient would be an error.

¹¹ Id. at 22-24.

¹² United States Postal Service 1999 Annual Report at 29 (citing UPU figures).

¹³ UPU Postal Statistics 2006 found at www.upu.int.

¹⁴ Canada is slightly larger than the U.S.

III. Small Rural Post Offices.

A. The Cost of Small Rural Post Offices.

As the staff of this Commission's predecessor has pointed out, the cost of keeping rural post offices open is *de minimus*. The cost of the 10,000 smallest post offices—more than one-third of all post offices in the United States—was about seven tenths of one percent (0.7%) of the total budget of the Postal Service in 1999.¹⁵ Looking at 1982 figures, the cost of the smallest 7,000 post offices (70% of the total post offices at the time) was about six tenths of one percent (0.6%).¹⁶ *Id.*

Given this very small price tag, it is no wonder that no one knowledgeable about rural America has ever seriously suggested closing down small rural post offices.

Given the social, cultural, political, and economic role that they play in American society, see below, less-than-one-percent of the USPS budget is a very small price to pay for the stability that America has for so long enjoyed in rural America.¹⁷

¹⁵ See Testimony of Robert H. Cohen, Director of Rates, Analysis and Planning of the Postal Regulatory Commission, Testimony before the President's Commission on the Postal Service (February 20, 2003) at 2, 9-10.

¹⁶ *Id.* at 10.

¹⁷ There are some that say that post offices that operate at a loss or do not pay their way should be closed. The question of post offices operating at a loss or paying their own way is not an easy question to address. This is because the system the Postal Services uses to determine whether a post office is "making a profit" keys on the amount of revenue accepted at that post office, *regardless of where the deliveries are to be completed*. Thus, the postage for a hypothetical mailing of 15,000 is all credited to the post office *where the mailing is entered* and none of the revenue to the post offices *where the actual pieces are delivered*.

That situation creates an enormous disconnect for most of the costs of delivering those 15,000 pieces are borne by the post offices of delivery (to which no revenue is credited) and not the post office of origin (to which all the revenue is credited). Thus, the system inherently skews the relationship of revenue and costs among the nation's post offices and should call into question the very notion of a post office "operating" at a loss.

B. The Role of Small Rural Post Offices in America.

Section 101(b) of the Postal Accountability and Enhancement Act 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."¹⁸ That same section also specifically states that "No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that the effective postal services be insured to residents of both urban and rural communities."¹⁹

Section 404(d) of that same law provides a formal procedure which the Postal Service must follow before it is allowed to close any small post office. Among the matters it must consider are the views of the local community that would be affected by the closure of the small post office. Appeals of such decision may be taken straight to this Commission pursuant to Section 404(d)(5).

The reasons that these provisions are in law is that small rural post offices do far more for their rural communities than just deliver the mail. Small rural post offices are the lifeblood of American rural life.²⁰ They provide the essence of social cohesion in rural areas, and that is what creates "community" in these areas. Healthy rural post

¹⁸ 39 U.S.C. §101(b).

¹⁹ *Id.*

²⁰ My comments today are limited to rural American society because that is what the League know and that is where the League's expertise lies. It appears, however, that these same factors appear in rural societies around the world, or at least in English-speaking countries. See for example, the following shorts from Utube concerning rural British Post Offices. These shorts feature several Members of the British Parliament (MPs), newscasters, and prominent rural British residents discussing the insensitivity of the Royal Post to England's small rural post offices and the role they play in the social fabric of rural England. <http://www.youtube.com/watch?v=9R18Ht6cFFM&feature=related>
http://www.youtube.com/watch?v=9P3Jl_tI3ZY&feature=related
http://www.youtube.com/watch?v=VYDXQ-r_7il&feature=related ;
<http://www.youtube.com/watch?v=2r3hl32AUiU&feature=related>. This following short contains a bit of typically British "humor" on the subject: <http://www.youtube.com/watch?v=yB64XtfPRIQ&feature=related>.

offices are absolutely critical to keep rural American healthy, and that in turn is vital for the political, economic, and social well-being of America as a whole.

The glue that binds rural America together is our postal system and the local post offices. Rural America has not gone out of style. Nor is it about to. Communication by paper has not disappeared from our system. Nor is it about to. If we want to keep rural America strong, and by extension to keep America strong, we need to keep our rural postal system strong.

The rural post office is an institution that literally binds rural America together, culturally, socially, politically, and economically. It, along with the rural newspaper, set the framework within which rural communities operate. To interfere with either is to interfere with the fundamental dynamics of rural communities and to risk the destruction of them.

It is in the rural post offices where community members encounter one another each and every day, greet each other every morning, and daily reinforce their ties of community. Rural Post Offices serve as gathering places where social news is exchanged and political issues are discussed, often with some heat. It is in the rural post offices that political questions are addressed, sides argued, and opinions formed. It is where friendships are made and maintained, and scout and scoutmasters recruited. It is the forum where municipal and county leaders are formed, the forum where their criteria for office discussed and debated, and the forum where the decisions that will be carried out at the ballot box are made. It is the one place where local leaders can go and take the pulse of their community, and see each other every day. It is there that politicians find out just what are the burning issues of the day. Local post offices also

provide space for community bulletin boards and post federal notices. They are a shelter where children can wait for the school bus. None of these functions are functions that can be filled by having rural letter carriers sell stamps from their cars.

Rural postmasters play a very important social role that has nothing to do with the postal system or postal revenues. These are roles whose value cannot really be measured in dollars, and it is in part for these roles that the Universal Service mandate exists and the private express statutes remain. For instance, many rural Postmasters help customers with low literacy levels in a variety of ways, providing assistance in writing checks and money orders to pay bills. Many rural Postmasters address envelopes for their patrons, as well as read and explain mail to them. As such, they perform a valuable social function and have done so not merely for decades, but now for centuries. Indeed, the rural postmaster is the eyes and ears of his or her community. He or she is the first to notice and respond to something "just not right." Whether that be flood or fire, or illness or death, the postmaster is always on the watch. If Mrs. Jones, contrary to her usual habits, doesn't stop by to pick up her mail, the postmaster wonders if something is wrong with her, and after a day or so will stop by her house to check.

Without rural postmasters, this social need would not be met. The Rural Post Office is an icon of rural America, and neither Congress nor the Postal Service should tamper with it. This is because, as the Committee knows well, once a rural town's post office disappears, the town often shrivels up and dies.

The film that the League has filed as part of this testimony illustrates these points in a real life setting. It shows how Steve LeNoir, former President of the League of

Postmasters actually serves his community, and interviews local residents, letting them explain in their own words how the post office keeps them together, and makes them neighbors in the true communal sense of the word.

Thank you for considering our views, and I would be pleased to answer any questions that you might have.

STATEMENT OF

TED KEATING, PRESIDENT

**NATIONAL ASSOCIATION
OF POSTAL SUPERVISORS**

BEFORE THE

POSTAL REGULATORY COMMISSION

HEARING ON

**UNIVERSAL POSTAL SERVICE
AND THE POSTAL MONOPOLY
IN THE UNITED STATES**

JULY 10, 2008

Chairman Blair and distinguished members of the Postal Regulatory Commission:

Thank you for holding this hearing and for the opportunity to appear before you on behalf of the postal supervisors, managers and postmasters who belong to the National Association of Postal Supervisors.

Our 34,000 members are responsible for the management and supervision of mail processing, delivery and support operations. They maintain a strong interest in the Commission's inquiry into the universal service obligation and the postal monopoly in the United States because they play a fundamental and critical role in the delivery of postal services to all parts of the nation, in fulfillment of the universal service obligation.

Over the course of the past 231 years, our nation's postal system has demonstrated a remarkable capacity to adapt and endure. The history of the United States Postal Service is rooted in the principle of universal service: that every person in the United States, no matter who, no matter where, has the right of equal access to secure, efficient, and affordable mail service.

Given history's role in the evolution of universal service, it is fitting that I appear before you because the National Association of Postal Supervisors this year celebrates the 100th anniversary of its

birth. Two months from now, on September 7, NAPS delegates to our national convention will gather in Louisville, Kentucky to honor the vision and courage of 50 postal supervisors, who on that very day one-hundred years ago, came from post offices in 13 states to create an association dedicated to the welfare of postal supervisors and the improvement of the United States Post Office Department.

At that moment in 1908, the nation's postal system was already over a century old. Yet America's postal system was far, far different than the extensive network of mail collection and delivery we enjoy today. Rural Free Delivery was still in its infancy. Postmasters were appointed by patronage. There was less mail, far fewer customers and considerably less delivery points. Today the United States Postal Service has grown to become the most trusted part of our government, delivering more than 700 million pieces a day to over 160 million addresses, generating \$77 billion of revenue a year. It is indeed a national institution unlike no other in the world. Our members are proud to have played a role in that growth.

Before proceeding to address more specifically the universal service obligation and the most important issues under consideration by the Commission, I want to take this opportunity to congratulate the members of the Commission and its staff for the impressive number of regulatory and achievements you have accomplished over the past two years, all with considerable speed and intellect. The regulatory framework you have established under the new postal reform law has

helped to provide a strong foundation for the law's implementation. The American postal system is the better today for your efforts, and we thank you for your hard work and the products of your labors.

While my testimony will not address every one of the topic areas outlined in the Commission's notice of April 30, I will try to address the major issues that have arisen in the field hearings, the June 12 workshop and the first round of public comments.

Overall, the National Association of Postal Supervisors urges the Commission to:

- **Support the continuation of universal mail service as we have come to know it;**
- **Embrace a flexible, evolving view of the universal service obligation, mindful of economic realities, but resisting rigid regulatory or statutory definition;**
- **Affirm the synergy of universal mail service through a nationwide system of post offices and mail delivery, fortified by the strengths of the letter monopoly and the mailbox rule; and**
- **Preserve six-day delivery, balancing customer needs, economic realities and the need to assure a strong system overall.**

The Commission's responsibility to study the future of the universal service comes at a time when a number of forces put the

USO at risk. Declining First Class mail volume, fast-rising fuel costs, a sluggish economy, and increasing numbers of delivery points are testing the economic durability of the Postal System. These forces are economically potent, and could suggest to the Commission an approach that recalibrates the universal service obligation, so as to lead to shorter delivery frequency, with limited geographic reach, involving fewer products, with greater reliance upon private sector carriers. We believe, however, such an approach would be shortsighted and seriously flawed, and ultimately only exacerbate the troubles faced by the current system. The infancy of the new postal law and the multiple business opportunities and flexibilities it affords to the Postal Service should be tested to a far greater degree before injecting further change into the nation's postal system.

We believe the Commission would be ill-advised to recommend major changes at this time that alter the character and scope of the universal service obligation or the postal monopoly.

The universal service obligation represents an enduring public policy commitment, rooted in the Constitution and reaffirmed by the Congress in the Postal Reorganization Act of 1970 and more recently through the enactment of the Postal Accountability and Enhancement Act. The universal service obligation recognizes that every American citizen should have access to basic, reliable and affordable postal service. The corresponding obligation on the part of government to assure accessibility to the post is embedded in our deepest American

traditions of fairness and responsive government. The universal service obligation was not primarily designed to generate revenue, but as a policy to encourage personal, cultural, and commercial intercommunication.

Congress has long installed in federal law the primary obligation of the Postal Service "to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people." Congress also has mandated that the Postal Service "provide prompt, reliable, and efficient services to patrons in *all* areas and shall render postal services to *all* communities." Indeed, every American household and business depends on regular, accessible and affordable postal service for their social and economic well-being, regardless of location. While electronic communication and the internet continue to change our lives, the Postal Service's role in binding the nation together remains is as integral to our country's future as ever.

Though the specific terms of the universal service obligation are not defined by law, unlike the practice of some other nations, this is a strength of our system, not a weakness. The meaning of universal service in the United States has come to be known through the combination of governmental policy, public expectations and market realities over the course of 230 years. The U.S. has been well-served by this flexible, evolutionary approach. Given the changes in postal service, technology and market conditions over that time

period, and especially in the last several decades, the United States is best served by the continuation of an adaptive, flexible approach toward the universal service obligation. NAPS opposes the statutory or regulatory definition of the universal service obligation. Codification of the meaning of universal service would also undermine the flexible approach embodied in the new postal reform law.

NAPS similarly opposes the relaxation of the letter monopoly and the mailbox rule. Considerable harm to the economic viability of the Postal Service would come about if private carriers were permitted to receive and deliver current market-dominant postal products. The Postal Service's financial base would be endangered because not all delivery routes are profitable, and private competitors would attempt to secure the most profitable routes, leaving the less profitable ones to the Postal Service. The potential injection of subsidies into the system to heighten the commercial appeal of less profitable routes will only complicate an already complex system.

Similarly, the security of current mail system would be threatened if the mailbox rule were liberalized to afford accessibility to competitors of the Postal Service to place materials in the mailboxes of Americans. Multiple materials belonging to multiple carriers in mailboxes would create endless confusion and debase the sanctity of the mail. Congress sufficiently considered whether to revise the letter and mailbox monopolies in its recent passage of the Postal

Accountability and Enhancement Act, and elected not to make any changes. The Commission should respect that conscious policy choice and refrain from injecting itself. While partnerships between the Postal Service, business mailers and the private sector continue to present opportunities to contain costs, the preservation of accessibility to the system and the security of the mail should never be compromised.

Finally, the National Association of Postal Supervisors strongly supports the preservation of six-day delivery service. We recognize that delivery cycles have expanded and contracted over the more than two-hundred year history of the Postal Service, driven by customer needs and economic realities. Affordability, indeed, is a necessary contributor to the character of universal service. While declining First Class mail volume and rising fuel costs will require the Postal Service to continue to consider and undertake the measures necessary to assure the core viability of secure, efficient and affordable mail service, we believe six-day delivery service should continue at the present time.

Our Association and its members look forward to continuing to play a role in preserving universal service and the economic viability of a postal system that continues to bind the nation together. Thank you, Mr. Chairman and Members of the Commission, for the opportunity to present these remarks.

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

Contact Information:

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Mr. Chairman, Commissioners, and fellow panelists:

My name is Rick Geddes. I am an Associate Professor in the Department of Policy Analysis and Management at Cornell. My remarks today have a very specific purpose. My goal is to simply evaluate the following statement: That the two postal monopolies – the delivery monopoly and on access to the mailbox – are necessary to ensure the universal delivery of mail. That statement is demonstrably false. It is false both from a theoretical and from an empirical perspective. It is false based on both the experience in the United States in other network industries, and in postal services in other countries. Concerns about ensuring universal delivery service simply cannot be used to justify the continuation of the joint postal monopolies.

Before discussing some reasons why I would like to first address a key prerequisite. It is critical to separate out the question of universal delivery service from the best policy approach to ensuring that service. We should proceed as follows: Define exactly and precisely just what it is we mean by “universal delivery service.”

The second, distinct step is to then ask: What is the least cost way to achieve that policy goal? There are several alternative approaches. Most assuredly, a legally enforced government monopoly is not the least-cost way of ensuring universal delivery service. Rather, this probably imposes the highest cost on society of any approach. Indeed, government-enforced monopoly is likely to impose higher costs on society than a private monopoly. The social cost of government-enforced monopoly will manifest itself through higher costs for a given level of service, through higher rates than would obtain under competition, through slower innovation, and through slower adoption of technology that does exist, among other negative effects.

There are a variety of approaches that preserve universal delivery service, however defined, without enforced monopolies. But why is competition so important?

The introduction of competition in other network industries, such as airlines, trucking, and railroads, proves that allowing competition creates massive benefits for society. The evidence on lower costs, lower prices, and improved efficiency is overwhelming. In summarizing the evidence on competition in these other industries, Clifford Winston of the Brookings Institution stated that, "The intensified competition resulting from deregulation causes firms to make innovations in marketing, operations, technology, and governance that enable them to become more efficient, improve their service quality, introduce new products and services, and become more responsive to consumer's preferences." That is music to the ears of many a postal customer!

In my written comments, I offer many reasons why concerns about universal delivery service do not justify legally enforced monopoly. I review just two here.

First, *competition has been introduced in other industries with a similar network structure and universal service has been maintained.* Ensuring universal service to small communities was a concern when airlines first faced competition. Those concerns were unfounded. Competition in airlines accelerated the use of innovations that actually improved air service to rural communities. Examples include the hub-and-spoke system and the use of aircraft of different sizes and types. Service to rural communities improved due to innovation. But there is a general lesson here: *competition drives innovation.* Competition in mail delivery would similarly drive innovations that are likely to improve service to rural communities.

Second, there are other, much lower cost ways to achieve the policy goal of

universal mail delivery than through legally enforced monopolies. The economics profession has long recognized these alternative, lower cost approaches that allow competition. One alternative is to simply contract competitively with private firms to ensure universal service. In an influential 1998 article, the Harvard economist Andre Shleifer singled out postal services as an example:

A common argument for government ownership of the postal service is to enable the government to force the delivery of mail to sparsely populated areas, where it would be unprofitable to deliver it privately. From a contractual perspective, this argument is weak. The government can always bind private companies that compete for a mail delivery concession to go wherever the government wants, or it can alternatively regulate those companies when entry is free.

One may respond that private firms would not contract to serve money-losing routes. But still this does not preclude competition. Firms can simply bid on the basis of the lowest subsidy that they will accept to serve the route. This ensures the subsidy is delivered most efficiency, by the least-cost firm. This is exactly the approach used for contracting out highway operations for money-losing toll roads in Spain.

I refer you to my written comments for evidence from other countries, such as New Zealand and Sweden, that have repealed their delivery monopolies but retained universal service. In short, both postal monopolies can be relaxed, and we need not sacrifice universal delivery service. I look forward to answering any questions you may have.

Additional Testimony

Murray Comarow - July 10, 2008

Before the Postal Regulatory Commission

Thank you, Mr. Chairman. My comments and testimony speak for themselves. Today, I would like to offer my views on the level of evidence required to justify changes in universal service and the letter and mailbox monopolies.

The Commission will surely recommend changes. They may be ignored by Congress. They may generate hearings where the old battles will be refought. They may end up in some form as legislation.

The last scenario is on everyone's mind. That's why the postal community has responded in considerable detail, and at considerable expense.

Nobody can be absolutely certain of the consequences of changing universal service and the two monopolies. To require evidence "beyond a reasonable doubt" would be unrealistic. On the other hand, change should not be based on a belief that less government is always better, nor upon confident assertions. Certitude is not certainty.

The Commission's recommendations should be based on compelling, objective evidence. That is a high hurdle, but a reasonable one for a change that could affect every person and business in the nation.

That evidence should include the most respected professional projections on the likely economic and social effects on the Postal Service and those who depend upon it. The European Union postal experience strikes me as a weak reed to lean upon, as my formal testimony notes.

Before The
Postal Regulatory Commission

Testimony of Murray Comarow
July 10, 2008

On Universal Service, the Postal Monopoly,
and Mailbox Access

Chairman Blair and members of the Commission, thank you for inviting me to contribute what I can to the report you will submit to Congress. It is no small thing, especially during this economic downturn, to recommend guidelines that may affect an industry that employs eight billion, four hundred thousand people, and generates over a trillion dollars a year in revenue. My remarks this morning supplement my June 6, 2008 comments.

The task with which you are charged is markedly different from those undertaken by most regulatory agencies, none of which regulate another government agency. It was imposed upon you by a Congress largely uninformed about postal matters unless their local or political interests are involved. Even some congressional staffers openly express frustration about how little Congress knows about this huge part of our society and how little it appreciates the consequences of its possible failure. It follows that your recommendations, whatever their merits, may not receive the attention that they deserve, in which case the Commission's report may virtually dictate the legislative outcome.

A few Congressmen, however, know a lot about the Postal Service. Representative John M. McHugh is probably more responsible for the 2003 reform act than any other member of Congress. Having given the Commission the universal service job, Mr. McHugh wants to shape its report. His June 30, 2008 letter to the Commission states that he is "one of the primary authors of the 2006 reform law," and offers his "personal views" to the Commission, to wit: "Proposals to limit service in low-volume density areas—whether they are in rural areas or inner cities—would have a very difficult time being accepted by Congress. Such proposals seem discriminatory . . ." Further: "I can attest that the mailbox statute is not only viewed as essential to enforcing the monopoly, it is crucial to Americans' sense of privacy and the integrity of the mail."

Actually, I have no substantive quarrel with Mr. McHugh. My point is that when Congress designates a responsible body to study a complex political/economic/social issue, it should not interfere with its ongoing work. Does

anyone believe that the Commission will give the Congressman's views no more weight than the views of other responders? If so, perhaps they believe that when a judge orders a jury to disregard testimony, it is thereupon expunged from their minds.

An earlier example of inappropriate intervention was the April 6, 2007 letter from Senators Susan M. Collins and Thomas R. Carper to this Commission, which interpreted key provisions of the 2003 reform act involving the rate cap and the phrase "extraordinary or exceptional circumstances." Such *ex post facto* explanations would be summarily rejected by a court of law, and should not be taken as authoritative, I would hope, by a quasi-judicial body such as this Commission.

I cover this in some detail because it leads to a more serious concern, the false idol of being "realistic." The Commission should not be "realistic" by suppressing recommendations that will likely fail. It should take its best shot and let Congress decide what is or is not politically acceptable. That approach, which I will presently address, may well be a disciplined aversion to changes that may damage the system.

I turn now to two curious omissions in mailers' comments. First, they fail to note the statutory mandate that the Postal Service act like a business, and Congressional actions that constantly undermine that mandate. The cumulative authorities of this Commission, the Treasury Department, the Office of Personnel Management, the Federal Trade Commission, the State Department, and the Department of Transportation should make business executives cringe, especially those who have experienced the stifling effects of overregulation. In business, prices are not capped by inflation; modernizing and compressing infrastructure is not stymied by politicians; outsourcing is a management responsibility; benefits are not set by law, and so forth.

Postal competitors have long argued for a level playing field, so the Federal Trade Commission's finding that the Postal Service was at a competitive disadvantage must have come as a shock. (Or did it?) A serious study of universal service and the letter and mailbox monopolies should take into account the skewed principles that seem to drive legislative behavior.

The other lacuna in most mailer and union comments is the status of the Postal Service as a self-supporting government corporation. I know of no

business, in or out of government, that diverts revenue from its customers to subsidize charities, newspapers, religious institutions, and universities. There may be valid reasons for our society to be good to those who do good; if so, Congress should give them taxpayers' money.

It is essential, I believe, to consider universal service within the context of the nation's social and economic condition. Last month, the Wall Street Journal's Gerald Seib wrote that "America and its political leaders, after two decades of failing to come together to solve big problems, seem to have lost faith in their ability to do so." About the same time, Robert Hormats of Goldman Sachs wrote that "[T]he political system seems incapable of producing a critical mass to support any kind of serious reform."

In the last eight years, Thomas Friedman noted in the New York Times, our national debt has increased from eight trillion dollars to fourteen trillion. He could have also noted that the Democratic Congress is trying hard to match the shameful earmarks level of the former Republican Congress, but has not yet succeeded. "Our political system is not working," Friedman said.

Seib, Hormats, and Friedman did not have the Postal Service in mind, but why should we expect better performance at either end of the Hill? Perhaps it is better that an unknowing Congress, given its track record on postal reform, taxation, immigration, energy, health care, and trade and budget deficits, has called upon this Commission for guidance on national postal policy.

If the Commission recommends (and Congress adopts) changes in universal service, letter and mailbox monopolies in such a way as to reduce revenue, it will be another body blow to a system already regarded as ungovernable by its own Board and by most members of the President's 2003 Commission. Saddled with unprecedented constraints, fierce competition from UPS, FedEx, and electronic communication, and lacking the authority commonly vested in businesses, the Postal Service is fighting for its life.

The tenor of competitors and special interests may be inferred from the FedEx and other comments to the Commission. Suggesting that universal service should cover only single-piece or "social" mail, FedEx quoted the 2004 statements of its head, Frederick Smith, such as: "The postal monopoly law lingers like an ancient curse on Middle Earth . . . an evil wizard has seemingly taken control of the postal monopoly." UPS wants universal service only for market-dominant

products. The National Newspaper Association wants licensed access to mailboxes. The National Association of Letter Carriers decreed that any decision on frequency of delivery is a political one that Congress should make. And so forth. These positions are rational from the standpoint of each organization. The damage they would do to the system, however, seems clear.

If the Postal Service should die, there will be autopsies to determine the cause of its demise. They will be performed by Congressional committees, by the press, by schools of business and of government, and by think tanks on the left and the right.

As is common in complex pathologies, they will find a concatenation of factors, and will note that the suspects, persons of interest, and miscreants set new records for finger-pointing. Perhaps the National Academy of Public Administration will gather all the autopsy reports, do a mega-analysis, and summarize their findings along these lines:

1. Congress created the Postal Service as a patronage-free, self-supporting government corporation in 1971. It was to run on revenues from customers, not taxpayers. It was to operate like a business.

2. The same law and Congress' behavior made that impossible. The Postal Service's nine presidentially-appointed governors evidently could not be trusted to set stamp prices, so that function (and others) was placed in the hands of five presidentially-appointed commissioners of a new agency, the Postal Rate Commission.

3. Unlike all other federal agencies, the law also required that the Postal Service negotiate wages with its employees. When there was an impasse, an arbitrator set wages. This process is largely responsible for the fact that for four decades, labor costs have accounted for about 80 percent of costs, an unsustainable level.

4. The weight of regulation and supervision from the PRC and five other federal agencies, aside from the usual oversight by Congress and the GAO, throttled the best efforts of postal managers.

While 81 percent of Americans (the highest percentage since 1991) believe that the United States "is on the wrong track," the public is satisfied with and trusts

the mail more than any other part of government. Taking inflation into account, the forty-two cent first-class stamp costs about the same as the eight cent stamp cost in 1971. If the barriers I cite are so high, how could this have happened? First, the economy, with some bumps and grinds, was on an upward trend. Postal revenue rose with the gross domestic product. Secondly, billions were invested in machinery to process mail with fewer workers, and other efforts, by management and mailers, successfully complemented those investments.

As the economy has faltered, these efforts are now insufficient. In the first half of its fiscal year, the Postal Service lost \$707 million. Unlike businesses, it may adjust its prices for ninety percent of its products only within the rate cap. The foundational principle of the Postal Service, that managers must have the tools with which to manage, was kidnapped by Congress, whose organizing principle might be termed "strangulation by regulation."

It is not too late to create a postal environment that would encourage its inhabitants to create, to take risks with the knowledge that some may fail, to pursue the mission because it is important and personally rewarding. Unnecessarily redefining long-standing policies would hardly help create such an environment.

I am in accord with a number of commentators who urged that universal service and the letter and mailbox monopolies not be weakened: Time Warner, Pitney Bowes, DFS Services, American Business Media, and others. If the Commission must define universal service, it should do so broadly, as a six-day-a-week service across the board, with authority vested in the Postal Service to adjust it as necessary.

Both universal service and the letter monopoly have been modified from time to time, the mailbox monopoly hasn't changed, and I can't recall serious protests, not even from Congress. Like the common law, these policies have been adjusted on a case-by-case basis. They may be regarded as the cumulative wisdom of postal managers and the postal community. The Commission should examine proposed changes in the light of David Hume's 1748 dictum: "A wise man . . . proportions his belief to the evidence." Unless there is compelling evidence for change, the existing arrangements should continue. I am not aware of such compelling evidence. Thank you again, Mr. Chairman, for this opportunity.

Biography

Murray B. Comarow was elected as a Fellow of the National Academy of Public Administration in 1974 and served on the organization's board of directors. An attorney, he was of counsel to two law firms and is a consultant to a major mailer. He was executive director of President Johnson's Commission on Postal Organization in 1967-68, and executive director of President Nixon's Advisory Council on Executive Organization in 1970-71. Additionally, he served as senior assistant postmaster general, distinguished adjunct professor in residence at American University, Acting Dean of its College of Public and International Affairs, partner at Booz, Allen, and Hamilton, executive director of the Federal Power Commission, and acting deputy general counsel in the Office of the Secretary of the Air Force.

This testimony may be considered against the backgrounds of my June 6, 2008 comments to the Commission and of some previous essays:

- The Dysfunctional Behavior of Mailers, August 2007
- What Does Postal Reform Do? June 2007
- The Strange Case of Postal Reform, February 2007
- The U.S. Postal Service is a Government Corporation, So What? November 2006
- The Postal Conundrum, September 2006

The views expressed here are of the author's alone. They do not necessarily reflect the views of any client or of the National Academy.

The cited papers, and others, may be accessed on the Academy website at http://www.napawash.org/about_academy/fellow_papers.html. The author may be reached at Profcomarow1@verizon.net; or at 4990 Sentinel Drive, #203, Bethesda, MD 20816-3582.

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Dan G. Blair, Chairman
Postal Regulatory Commission
901 New York Ave. NW
Washington, DC 20268

July 8, 2008

RE: Docket No. PI2008-3

Dear Mr. Blair:

The Postal Accountability and Enhancement Act (PAEA) requires the Commission to submit a report to the President and Congress on universal postal service and the postal monopoly in the United States, including the monopoly on the delivery of mail and on access to mailboxes.

The mandate to the Commission requires an assessment of the needs and expectations of the general public concerning the USPS universal service obligation (USO). Consumer Action¹ is pleased to have this opportunity to comment on universal postal service and the postal monopoly from the perspective of individuals (consumers), especially single-piece mailers, who use the post office primarily for personal, household and family needs.

We believe that Congress through the PAEA made a good start in defining “universal service” as the “continued availability of affordable, universal postal service throughout the United States.”

Consumers expect universal service from the post office. This expectation is built on decades of collective experience—we rely on the postal service and trust it to deliver our mail and to be efficient when we need to send mail. While defining which products should be included in the USO may be tricky given the interests of particular stakeholder groups, we believe that all market dominant products should be included in the USO. It would be helpful if consumers were given the tools to understand what these products are and the differences between them. Even consumers who use the postal service on a daily

¹ Consumer Action (www.consumer-action.org) is a non-profit organization founded in San Francisco in 1971. During its more than three decades, Consumer Action has continued to serve consumers nationwide by advancing consumer rights, referring consumers to complaint-handling agencies through our free hotline, publishing educational materials in Chinese, English, Korean, Spanish, Vietnamese and other languages, advocating for consumers in the media and before lawmakers, and comparing prices on credit cards, bank accounts, telephone plans and other consumer goods and services.

basis would be hard pressed to explain the differences in cost and delivery standards for first class mail, single-piece first class mail, media mail, international mail, periodicals, standard mail, package services, etc.

The USPS has a monopoly over letter delivery and mail boxes, among other monopoly powers, and this in turn demands that it operate under a universal service obligation. Without a universal service obligation, Consumer Action fears that services will not be extended to customer classes or locations where revenue is lower than service cost. This phenomenon, often referred to as "redlining," has had disastrous effects on communities when practiced by other industries, including insurance and banking.

A universal service obligation can be seen as a mechanism for creating a fundamental balance and fairness in the marketplace. A USO is not necessarily an economic burden on the post office because various opportunities exist to cross-subsidize between different rates, services and users. (However, cross subsidization pricing should ensure that individual consumers' interests are protected when pricing is determined for corporate mailers.)

At minimum, consumers should be able to rely on the postal service's USO to provide service in the following areas:

- Individual (single piece) first class mail
- Parcel post
- Media rate mail
- Six day per week delivery and business hours
- Nationwide delivery
- Simple, flat-rate prices
- Nearby post offices with business hours and after hours services, including postal scales, vending machines, change makers, mailing kiosks, unstaffed information terminals or sign boards with up-to-date information on postage rates
- Adequate coverage of blue collection/drop off boxes where consumers can deposit mail
- Flexible, consumer-friendly policies for residential pick-up of stamped/metered mail

Any definition of the universal service obligation for the USPS should include an emphasis on the value of the mail in consumer protection and civic functions. The mail is commonly used not only as a safe, secure way to pay bills and communicate with companies, but also to provide safety notices, send product warranties and recall notices, conduct the Census, submit voter registrations and distribute absentee ballots, and deliver communications from medical providers. For instance, the postal service is being used to send digital television conversion coupons to those who need them for the upcoming DTV Transition in February 2009.

Under laws passed in 1970, the President of the United States is required to appoint a body called the Postal Service Advisory Council. Despite its reconfirmation by Congress

with the passage of PAEA, this advisory council has not been established. The advisory council is to include three people representing the public-at-large. Consumer Action believes it is high time the advisory council was created to bring consumer voices, as well as union and bulk and institutional first class mail customers, to the table.

The Postal Service recently announced a reorganization to streamline agency operations. Under the plan, focus areas were created to manage (1) shipping and mailing services and (2) external stakeholders and customer service. In the reorganization, Stephen M. Kearney was promoted to head the external stakeholder group. He will oversee Delores J. Killette, vice president and Consumer Advocate. We trust these long-time public servants will be as responsive to the needs of individual postal consumers as they have been to the interests of bulk and corporate mailers. We suggest that they reach out to the postal consumer community to fully understand some of the issues that concern us.

Consumer Action suggests that individual consumers—not corporate bulk mailers who use first class mail—should be protected from further increases in the price of first class stamps. The Forever Stamp—first-class postage that is good any time in the future even if mailing prices go up—is an innovation in this regard. However, we suggest that rates for regular first class stamps should be frozen for individual stamp users.

Basic postal service should be subsidized for residential consumers, instead of the unfortunate situation in which first class mail has subsidized other mail products.

Closing of post offices is often a focus of attention by consumers. However the manner in which services are provided reflects some important issues. To us, universal service implies products that are fairly priced (*not* “free” or “cheap”), transparent and uncomplicated. These products must be accompanied by plainly written guides and rate charts to help consumers make the best and the most cost-effective choices to fill their needs.

The USPS is careful not to guarantee delivery of certain types of mail, but consumers are not always accurately informed of the pros/cons of any given product. How does a consumer decide how much to spend to mail something? Consumers need to know the benefits and the drawbacks of priority mail, delivery confirmations, CODs and postal insurance. The USPS compiles statistics on how often they actually meet the standards they set. But while this information is available, it is not easy for consumers to find.

The postal service isn't doing a very good job of communicating with the consumer at the post office counter. We suggest that an integral part of universal postal service includes employee training and directives to help customers choose and compare the quality and standards of service and determine proper postage. If postal employees do not feel empowered to address the relative qualities of various market dominant mail products, where else will consumers get this information? Postal consumers need to be confident in determining how to send their mail, how long it will take for it to get there and that it will not be returned for inadequate postage. Why allow consumers to send Priority Mail or a flat rate package when the contents qualifies for the media mail rate?

We also are concerned about the complexity of pricing for post office products. First class letter mail is subject to a rather bewildering variation in prices according to its size and shape. For instance, we have heard many reports of invitations and greeting cards being returned to the sender because the sender was not informed or educated that odd sized envelopes require a postage surcharge.

Complexity of pricing at the single piece level works against the consumer, who may mail items that do not have enough postage, or who may add extra unnecessary postage just to ensure delivery. The complexity in pricing for size and shape is very challenging for consumers and ultimately erodes any standard of universal service.

We suggest that there be no cuts in the number of drop off/collection boxes, particularly in rural areas and the urban core. We further suggest that efforts are made to increase the number of collection boxes in certain areas where access is limited and to step up twice daily collection at selected busy locations.

We believe that the postal service has to do more to label collection boxes with the true pick up times. Are collection times listed on collection boxes accurately represented to the consumer? After all, it seems unlikely that a postal employee can pick up mail from several nearby boxes simultaneously, even if all of them say pick up is at 10 a.m. daily. If consumers can't rely on the pick up times, then universal service standards are ultimately less reliable, less convenient and less useful to consumers.

Consumer Action believes the mail box monopoly should be preserved. We are sympathetic to the argument that consumers, especially in rural and suburban areas, have to pay for their own mail boxes, and therefore should decide who can access the boxes. But we find far more compelling reasons to limit the use of postal recipients' mail boxes. For instance, if the mailbox is open to just anyone, bulk mailers may drop out of the postal system and instead use flyers and other delivery techniques, leading to an increase in first class mailing costs that would negatively impact consumers.

We cannot envision how ending the mail box monopoly would work in homes and residential buildings where the mailboxes are locked and the postal employee has a key to open them while delivering mail. To allow entities outside the post office to have keys would open the residents to tampering, privacy violations, theft of mail and identity theft.

Consumer Action urges that six day per week mail delivery and current business hours of post offices be maintained at the present levels.

It is important for all stakeholders to know they have rights of complaint and redress. Consumer Action finds it unfortunate that postal reform legislation did not preserve the Office of the Consumer Advocate. We understand that these duties have been reassigned by the Commission, and are being handled by experienced staff people from the Office of General Counsel. However, we still feel the sting of losing the Office of the Consumer Advocate, and in particular, the attention and care taken by Shelley Dreifuss to encourage

participation by groups like Consumer Action and the Consumer Postal Council. In our view, Ms. Dreifuss was especially adept in using the discovery process to advance the public interest and was very helpful with advising us on the proper avenues for consumer complaints.

In setting standards for universal service, we believe that the consumer should be central to the discussion and solution.

Consumer Action would like to suggest that the Commission consider using opinion surveys and focus groups to get at the issues that really matter to individual postal consumers, and at their attitudes about the postal universal service obligation. It appears to Consumer Action that what individual postal consumers (as opposed to large corporate mailers) think or want has not been of particular concern to the USPS or even Congress in recent years.

For instance, as consumer advocates, we believe that the USPS should continue to provide six day per week delivery. But how do we really know what individual users of the post office believe without standardized surveying? We suggest that this is an excellent opportunity to survey postal consumers to see what they think is an appropriate level of service. In the past, consumers adjusted from two to one daily delivery. All of us may be surprised at the results of opinion surveys and focus groups.

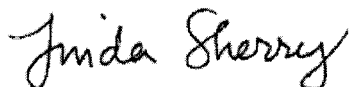
Another useful study would be to measure the perceived impact of any reduction in pick up points, collections and number of times mail is collected on a daily basis.

While others have commented that deregulation and resulting competition in other industries, such as airlines, have resulted in lower prices and increased efficiency, we see it somewhat differently. From the consumer advocacy perspective, competition has often resulted in a confusing array of products and rapidly fluctuating prices in which consumers are often not the winners.

On a typical plane ride, you have one economy class passenger who has paid \$200 while another paid \$500—an inequity that results from chance perhaps, but still an inequity. Of greater concern, a number of smaller cities have lost most if not all of their flights as airlines focus on more profitable routes.

We should endeavor to prevent similar inequities from tarnishing the proud tradition of our U.S. Postal Service.

Sincerely yours,



Linda Sherry
Director of National Priorities

The Future of Universal Service and the Postal Monopoly
Testimony before the Postal Regulatory Commission
Don Soifer, Consumer Postal Council
July 10, 2008

The observations made by Postal Board of Governors Chairman Alan Kessler in Congressional testimony last y
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901 New York Avenue NW, Suite 200 | Washington, DC 20268-0001

*MR SOIFER IS NOT APPEARING
AT THE HEARING BUT SUBMITTING
TESTIMONY*

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One major challenge for the Postal Service will be to maintain the steady increases in Total Factor Productivity it has achieved over the past 8 years. Cost cutting has been a major element of those gains, and must remain so for this trend to continue. As the nation's second-largest employer, more than 80 percent of the Postal Service's operating costs are labor expenses. Continuing to reduce labor costs would seem an irreplaceable element of any future productivity gains.

The Postal Service in its Network Plan issued last month expressed consternation at what it described as unnecessary barriers to its ability to cut costs by streamlining its network operations. It cited rising energy costs, an aging infrastructure, declining network volume, and the price cap regime in the Postal Accountability and Enhancement Act (PAEA) as factors adding to the urgency of its need to continue consolidating or realigning its operations. Clearly,

whatever Universal Service is to look like over the coming decade, it must take these realities into account.

Besides reducing operating costs, the viability of financing universal service in the future will also largely depend on the Postal Service's ability to astutely manage its worksharing and the discounts it provides for volume mailers. The Service's current Strategic Transformation Plan describes broadening its customer partnerships as a major strategy for cost savings.

The Postal Regulatory Commission has agreed, pointing to Negotiated Service Agreements as a valuable pricing tool. But some of the Commission's recent opinions point to a critical need for the Postal Service to improve aspects of its pricing strategy. In its Life Line Screening Decision of May 2008, the Commission pointed to unreliable and inadequate financial analysis by the Postal Service. Failure to become "far more proficient" at negotiating favorable terms could result in significant economic losses, the Commission found. If the Commission is correct in its findings, and if the Postal Service cannot correct its deficiencies in negotiating special pricing arrangements with its customers, it could pose another threat to its ability to provide Universal Service.

The PAEA provided a clear framework as well for what types of new products and services the Postal Service could introduce in the future. When asked, Americans have responded that they see value in preserving a Postal Service as a government entity, either in its present form or with minor changes. Could the Postal Service, for instance, increase the value its post offices provide their communities by offering additional government services? Could doing so potentially create new funding streams to finance universal service while also continuing to provide the social benefits Americans have acknowledged they value?

The mailbox monopoly may be one aspect of the Postal Service's past which may not have an essential role to play in its future. This was among the findings of major reports by the President's Commission on the Postal Service in 2003 and the Federal Trade Commission in 2007. The Postal Service's monopoly on mailbox use, "limits consumer choice and artificially increases the costs of private carriers," the FTC concluded last December. It observed further that the mailbox monopoly is unique to the United States, and that its study of eight countries without such a monopoly found no significant loss in postal revenue.

Eliminating the mailbox monopoly needn't be sudden or drastic – the process could be consumer-driven and incremental. If consumers who purchase and maintain their own mailboxes believe their interests could be better served by allowing other parties besides the Postal Service access in a way that maintains accountability and order, they need not be prevented from doing so. Such a system could even be implemented on a small scale or on a trial basis, allowing the outcome to be studied to inform future decisions.

The Consumer Postal Council is a nonprofit organization based in Arlington, Virginia, supporting the interests of individual consumers of First-Class Mail. Our website is www.postalconsumers.org.

The 60 Plus Association

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Kill the Death Tax. Protect Social Security. Energy Security.

James L. Martin
President

Rep. Roger Zion (R-IN, 1967-75)
Honorary Chairman

Pat Boone
National Spokesman

Testimony of James L. Martin
President, 60 Plus Association
Universal Postal Service and Postal Monopoly

Thursday, July 10, 2008
10am, PRC Hearing Room
901 New York Ave., NW, Suite 200
Washington, DC 20001

Good morning, I'm Jim Martin, President of the 15-year-old national senior citizen organization, the 60 Plus Association. I very much appreciate the opportunity to testify before the Commission on behalf of the report you will prepare for the President and the Congress on universal postal service and the postal monopoly in the United States.

Preparing a few thoughts for this morning's testimony, I spoke with one "gray hair" as I like to call them --- who recounted a joke he gathered about what postal service would look like in the year 2029 --- he said the headline would read: **POSTAL SERVICE RAISES PRICE OF FIRST CLASS STAMP TO \$17.89 AND REDUCES MAIL DELIVERY TO WEDNESDAYS ONLY.**

Well, that's a cute story as far as it goes...but I know we can all agree we hope it doesn't go very far!

The 60 Plus Association represents seniors in the United States who depend on the U.S. Postal Service; on that there can be no question --- seniors, as one might expect, have migrated to the Internet and things like email very slowly. We're getting there, but we're not there yet.

The quality of timely and reliable service that the U.S. Postal Service provides, particularly for first-class letter mail and other market-dominant products and services, is extremely important to seniors. It is our hope and expectation that as the Postal Service moves forward with service standards for these products, that they will continue to ensure that the services they receive do not lose out to the competing interests, such as those of big, corporate mailers.

We have followed recent discussions about possibly moving to 5-day-a-week mail delivery with some concern. We remember when twice-a-day delivery was a regular occurrence, as

(over)

you might as well. We have seen a trend toward mail delivery to cluster boxes, instead of to the front door, in many newer communities. And it seems that there are always fewer collection boxes, and fewer pickup times. We recognize that declining mail volumes and other factors create a climate where cost-cutting is an important priority for the Postal Service. We hope that the Postal Regulatory Commission will continue to do everything it can to ensure that such cost-cutting not come at the expense of the prompt and reliable mail service that seniors depend on.

While many seniors have been slow to join the online revolution, many do actually rely on online and catalog purchases for better prices and wider selections. Many others depend on timely and reliable delivery of checks and other important documents. For these seniors, the Postal Service's monopoly on the use of the mailbox is increasingly inefficient and inconvenient. The higher cost of using private delivery companies as an alternative is a problem for seniors on fixed incomes. Seniors must purchase and maintain their mailboxes – why can't they choose who has access to them?

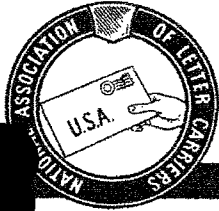
It is a significant concern to seniors that first class letter mail continues to contribute more to the Postal Service's institutional overhead than other products and services, including parcel post, priority mail and periodicals.

I'll conclude my comments this morning this way: the U.S. Postal Service enjoys two monopolies we all know about: the first is letter delivery, the other is the use of mailboxes. Since it's my opinion that my seniors at 60 Plus refer to the latter more frequently in comments to me, I'll end this way: why cannot this prohibition on the use of mailboxes be lifted? It would be a great help to senior citizens all across America if simple acts of community communication could be conducted via the mailboxes they purchased in the first place! Invitations to birthday parties, circular coupons from local businesses, notices about community activities, street cleanings or special trash pickups, etc. are real choices denied seniors, many less mobile or infirmed who would really appreciate the lifting of this mailbox monopoly. As a matter of fact, it is my understanding that the United States is the only country in the world that operates with this mailbox monopoly restriction.

I would respectfully ask this Commission to give that serious thought.

Thank you.

The 60 Plus Association is a 15-year-old nonpartisan organization working for death tax repeal, saving Social Security, affordable prescription drugs, lowering energy costs and other issues featuring a less government, less taxes approach. 60 Plus calls on support from nearly 4.5 million citizen activists. 60 Plus publishes a magazine, SENIOR VOICE, and a Scorecard, bestowing awards on lawmakers of both parties who vote "pro-senior." 60 Plus has been called "an increasingly influential senior citizen's group."



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STATEMENT OF

William H. Young, President

National Association of Letter Carriers, AFL-CIO

BEFORE THE POSTAL REGULATORY COMMISSION

July 10, 2008

Good morning, Mr. Chairman and members of the Commission. My name is Bill Young. I am President of the National Association of Letter Carriers.

NALC is the exclusive collective bargaining representative of 225,000 active city carriers employed by the U.S. Postal Service in every city and town in America. Six days a week, we deliver to tens of millions of citizens and millions of businesses across America, providing the full range of postal services.

Thanks for the opportunity to testify about the future of universal service.

NALC submitted extensive comments in response to your Order No. 71 related to this proceeding. As you will note in our comments, letter carriers

play a critical role in all of the elements of universal service that are under study. Today, I'd like to focus on a few key points.

First, we urge the Commission to take an American approach to the issue of universal service. In Order 71, you appeared to place this study into the context of changes now underway in Europe, where the European Union has embarked on a plan to deregulate postal services and many governments have chosen to privatize their post offices.

But this model is entirely inappropriate for the United States, where we have adopted a different approach to universal service. Indeed, over the past decade or so, a parallel debate has gone on in the U.S. and Europe about the future of postal services. The E.U. decided to experiment with deregulation as it seeks to create a single market in all goods and services in its 25 member-states. In America, where postage rates are much lower and universal service is provided much more efficiently thanks to the extensive use of technology and sensible work-sharing by mailers, we decided to maintain universal service through a public enterprise financed with a limited, regulated monopoly.

Defining universal service or the universal service obligation in America is therefore a very different exercise than doing the same for Europe. It may make sense for European regulators to have a rigid and tightly defined definition of universal service, given the need to regulate competition and to level the playing field for dozens or even

hundreds of competitors. But a narrowly defined, inflexible definition of universal service does not make sense in the United States – at least not in the context of the new postal law, the Postal Accountability and Enhancement Act of 2006.

That new law maintains the USPS as a kind of public utility and modernizes the basic framework of the Postal Reorganization Act of 1970. The PAEA explicitly retained the PRA's definition of the Postal Service's core mission from Title 39, which is, I quote: "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. It shall provide prompt, reliable and efficient services to patrons in all areas and shall render postal services to all communities."

Unquote.

This core mission should shape your approach to this study. The U.S. has been well-served for decades by a flexible, evolutionary approach to universal service rooted in the deepest traditions of our democracy and changing with technological and market developments. We do not believe that the model of European deregulation is the right starting point for an examination of universal service. Given the poor results we have seen so far in Europe, as reported in our comments, the Commission should be especially cautious in this regard.

Second, the Commission should recognize that the Postal Service plays a critical role in the nation's economic, social and political infrastructure and that the postal monopoly,

the mailbox statute and six-day delivery are essential elements to true universal service.

We believe that the current postal monopoly is critical to supporting the national infrastructure that promotes economic prosperity and guarantees a democratic society by ensuring equal access to all citizens. While academic models designed to minimize the value of universal service might suggest there is a better way to finance it, in practice the alternatives are often politically unsustainable and fail to take into account the transaction costs involved.

The Postal Service's exclusive access to American's mail boxes is equally critical. It assures the "privacy and integrity" of the mail that letter carriers guarantee every day. It is also vital to effectively enforcing the monopoly.

And six-day delivery is essential to meet the widely ranging needs of America's businesses and our nation's busy citizens. Not every American needs Saturday delivery, but millions of others rely on it. It should be preserved.

The postal monopoly keeps the overall cost of mailing letters for all mailers low by maximizing the Postal Service's economies of scale and scope; the mailbox statute prevents identity theft and preserves the trust people have in mail; and six-day delivery ensures every American business and household maximum flexibility for conducting their business through the Postal Service. As the comments you have received so far


make clear, these three elements of universal service not only have the overwhelming support of the nation's mailers, they are also strongly backed by the American people.

Finally, I urge the Commission to be careful about recommending major changes in either the definition of universal service or the extent of the postal monopoly on the basis of unreliable predictions about the future. Yes, the Internet is eliminating a lot of traditional mail, but it is also creating many new mail-based industries served by companies like eBay and NetFlix. And it is impossible to predict now the countless ways we will use the Postal Service in the future. Moreover, there is an extraordinary amount of change and innovation going on in the Postal Service right now as it seeks to adapt to the new postal law and to the changing needs of the American people. Continuity and stability in the legal framework governing the USPS is essential if the Postal Service is to succeed in adjusting to the Internet age.

Before you act, stop and think about what we have. No other institution has the ability to visit 145 million delivery points six days a week – it is a truly invaluable network which can be used in countless ways to enrich America's economy and our democracy. Our goal should be to maintain the only truly universal communications network we have in America. As have generations of Americans before us, we should strive to preserve universal postal services for the generations that follow us. It's part of the legacy of American democracy. Let's not waste it.

Testimony of Robert Corn-Revere
before the
Postal Regulatory Commission
Washington, D.C.

July 10, 2008

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Testimony of Robert Corn-Revere
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Hearings before the Postal Regulatory Commission
July 10, 2008

Mr. Chairman and members of the Commission: Thank you for inviting me to testify before the Postal Regulatory Commission (“PRC”) on issues relating to universal postal service and the postal monopoly. The testimony I am presenting represents my personal views; I have not been asked to appear on behalf of any client.

The Postal Accountability and Enhancement Act of 2006 (“PAEA”) requires the PRC to submit a report to the President and Congress on “universal postal service and the postal monopoly in the U.S. . . . including the monopoly on the delivery of mail and on access to mailboxes.” To assist the Commission in preparing the required report, I have been asked to address legal issues that may arise from the adoption of “Do Not Mail” legislation that has been considered by various state legislatures in recent years. As I describe in more detail below, the proposed bills are in significant tension with the First Amendment and with principles of federalism under the U.S. Constitution.

Proposed Legislation

In the past year, eighteen states considered adopting various types of “Do Not Mail” legislation, but none of the bills have passed. The basic approaches of the various proposals are briefly outlined in the Appendix to this testimony. At least eight states would have used the offices of their Attorneys General to create and maintain their registries. Others would have used Public Service or Commerce Commissions. Bills in Colorado, North Carolina, and Rhode Island proposed using designated agents to maintain the lists. Some of the bills propose a combination of “Do Not Mail” and either “Do Not Call” or “Do Not E-mail” registries. Some proposals

would apply more narrowly. For example, Missouri bill H.542 would apply only to mail recipients over the age of 65. In addition, most proposals would exempt nonprofit organizations and politicians from the “Do Not Mail” restrictions.

Six of the bills were withdrawn or tabled by their sponsors, and the remaining legislative proposals failed to win approval by the time the various legislatures adjourned in summer 2008. For purposes of this testimony, however, it is not my intention to examine the specific provisions of the various bills, and I cannot speak to the reasons why none of the proposals were enacted. My goal instead is to survey some of the overarching constitutional considerations that would come into play if one or more states adopted “Do Not Mail” legislation.

First Amendment Considerations

Because any “do not communicate” legislation would enlist the government to cut off “unwanted” speech, it necessarily implicates the First Amendment, which provides that “Congress shall make no law . . . abridging the freedom of speech, or of the press.” This constitutional guarantee applies equally to actions by state legislatures, as the protections of fundamental liberties guaranteed by the Bill of Rights were incorporated into the Due Process Clause of the Fourteen Amendment. *Gitlow v. New York*, 268 U.S. 652, 666 (1925). Proponents of “Do Not Mail” legislation frequently compare their proposals to the federal “Do Not Call” rules that were upheld against constitutional challenges in *Mainstream Marketing v. FTC*, 358 F.3d 1228 (10th Cir. 2004). In that case, the United States Court of Appeals for the Tenth Circuit held that the national “Do Not Call” registry “is consistent with the limits the First Amendment imposes on laws restricting commercial speech.” *Id.* at 1246. However, it would be a mistake to assume the same conclusion necessarily follows in the context of “Do Not Mail” requirements, or that the question is governed entirely by the commercial speech doctrine.

The First Amendment protects the right to publish and to speak, but “no one has the right to press even ‘good’ ideas on an unwilling recipient.” *Hill v. Colorado*, 530 U.S. 703, 718 (2000). However, courts generally have permitted only narrow restrictions on unwanted speech both in the noncommercial and commercial speech contexts. For example, in *Hill*, the Court approved only limited restrictions on “sidewalk counseling” outside abortion clinics that had no “adverse impact on the readers’ ability to read signs displayed by demonstrators,” and did not preclude communication at a “normal conversational distance.” 530 U.S. at 714, 726-727. Similarly, in *Frisby v. Schultz*, 487 U.S. 474 (1988), the Supreme Court held a restriction on targeted residential picketing must be narrowly tailored to permit picketers to disseminate their messages generally through residential neighborhoods, including “go[ing] door-to-door to proselytize their views” or “contact[ing] residents by telephone, short of harassment.” *Id.* at 483-484. Likewise, in *Florida Bar v. Went For It, Inc.*, 515 U.S. 618 (1995), the Court upheld a 30-day moratorium on direct-mail solicitation by attorneys to accident victims, a distinctly vulnerable class. But the 5-4 decision was predicated on the majority’s finding that the restriction was “narrow both in scope *and duration*” and on the ability to communicate using the same medium, *i.e.*, non-directed mail, during the moratorium. *Id.* at 635 (emphasis added). As the Supreme Court noted in *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 208 (1975), “pitting the First Amendment rights of speakers against the privacy rights of those who may be unwilling viewers or auditors ... demand[s] delicate balancing.”

As these cases suggest, the government’s ability to shield “unwilling listeners” is based on the same interest regardless whether speech at issue is commercial or core political speech. In

either case, regulations intended to protect privacy interests must be both narrow *and* neutral.¹ This is the core holding of *Cincinnati v. Discovery Network*, 507 U.S. 410 (1993), which invalidated a local regulation premised solely on a distinction between commercial and noncommercial speech. The Court articulated two general principles that apply to any attempt to impose special restrictions on commercial speech: (1) a distinction between commercial and noncommercial speech that “bears no relationship whatsoever to the particular interests that the city has asserted” is invalid, and (2) a restriction that overemphasizes the difference between commercial and noncommercial speech “seriously underestimates the value of commercial speech.” 507 U.S. at 424. Subsequent cases applying *Discovery Network* have made clear “it is unconstitutional to ban commercial speech but not non-commercial speech – at least absent a showing that the commercial speech has worse secondary effects.” *Rappa v. New Castle County*, 18 F.3d 1043, 1074 n.54 (3d Cir. 1994). *See also Pearson v. Edgar*, 153 F.3d 397, 405 (7th Cir. 1998).

In this connection, reviewing courts have invalidated various regulations that sought to ban or restrict unwanted or presumptively “offensive” mail. For example, in *Consolidated Edison Co. of New York v. Public Service Comm’n of New York*, 447 U.S. 530, 541 (1980), the Supreme Court struck down a state restriction on including inserts in utility bills that addressed controversial issues of public policy. The state court of appeals had upheld the ban on the theory that the bill inserts “intruded upon individual privacy,” but the Supreme Court disagreed. It

¹ *E.g., Hill*, 530 U.S. at 723 (upholding restriction on “sidewalk counseling” because it “applies equally to used car salesmen, animal rights activists, fundraisers, environmentalists and missionaries.”); *Ward v. Rock Against Racism*, 491 U.S. 781, 795 (1989) (regulation of sound amplification to protect nearby residents denies government ability “to vary the sound quality or volume based on the message being delivered”); *Discovery Network*, 507 U.S. at 428 (“prohibition against the use of sound trucks emitting loud and raucous’ noise in residential neighborhoods is permissible if it applies *equally* to music, political speech *and advertising.*”) (emphasis added).

found that even though the inserts “may offend the sensibilities of some consumers, the ability of government ‘to shut off discourse solely to protect others from hearing it [is] dependent upon a showing that substantial privacy interests are being invaded in an essentially intolerable manner.’” *Id.* (quoting *Cohen v. California*, 403 U.S. 15, 21 (1971)). See also *US West*, 182 F.3d at 1234 (“The breadth of the concept of privacy requires us to pay particular attention to attempts by the government to assert privacy as a substantial state interest.”). In this regard, the Court has made clear that an interest in shielding homeowners from unsolicited advertisements they are likely to find offensive or overbearing “carries little weight.” *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 71 (1983). In *Bolger*, the Supreme Court struck down a restriction on the mailing of unsolicited contraceptive advertisements designed “to protect those recipients who might potentially be offended.” 463 U.S. at 72. See also *Shapiro v. Kentucky Bar Ass’n*, 486 U.S. 466, 473-74 (1988) (stating that privacy interest will not support direct mail solicitation on attorney advertising).

The constitutional question raised by a “Do Not Mail” list is not identical to the one posed by an outright ban, since the homeowner must “opt in” to the government program. However, the voluntary character of the registry does not avoid constitutional problems to the extent the government determines which speakers are to be restricted by the law. Thus, *Martin v. City of Struthers*, 319 U.S. 141 (1943), struck down a ban on door-to-door solicitation because it “substitut[e] the judgment of the community for the judgment of the individual householder.” *Id.* at 144. While the Supreme Court indicated that homeowners could erect “no solicitation” signs if they chose to do so, the ordinance would have faced considerable constitutional hurdles if it permitted residents only to erect “no solicitation” signs that selectively barred speakers disfavored by the town council. Ultimately, constitutional protection is based on the principle

that “the speaker and the audience, not the government, assess the value of the information presented.” *Edenfield v. Fane*, 507 U.S. 761, 767 (1993).

The leading case to address the issue of blocking unwanted mail is *Rowan v. U.S. Post Office Dept.*, 397 U.S. 728 (1970). Under the law at issue in *Rowan*, an addressee can submit a written request that the Postmaster General issue an order blocking unsolicited mailing of “salacious materials.” Upon the receipt of such a request, the sender is required to delete the addressee’s name from his mailing list. *Id.* at 730. The Supreme Court in *Rowan* made clear that the law is constitutional because the blocking order only effectuated individualized preferences. *Id.* at 737. The Court noted “what may not be provocative to one person may well be to another. In operative effect the power of the householder under the statute is unlimited; he may prohibit the mailing of a dry goods catalog because he objects to the contents – or indeed the text of the language touting the merchandise.” It concluded that “Congress provided this sweeping power not only to protect privacy but to avoid possible constitutional questions that might arise from vesting the power to make any discretionary evaluation of the material in a governmental official.”²

Although *Rowan* often is characterized as a commercial speech case, the regulations at issue are entirely neutral, since the homeowner has complete discretion over which communications to block.³ Although the postal regulation at issue applies to “advertisements,” that fact does not determine whether only commercial speech is affected. *See, e.g., New York*

² *Rowan*, 397 U.S. at 737. The statute in *Rowan* hinged upon the Postmaster General receiving an opt-out notice “from the addressee,” *id.* at 730, and thus truly involved opt-out decisions by the mail recipient with respect to particular speakers.

³ *Rowan* was decided in 1970, well before the Supreme Court extended First Amendment protection to commercial speech. *See Virginia Bd. of Pharm. v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976). If the commercial nature of the mailings had been dispositive, there would have been no First Amendment issue to decide.

Times v. Sullivan, 376 U.S. 254 (1964) (editorial advertisement is political speech). This point was underscored in *United States Postal Service v. Hustler Magazine, Inc.*, 630 F. Supp. 867, 871 (D.D.C. 1986), where the court held that the postal rules could not be used to block the sending of *Hustler* magazine to members of Congress *in their offices* because it would interfere with the right to petition the government. However, the court observed that the postal regulation could be used to block even politically-motivated mailings to the residences of congressmen, just as it could be used by other homeowners. *Id.* at 871 (“In the home a Member can invoke the special privileges as a householder, including the privilege of stopping undesirable mail under § 3008.”). With respect to congressional offices, however, the court held that the requested prohibitory order barring the mailing of *Hustler* magazine was unconstitutional because it was “rooted in content discrimination.” *Id.* at 871.

A “Do Not Mail” list would operate quite differently from the regulation that was at issue in *Rowan*. Rather than according the homeowner complete discretion to characterize unwanted expression and to select which senders would be affected, the “block list” would be constructed by government officials. While state officials may attempt to show that unwanted mail from commercial sources is somehow more offensive than unwanted mail from religious, political, or charitable organizations, reviewing courts may be skeptical of such claims. *See, e.g., Bolger*, 463 U.S. at 71-72, where the Supreme Court declined to accept the proposed distinction between commercial and noncommercial speech in seeking to protect the public from what it considered to be “offensive” speech relating to contraceptives. Similarly, in *Carey v. Brown*, 447 U.S. 455, 465 (1980), the Court held that the government’s asserted interest in protecting residential privacy could not sustain a statute permitting labor picketing while prohibiting non-labor picketing. It found that “nothing in the content-based labor-nonlabor distinction has any bearing

whatsoever on privacy.” *Id.* To the extent the problem the law purports to address is that communications simply are “unwanted,” there is little basis for basing restrictions on the content or subject matter of the speech. *See, e.g., Van Bergen v. Minnesota*, 59 F.3d 1551, 1555 (8th Cir 1995) (the identical concern arises from political calls to the same degree as commercial calls).

Even under the First Amendment test applicable to commercial speech, the government is required to show that the regulation (1) is needed to serve an important governmental interest; (2) that it directly and materially advances that interest; and (3) it is narrowly tailored to restrict no more speech than necessary. *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*, 447 U.S. 557, 564-565 (1980). In this regard, the Supreme Court has made clear that “if the Government can achieve its interests in a manner that does not restrict commercial speech, or that restricts less speech, the Government must do so.” *Thompson v. Western States Med. Ctr.*, 535 U.S. 357, 371 (2002).

Under the *Central Hudson* analysis, it is difficult to compare “Do Not Mail” proposals to the “Do Not Call” regulations at issue in *Mainstream Marketing*. In that case, the 10th Circuit upheld the regulations after evaluating rulemaking proceedings before the FTC and FCC that determined the intrusiveness of unwanted calls necessitated a stronger regulatory approach than had been used in the past. Mail, on the other hand, is silent, and does not affect the tranquility of the home in the same way as a ringing telephone. In this regard, courts have held consistently that the government’s interest in regulation is less pressing. In *Bolger*, for example, the Supreme Court explained that “we have never held that the government itself can shut off the flow of mailings to protect those recipients who might potentially be offended. The First Amendment ‘does not permit the government to prohibit speech as intrusive unless the ‘captive’ audience cannot avoid objectionable speech.’” 460 U.S. at 70. Despite the annoyance that may be

associated with unsolicited junk mail, the First Amendment has been construed to require that the “short, though regular, journey from mail box to trash can ... is an acceptable burden, at least so far as the Constitution is concerned.” *Id.* at 72 (quoting *Lamont v. Commissioner of Motor Vehicles*, 269 F.Supp. 880, 883 (SDNY 1967), *aff’d*, 386 F.2d 449 (CA2 1967), *cert. denied*, 391 U.S. 915 (1968)).

Additionally, under *Central Hudson* analysis, the regulation must leave open adequate alternative channels of communication. In this regard, it is worth noting that “Do Not Call” regulations were upheld, in part, because those regulated by it would still have the option of communicating by direct mail. The 10th Circuit noted, for example, that “[t]he challenged regulations do not hinder any business’ ability to contact consumers by other means, such as through direct mailings or other forms of advertising.” *Mainstream Marketing*, 358 F.3d at 1233. *See also id.* at 1243 (finding that the rules are narrowly tailored “[i]n particular,” because “the do-not-call regulations do not prevent businesses from corresponding with potential customers by mail or by means of advertising through other media.”). It may be difficult for courts to reach the same conclusion if states begin to adopt a network of Do Not Mail rules.

Considerations of Federalism

Another important question about state “Do Not Mail” legislation is its relationship to federal law. Under the Supremacy Clause of the Constitution, Art. VI, cl. 2, enforcement of a state regulation may be preempted by federal law in three circumstances: (1) where Congress, in enacting a federal statute, expresses its clear intent to pre-empt a state law, *Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977); (2) where Congress, by legislating comprehensively, has “occupied the field,” enacting a system of regulations so comprehensive as to leave no room for state action, *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947); and (3) by enacting a

law with which the state regulation conflicts, making compliance with both state and federal law impossible. *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-43 (1963).

The intent of Congress to preempt a field “may be inferred from a scheme of federal regulation . . . so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it.” *English v. General Elec. Co.*, 496 U.S. 72, 79 (1990) (internal quotation omitted). A conflict between the state and federal schemes occurs when it is impossible to comply with both the federal and state regulation, *Florida Lime & Avocado Growers*, 373 U.S. at 142-43, or when state law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.” *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

Because the delivery of the mails is an express power granted to Congress by the Constitution and because this service implicates interstate commerce, state laws must be carefully crafted to pass constitutional muster. Article I, Section 8, Clause 7 of the Constitution empowers Congress to “[t]o establish Post Offices and post Roads.” Courts have interpreted this mandate as including a requirement that any state laws must be consistent with the general policies enacted by Congress. See *Pensacola Tel. Co. v. Western Union Tel. Co.*, 96 U.S. 1 (1878); *Illinois Cent. R.R. v. Illinois*, 163 U.S. 142 (1896). For example, in *U.S. v. City of Pittsburgh, California*, the Court of Appeals for the Ninth Circuit invalidated a local law prohibiting postal workers from crossing lawns without the consent of their owners. *U.S. v. City of Pittsburgh, California* 661 F.2d 783 (9th Cir.1981). The court found this to be in conflict with the purposes of the Postal Reorganization Act, which provided that “[c]arriers may cross lawns while making deliveries if patrons do not object and there are no particular hazards to the carrier.” Because it was “clear that the local ordinance frustrates a major Congressional

objective...[i]t is therefore an unconstitutional 'obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *Id.* at 785 (internal citations omitted).

The possibility of various states enacting different types of Do Not Mail laws would raise obvious possibilities for conflicts with federal law. This would be true even if all the state laws were identical. But given the fact that different approaches are being proposed state by state, adoption of such rules in one or more jurisdictions could interfere with the provision of a national postal system and universal postal service.

A state law may be invalidated not only for directly conflicting with postal mandates under federal law, but also for encroaching upon Congress' implied authority to regulate interstate commerce. The "dormant implication of the Commerce Clause prohibits state ... regulation ... that discriminates against or unduly burdens interstate commerce and thereby 'imped[es] free private trade in the national marketplace.'" *General Motors Corp. v. Tracy*, 519 U.S. 278, 287 (1997) (quoting *Reeves, Inc. v. Stake*, 447 U.S. 429, 437 (1980)) (citations omitted). Moreover, the Supreme Court has long recognized that certain types of commerce are uniquely suited to national, as opposed to state, regulation. *See, e.g., Wabash, St. L. & P.R. Co. v. Illinois*, 118 U.S. 557 (1886) (holding states cannot regulate railroad rates). Based on such considerations, state regulations may violate the Commerce Clause in various ways: (1) regulating conduct occurring wholly outside of the state; (2) imposing an undue burden on interstate and foreign commerce; and (3) subjecting interstate commerce to inconsistent state regulations. *See, e.g., Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

Proposed Do Not Mail laws may be analogized to state attempts to regulate "indecent" communication on the Internet. In *American Libraries Ass'n v. Pataki*, for example, the United States District Court for the Southern District of New York enjoined a New York "harm to

minors” law for online communications as a violation of the Commerce Clause. *American Libraries Ass’n v. Pataki*, 969 F Supp 160 (SD NY 1997). The court held that the practical impact of the law was to impose New York law on other jurisdictions, that any local benefits were inconsequential compared to the burdens on interstate commerce, and that “the unique nature of cyberspace necessitates uniform national treatment and bars the states from enacting inconsistent regulatory schemes.” *Id.* at 183-184. Courts have blocked similar state laws in Arizona, Michigan, New Mexico, Ohio, Vermont, Virginia, and Wisconsin.⁴

As an instrument of interstate commerce, the national postal system presents many of the same issues when state or local governments seek to impose restrictions. Thus, while a state may pass regulations that bear some “trivial or remote relation to the operation of the postal service” within its borders, it would seem an entirely different matter to prohibit the delivery of a large class of mail to its residents.

Conclusion

This testimony does not attempt to present a comprehensive analysis of the First Amendment of federalism issues that would be raised by the adoption of state Do Not Mail regulations. It does suggest, however, that the constitutional issues raised by such laws are complex, and have not been resolved by decisions regarding federal “Do Not Call” regulations.

⁴ See *ACLU v. Johnson*, 194 F3d 1149 (10th Cir 1999); *Cyberspace Communications, Inc. v. Engler*, 238 F3d 420 (6th Cir 2000); *ACLU v. Napolitano*, Civ. 00-505 TUC ACM (D Ariz Feb. 21, 2002); *American Booksellers Foundation for Free Expression v. Dean*, 342 F3d 96 (2d Cir 2003); *Bookfriends, Inc. v. Taft*, 223 F Supp 2d 932 (SD Ohio 2002); *PSINet v. Chapman*, 362 F3d 227 (4th Cir 2004); *Wisconsin v. Weidner*, 611 NW2d 684, 2000 Wi 52 (Wis Sup Ct 2000).

Appendix
State “Do Not Mail” Proposals

Arkansas

H 2725 would create a “Do Not Mail” registry to be maintained by the state’s Attorney General. The bill was withdrawn by its sponsor in 2007.

Colorado

H. 1303 would require the Public Utilities Commission to use a designated agent to maintain a “Do Not Mail” registry. The sponsor postponed the bill indefinitely in 2007.

Connecticut

S. 1004 would create a “Do Not Mail” list based on the state’s Do Not Call list. The bill died in 2007. H. 6881 was similar and was referred to the General Law Committee before it died in 2007.

Hawaii

S. 908 would create a “Do Not Mail” registry and would require the Department of Commerce and Consumer Affairs “work with postal authorities and private entities to ensure that person on [the] registry do not receive unwanted solicitations.” The bill died on May 1, 2008 when the legislature adjourned. HB2592 was almost identical to S. 908 and likewise died upon adjournment.

Illinois

SB2115 would give the Attorney General power to create a “Junk Mail Opt-Out List” for Illinois residents. The bill was referred to the House Rules Committee on March 14, 2008.

Maryland

HB53 would require the Division of Consumer Protection of the Office of the Attorney General to “to establish and provide for the operation of a restricted mailing registry; require solicitors to purchase the registry; and prohibit certain solicitations. The bill was withdrawn by its sponsor and died when the legislature adjourned in April 2008.

Michigan

H. 4199 would empower the Public Service Commission to create a “Do Not Mail” list and would require solicitors to submit the name and phone number of the entity on whose behalf the mail was sent.

Missouri

H. 542 (2007) would use the Attorney General to maintain a “Do Not Mail” registry for residents 65 and older who “object to receiving solicitations.”

Montana

H. 718 would direct the Attorney General to establish a "Do Not Mail" registry. The bill was tabled in 2007 at the request of its sponsor

New Hampshire

HB 1506 would empower the Consumer Protection and Antitrust Bureau of the Department of Justice to operate a "Do Not Mail" registry. The legislature deemed it "inexpedient to legislate" and the bill died in June 2008 upon the adjournment of the legislature.

New York

A. 2520 would require the Consumer Protection Board to maintain a combined "Do Not Mail/Do Not E-mail" registry; the bill was withdrawn by its sponsor. S. 1403 would apply only to direct mail. The legislature adjourned in June without action on the bill.

North Carolina

H1699 would require the North Carolina Utilities Commission to contract with a designated agent to maintain a junk mail opt out list. The bill carried over into the 2008 session, but no action has been taken on it since April 2007

Pennsylvania

HB2551 would empower the Bureau of Consumer Protection in the Attorney General's office to create a "Do Not Mail" registry. It was referred to the Consumer Affairs Committee on May 20, 2008.

Rhode Island

RI H 6190 would require the Public Utilities Commission to contract with a designated agent to maintain a "Do Not Mail" registry. The bill carried over into the 2008 session, but the legislature adjourned on June 21, 2008.

Tennessee

SB3760 would requires the Division of Consumer Affairs of the Department of Commerce and Insurance to create a "Do Not Mail" registry. It was withdrawn by its sponsor and died upon the adjournment of the legislature on May 21, 2008.

Texas

HB 901 proposed a "Do Not Mail" registry that would have applied to advertising mail that included the consumer's identifying information. The bill died in 2007.

Vermont

VT H 409 would require the Attorney General to establish a "Do Not Mail" registry that would have covered any mail solicitation for purchase or rent. The bill carried over to the 2008 session but died when the legislature adjourned in March 2008

Washington

H. 1205 would require the Attorney General to maintain a "Do Not Mail" registry. It carried over into the 2008 session but died upon the adjournment of the legislature in March 2008. S. 5719 was similar and died upon adjournment as well.