

TESTIMONY OF TIMOTHY J. MAY,
GENERAL COUNSEL PARCEL SHIPPERS ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE,
AND THE DISTRICT OF COLUMBIA,
THURSDAY, JULY 26, 2007

Mr. Chairman,

The Parcel Shippers Association is pleased to present to the Subcommittee its views on the infrastructure and realignment of the US Postal Service, the changes needed in its delivery standards to reflect changes in mail preparation and delivery, and the Service's plan to close annexes and consolidate operations.

PSA is a voluntary industry association consisting of members that ship packages, largely from business to consumers, and companies that support those activities. A list of members is available on its web site at www.parcelshippers.org. PSA's mission is to promote competition in the package delivery sector. It strives to encourage a competitive environment that results in the best possible service at the lowest possible costs.

PSA's members, collectively, touch the vast majority of the Postal Service's product in the Package Services class now categorized as "competitive products." *See* 39 U.S.C. §3631(a) (PAEA). Its members also ship, or consolidate for delivery to the Postal Service, hundreds of millions of packages, such as First-Class Mail parcels,

Standard Mail parcels, Bound Printed Matter, and Media Mail, that are now categorized as “market dominant products.” *See* U.S.C. §3621(a). PSA members also make extensive use of carriers other than the Postal Service.

PSA is desirous that service standards and performance measurement systems not be complicated: we want consistent, reliable and affordable package delivery by the Postal Service and its partners. Obviously, consistency and speed are important to us, as they are to all mailers, but we are particularly concerned about consistency because delivery of products delayed beyond the expected time, the so-called “tail of the mail”; is a serious business problem for our members, that can result in increased costs for shipping replacement goods and loss of customers because of their dissatisfaction.

As far back as 2000, PSA asked the Postal Service for delivery standards, performance measurement, and reporting for parcels. Thus began a collaboration between our association and the USPS Mailers Technical Advisory Committee (MTAC) to resolve the difficult issues such as how to start and stop the service “clock” and critical entry times. Both are resolved and today there are excellent standards for Parcel Select delivery; for instance, 1 day for parcels entered at the Destination Delivery Unit (DDU); 2 days for parcels entered at the Destination Sectional Center Facility (DSCF); and 2-3 days for parcels entered at the Destination Bulk Mail Center (DBMC).

In a GAO report generally critical of USPS delivery performance standards and reporting, the GAO said that a noteworthy exception were these standards that evolved through the collaborative efforts of PSA and the Postal Service for Parcel Select parcels. (Delivery Performance Standards, Measurement, and Reporting Need Improvement. GAO-06-733 (Washington DC, 2006) (Page 15, see pages 16 & 35)

A noteworthy exception involves useful delivery standards that USPS created for a specific type of Package Services mail called Parcel Select, when it was introduced in 1999. These standards were updated in 2002. USPS's standards for Parcel Select differentiate speed of delivery by point of entry, e.g., 1 day for entry at the destination delivery facility or 2 days for entry at the mail processing center that forwards the parcels to the delivery facility. These standards were intended to provide an appropriate benchmark for delivery performance measurement in order to facilitate efforts to improve the delivery performance for this mail. USPS subsequently collaborated with officials of the Parcel Shippers Association (PSA) to implement delivery performance measurement for Parcel Select against these standards, and the results are factored into individual pay-for-performance incentives for many USPS managers.

All these standards were developed for what are now deemed to be competitive products; we believe that the same or similar standards are reasonable as well for the market-dominant parcels.

Today, Parcel Select service is measured and reported using delivery confirmation data. This measurement has resulted in a significant amount of delivery data that has allowed service to be accurately measured and reported at a very detailed level. The Postal Service has a website (mailtracking.usps.com) which currently

provides Parcel Select shippers with detailed and summary reports regarding the Postal Service's performance delivery for that parcel shipper's own packages. And shippers, through reports with aggregated data, can compare their own experiences with a broad spectrum of other results. This has proved most beneficial to our members in planning their mailings and working with the Postal Service to resolve service issues. We see no reason why the Postal Service should not provide similar reporting for shippers of all types of market-dominant parcels.

Under the PAEA, delivery standards and performance measurement systems must now be created for all market-dominant mail. While our own experience with parcels represents only a small part of the population of mail, we see no reason why the successful experience we had with the Postal Service in developing service and performance measurements cannot be successfully syndicated to all types of market-dominant mail. Much improved technology is now available, such as the Intelligent Mail Barcode, which provide "transparency", such as tracking and tracing. Unique identification of mailpieces should be the norm, not the exception.

To return to a point we made about the particular problem of the "tail of the mail", we have found that this phenomenon is the primary cause of unnecessary cost and customer dissatisfaction, and that we believe any performance measurement system to be effective must disaggregate data on the "tail of the mail".

Section 302 of the PAEA requires the Postal Service to submit a "plan" six months after the December 22, 2007 due date for the development of service

standards. This plan has to explain how the Postal Service will meet the standards it develops. A central part of that plan deals with “postal facilities” and in §302(c) of the PAEA, Congress found “the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for potential consolidation of sorting facilities and the elimination of excess costs.”

The Postal Service was at work on this subject prior to the enactment of the PAEA and even docketed a proceeding at the Postal Rate Commission (Docket No. N2006-1, Evolutionary Network Development Changes) or otherwise known as END. PSA participated in that Docket.

In addition, PSA has worked with the Postal Service and industry through the MTAC process on END. PSA’s committee on END developed “input” for the MTAC workgroup, outlining PSA’s position on the whole issue of infrastructure change and realignment. That committee position is attached as Appendix I.

Specifically, our committee found:

The Facilities Plan must provide a “process for engaging policy makers and the public in related decisions.” Similarly, the PRC’s Opinion in Docket No. N2006-1 advised the Postal Service to solicit input from major mailers as it redesigns its network. PSA and its END Committee agree that the USPS END process and the eventual “Facilities Plan” can benefit substantially from suggestions as to what its customers find most important and how customers can benefit most from USPS services. This will result in better overall service.

The PSA END Committee has evaluated the needs and concerns of PSA members whose parcels represent the vast majority of

Parcel Select and a substantial volume in other mail subclasses, particularly the Standard Mail Regular subclass. This paper briefly explains the principles that the Committee believes should guide the Postal Service as it realigns its network. These principles are organized as follows: (1) consistent delivery, (2) end-to-end cost and service, (3) worksharing discounts, (4) visibility, (5) containerization, and (6) automation.

One of the particular concerns that PSA had with the Postal Service's END activities was their failure to recognize that rate changes should accompany radical changes in their network development initiatives. For example, previously, it was planned that the work currently being performed at the Postal Service's 21 Bulk Mail Centers (BMCs) and 7 Auxiliary Service Facilities (ASFs) would in the future be carried out at roughly 28-100 Regional Distribution Centers (RDCs). While not necessarily disagreeing that operationally these changes made sense, PSA was concerned that the END initiative would be likely to increase mail preparation and entry costs for parcel shippers, particularly those that enter their parcels at DBMCs. In addition to having to transport parcels to a larger number of facilities to qualify for the DBMC rate, it was expected that parcels entered at RDCs would have to be prepared on pallets or on pallet boxes, rather than the current practice of bedloading such pieces.

One of our large members did a study to estimate the cost of such changes to them. They found that the additional cost of entering mail at a much larger network of facilities to qualify for DBMC rates and to meet expected containerization

requirements was likely to be significant and to far exceed the postage savings that would result from qualifying for lower parcel postage rates. That member performed a focused study of the cost of parcels being shipped in Texas. Their analysis found that the required changes in preparation would result in a net cost increase of 59 cents to 98 cents per parcel. That is a huge increase (16% - 26%), considering that the postage currently paid on such parcels averaged approximately \$3.75. In its own work, the Postal Service had not adjusted either its revenue requirement or its DBMC cost estimates to reflect the shift in cost from the Postal Service to shippers. The cost savings achieved by the Postal Service through Network Realignment should be reflected in the rates charged to mailers.

Conclusion

We welcome the Subcommittee's interest in this subject matter; both the Postal Service and the Postal Regulatory Commission have a role given to them by the Congress. Congress has found there is an inadequacy in the delivery standards and reporting thereon and has found an excess of obsolescent postal facilities which are harming the Postal Service's efficiency. We hope that this subcommittee will continue to keep a close eye on both the Postal Service and the Postal Regulatory Commission as they evolve their development of new standards, reporting measures, and infrastructure changes.

We are proud of the pioneering work that our association did with the Mailers' Technical Advisory Committee to establish Parcel Select delivery standards and service measurements and reports on those standards. It can be a model for the development of standards and measurement procedures for market-dominant products. We urge the Postal Service to take heed of the advice given by our END committee in proceeding with its work on Network Realignment. We believe that the success PSA has had in the consultative process on standards can be a model for the facility streamlining required by the PAEA (Section 302). We thank the Subcommittee for this opportunity to express our views and for its continuing interest in this vital service to the American people.

PARCEL SHIPPERS ASSOCIATION

1211 Connecticut Avenue NW
Suite 620
Washington, DC 20036-2701

Tel: (202) 296-3690
FAX: (202) 331-8318
psa@parcelshippers.org

PSA Position on USPS Network Realignment

For almost two years, the Parcel Shippers Association (PSA) has been working with the United States Postal Service (USPS), through the Mailers Technical Advisory Committee (MTAC), to address industry concerns with respect to the USPS Evolutionary Network Development (END) initiative. This follows, and to some extent coincided with, PSA's participation in the USPS Network Integration and Alignment (NIA) effort, and participation before the Postal Regulatory Commission (PRC) in connection with Docket No. N2006-1, Evolutionary Network Development Service Changes, 2006.

In early 2006, PSA formed an END Committee, currently consisting of 12 members from throughout the parcel shipping industry, to provide input to MTAC and the Postal Service on this important issue. The efforts of that Committee led to the establishment of two END-related MTAC Workgroups – WG #107 “FAST/Surface Visibility for Parcels” and WG #109 “Optimizing Parcel Prep & Entry for Seamless Acceptance.” Numerous PSA members have been active on those workgroups.

The END process was encouraged and necessarily accelerated in December 2006 with the enactment of the Postal Accountability and Enhancement Act (Public Law 109-435). Among other things, that law requires the USPS to develop a “Facilities Plan” that must include “a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network.”

The Facilities Plan must provide a “process for engaging policy makers and the public in related decisions.” Similarly, the PRC's Opinion in Docket No. N2006-1 advised the Postal Service to solicit input from major mailers as it redesigns its network. PSA and its END Committee agree that the USPS END process and the eventual “Facilities Plan” can benefit substantially from suggestions as to what its customers find most important and how customers can benefit most from USPS services. This will result in better overall service.

The PSA END Committee has evaluated the needs and concerns of PSA members whose parcels represent the vast majority of Parcel Select and substantial volumes in other mail subclasses, particularly the Standard Mail Regular subclass. This paper briefly explains the principles that the Committee believes should guide the Postal Service as it realigns its network. These principles are organized as follows: (1) consistent delivery, (2) end-to-end cost and service, (3) worksharing discounts, (4) visibility, (5) containerization, and (6) automation.

Consistent Delivery

PSA members place a higher value on the Postal Service improving the predictability and consistency of delivery, than on reducing end-to-end delivery times, which in turn would result in a higher-cost network. Thus, the USPS should focus on eliminating the delivery tails – which for Parcel Select currently range from 4 to 7 days and sometimes more – experienced by shippers entering parcels at destination bulk mail centers (DBMCs), rather than on increasing the speed of delivery. Investments in facilities, automation, transportation and human resources should focus on improving compliance with the current Parcel Select 1- 2 day delivery standard and the MTAC Work Group #114 Service Standard recommendations for Standard, BPM, Media and Library mail parcels. Achievement of 98% on-time service performance (regardless of package size or ZIP Code) should be the goal. Further, given the importance of consistent, predictable delivery, the initial focus of the END initiative should be on improving service at poor performing facilities where the opportunities for improvement are substantial.

End-to-End Cost and Service

Parcel delivery by the Postal Service is best viewed as a partnership between parcel shippers, consolidators, and the Postal Service. In most instances, parcel shippers and consolidators sort and transport parcels to destination postal facilities where the Postal Service sorts and prepares them for final delivery. Given the extent of this partnership, the Postal Service's competitiveness in the parcel delivery marketplace is determined based upon *end-to-end* costs and transit times (including both Postal Service and private sector cost and transit times), not just USPS costs and service levels. A further consequence of this partnership is that changes to the postal network not only affect USPS costs and delivery times, but also private sector costs to prepare and enter parcels at USPS facilities and the associated transit times.

Given this, when evaluating the impact of END, USPS must take into account not just its internal impact, but also how it affects private sector costs and transit times. Focusing only on the USPS side of the equation would almost certainly lead to a less-than-optimal network. For example, holding service levels constant, adjusting the postal network in a manner that reduces USPS costs by \$1 billion, but increases private sector mail preparation and transportation costs by \$2 billion would be terribly inefficient.

Of particular relevance to the END initiative, requiring parcel shippers to enter parcels at a greater number of destination facilities to qualify for the END equivalent of DBMC rates will increase private sector costs (e.g., transportation costs, containerization costs, handling for additional sorts, expanded dock areas) and transit times (e.g., by requiring shippers to “hold” parcels longer to generate sufficient volume to fill a container for a particular destination facility). Thus, a network that requires parcel shippers to enter parcels at a larger number of destination facilities would have to substantially reduce USPS costs and improve USPS delivery times just to maintain existing end-to-end cost and service levels.

Worksharing Discounts

To garner industry support for realignment and encourage efficient parcel preparation and entry practices, the Postal Service should adjust the size of worksharing discounts that it offers *in unison* with changes to the postal network. Specifically, PSA understands that a likely realignment scenario is for the Postal Service to add “DBMC” entry points to the postal network. As discussed above, such a change would increase private sector transportation costs. Unless worksharing discounts are increased to reflect the USPS cost savings resulting from the additional private sector work, such realignment would increase the distribution costs faced by parcel shippers: postage rates would remain unchanged while private sector transportation costs would increase. Thus, shippers would not benefit even if the realignment increased overall efficiency. See PSA-T-1 in Docket No. R2006-1.

Second, adjusting discounts as the network is realigned to ensure that the discounts continue to be *cost-based* will encourage efficient preparation. As explained by Dr. John Panzar in Docket No. R2006-1, setting discounts equal to costs avoided “leads mailers to choose to perform worksharing if and only if doing so lowers total postal sector costs. The reason is quite intuitive. If the mailer’s cost is less than the discount offered, it is profitable for the mailer to do the work – and total postal sector costs decrease. If the discount is not sufficiently attractive, the Postal Service continues to provide the service component.”

Visibility

For USPS to be competitive in the package delivery market, it must provide both shippers and their customers with the ability to track their packages as they flow through the postal system. As USPS realigns, it must ensure that its equipment is sufficient for this task. In particular, the Postal Service must be able to provide shippers with “scan” data showing where containers and parcels are in the network. Further, to allow parcel shippers to effectively monitor USPS service and effectively plan their mailings, the Postal Service should provide all parcel shippers with service performance data similar to the existing Parcel Select Performance Reports.

Containerization

Containerization requirements have a significant effect on parcel shipping costs. Not only do they affect the direct costs to purchase and handle containers, they also influence shippers’ ability to efficiently utilize trailers, which is a critical driver of private sector transportation costs. For example, eliminating the option of bed loading parcels will likely reduce cubic utilization of trailers by approximately forty percent. Thus, the Postal Service should redesign its network with an eye towards retaining the maximum possible flexibility for containerizing parcels.

In particular, the Postal Service should retain bed loading as a containerization option wherever possible. Further, with the possible introduction of additional entry points, the Postal

Service should consider allowing shippers to use an “intermediate” container – such as the EO, EH, and E containers used by the Air Freight industry – that can hold more parcels than a sack, but less than a pallet. EO, EH, and E containers – which vary from approximately ¼ to ½ of the size of a pallet box – offer easy loading, stacking, cubic utilization, off-loads and facility movement for both USPS and parcel shippers.

Further, the Postal Service (in collaboration with the parcel shipping industry) should develop preparation and entry rules and procedures to ensure the efficient use of containers and trailers, including:

- Reviewing and, where appropriate, modifying rules related to the maximum height of and stacking limits for pallets;
- Establishing procedures to allow parcel shippers to reuse their containers, rather than using them just once;
- Revising preparation rules – e.g., allowing presort minimums to be met based upon combined parcel volume across all subclasses in a mailing, rather than on a subclass-by-subclass basis – to encourage the commingling of multiple subclasses of parcels in the same containers;
- Allowing all parcels – regardless of subclass and machinability – to be entered at the same facilities to qualify for destination entry discounts.

Automation

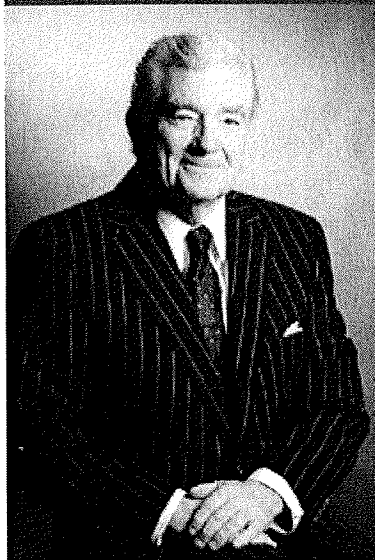
Increasing the use of automated equipment to process parcels is critical to controlling parcel processing costs and providing shippers with visibility to their parcels as they flow through the postal system. PSA thus applauds the Postal Service for broadening the machinability criteria to encompass lighter weight parcels. As the Postal Service realigns its network, it should attempt to maximize the automated processing of parcels. PSA specifically encourages the Postal Service to --

- Evaluate whether the machinability criteria can be broadened further to include a greater scope of parcel dimensions as well as a greater scope of packaging (e.g. paperboard envelopes and bags which can be run on Automated Package Processing Systems (APPS)).
- Broaden the array of equipment that can read parcel barcodes in an automated fashion, reducing the need for manual intervention to orient and key the zip codes on the packages.
- Work with mailers to develop a smaller Delivery Confirmation barcode that can be accommodated on smaller parcels – e.g., Standard Mail parcels – with limited real estate.

To enhance visibility, the Postal Service should also expand the collection of scan data on parcel processing equipment and continue to share such data with the industry.

Conclusion

PSA looks forward to continuing to work with the Postal Service and encourages it to communicate contemplated network changes at early stages in their consideration to achieve END results which benefit all. Adhering to the principles discussed above will make such a result much more likely.



TIMOTHY J. MAY

Partner

Administrative and Regulatory
Political Law
Postal Regulation

2550 M Street, NW
Washington, DC 20037
T: 202-457-6050 F: 202-457-6315
tmay@pattonboggs.com

Education

- Georgetown University, LL.M., 1960
- Georgetown University, J.D., 1957
- Catholic University of America, B.A., 1954

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the 2nd, 3rd and District of Columbia Circuits
- U.S. Court of Appeals for the Armed Forces

Awards and Honors

- Lawyer of the Year, Bar Association of the District of Columbia (1999)
- Servant of Justice Award, Legal Aid Society (1998)
- Presidential Award for Public Administration (presented by President Lyndon Johnson)
- Jump Memorial Award for Public Administration
- Arthur Flemming Award, Junior Chamber of Commerce (presented to the ten outstanding young men in government)

Timothy May advises clients on all matters involving the Postal Service, rate and classification issues, and Congressional committees that impact the Postal Service and its customers.

Appointed as general counsel of the United States Post Office Department by President Johnson in 1966, Mr. May remains actively involved in postal matters since the inception of the independent Postal Service, created by the Postal Reorganization Act. Mr. May serves as general counsel and postal counsel to mail order companies, mailer associations, publishers, and organizations of postal employees, including the Parcel Shippers Association, the National Association of Postal Supervisors, Netflix, and Capital One.

Before serving as general counsel to the Postal Service, Mr. May was appointed by President Kennedy as managing director of the Federal Maritime Commission, served as acting chief counsel of a Senate Investigating Committee, and earlier worked as a consultant to the Kennedy White House.

Representative Matters:

- Litigated before the Postal Rate Commission on economic and policy issues that determine how the Postal Service's \$70 billion annual revenue burden is apportioned among users of the mail.
- Litigated before the U.S. Court of Appeals appealing Postal Rate Commission decisions, and U.S. Postal Service rulings.
- Advised clients on rate and classification matters before the Postal Service.
- Resolved rate and classification disputes before the Postal Service and the Courts.
- Represented clients before Congressional Committees.

Professional Affiliations:

Former President, Bar Association of the District of Columbia
The Federal City Council
Former President, Council for Court Excellence
Board Member, The Economic Club of Washington
Former Executive Committee Member, National Christian Leadership Conference for Israel
Trustee, Washington, D.C. Legal Aid Society
Life Fellow, American Bar Foundation
Former Chairman, Board of Regents – The Catholic University of America
Trustee Emeritus, The Board of Trustees – The Catholic University of America

- Federal Bar Association
Young Lawyer of the Year
Award
- Benjamin Franklin Award,
U.S. Post Office Department
(highest honor)
- J. Edward Day Award,
Association of Postal
Commerce

Clerkships

Hon. John Danaher, U.S. Court of Appeals for the D.C. Circuit, 1957 - 1958

www.pattonboggs.com