

Dissenting Opinion of Commissioner Goldway

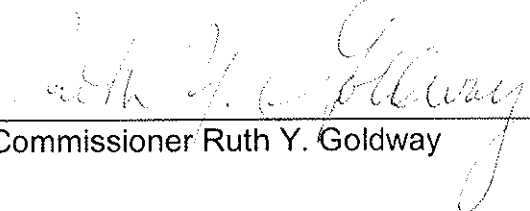
This opinion essentially allows the Postal Service to change the mailing requirements for a product so as to all but exclude its use by individual consumers and small businesses. Bifurcating a product and imposing unreasonable and unwieldy restrictions upon it with the intention of discouraging its use, as a *sub rosa* alternative to canceling the product outright, is unfair to consumers, single piece mailers and small businesses.

Moreover, the surreptitious manner in which this product was altered in specific contravention to the PRC's directive in 2007 could create a precedent for the willful disregard of our agency's oversight and regulatory functions. This change the Postal Service has undertaken virtually eliminates access to a long-standing product for a class of people without clout or representation – small businesses and individuals. It is simply unacceptable to me and is, I believe, not consistent with the PAEA or the intent of the Commission's recently adopted regulations.

I concur with Carlson and Popkin that the change constitutes the removal of a product from the market-dominant product list, thereby subjecting the proposal to the procedural requirements of section 3642. While the Postal Service should have flexibility to make changes as necessary, a full and open airing of views should precede any changes that eliminate market dominant products, especially if those products have been in place for many years and are relied upon by small businesses and consumers.

My colleagues have noted that the Postal Service unilaterally removed the Bound Printed Matter rate information from the computer terminals used by window clerks. In addition, the Service has omitted BPM rates from its APC self-service terminals. Most egregiously, it is my belief that the Postal Service quietly and without notice removed the BPM rate option from its online website without providing any notification to consumers that they were not receiving full and accurate rate information.

The Commission dismissed Mr. Carlson's Complaint without prejudice (meaning it could be refiled without legal impediment) and the matter was continued in the Mail Classification case filed by the Postal Service. Upon the issuance of this unfortunate opinion, should Carlson or other interested parties seek relief by filing a Complaint with the Commission, I hope my colleagues will give the issues raised here a more comprehensive review.


Commissioner Ruth Y. Goldway