

**PREPARED STATEMENT OF  
DAVID R. STRAUS  
ON BEHALF OF AMERICAN BUSINESS MEDIA  
BEFORE THE  
FFEDERAL WORKFORCE, POSTAL SERVICE AND DISTRICT OF COLUMBIA  
SUBCOMMITTEE OF THE  
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
110<sup>TH</sup> CONGRESS, 1<sup>ST</sup> SESSION  
(October 30, 2007)**

American Business Media celebrated its 100<sup>th</sup> anniversary in 2006, and for most of those 100 years American Business Media has been an active participant in postal matters on behalf of its business-to-business media members. The reason for this participation is obvious: collectively they spend roughly \$400,000,000 annually on postage. American Business Media has assumed leadership roles in the creation of both the Kappell Commission and the President's Commission on the United States Postal Service, which led, respectively, to the passage in 1970 of the Postal Reorganization Act and in 2006 of the Postal Accountability and Enhancement Act. Throughout its existence, American Business Media has fought in Congress and before the Postal Rate Commission to ensure continuation of the privileges and protections provided by law and custom to Second Class/Periodicals mailers.

Although as Washington Counsel for American Business Media and someone who has been involved professionally with postal rates since 1970, I appreciate the opportunity to testify before this Subcommittee, testifying here today is a lot like trying to explain how to close the barn door after the horse is long gone. The rates for Periodicals were raised an average of 11.4% on July 15, after a fully litigated case before the Postal Regulatory Commission. If that large average increase had been relatively flat among the many types of Periodicals, the impact would have been bad enough. But as you probably know by now, there was a very wide range of results around that average. In fact, as I understand it, the existence of staggeringly high increases on some mailers is the reason for the hearing today.

Due to the complexity of the new, allegedly cost-based Periodicals rates—by far the most indecipherable rate schedule for the one class of mail that’s supposed to be based on content, not cost—most American Business Media members still have not been able to determine exactly how large their increases have been, although some have reported postal cost hikes of more than 20% and even more than 30%. American Business Media opposed the so-called “rate grid” approach to determining postal rates for Periodicals during the proceeding before the Postal Regulatory Commission, predicting that, even as moderated by the PRC, it would create severe hardships for many publications already reeling from the loss of advertising revenue. American Business Media also argued, accurately but to no avail, that the changes in “behavior” that would supposedly result from the “price signals” in the new rates would be more limited than forecast, because the printing industry simply does not now and will not soon, if ever, be able to co-mail the thousands of Periodicals that, in theory, could be protected from the worst of the increases by co-mailing.

Yet, as I stated earlier, it seems that there is little that can be done at this point to reverse the new rate structure that has emerged from Docket No. R2006-1. After all, that rate case, which inflicted this damage, is over, and at this time it is uncertain, at least mailers are uncertain, whether there will ever be another litigated rate case. The Postal Accountability and Enhancement Act of 2006 (PAEA) profoundly changed the way that postal rates will be set in the future, with the possibility of one vestigial rate case under the superseded law should the Postal Service choose to ignore the pleas from Congress, the PRC and mailers that it close the books on the ten-months-of-horror approach to rate setting.

The PAEA, which gave the Postal Service a great deal of additional ratemaking autonomy, was Congress’s second venture into fundamental postal reform. The first, in 1970, shifted rate setting from the legislative branch to a combination of the Postal Rate Commission and Postal Service. Unless Congress is willing to insert itself again into the ratemaking process and somehow reverse the decision reached in the latest case, it seems that American Business Media members have little recourse but to try

and absorb these high postal costs (or in some cases to avoid them by shutting down publication). Indeed, I should point out that the rates proposed by the Postal Service in the most recent case were reluctantly supported by American Business Media. It was the Postal Regulatory Commission that decided to substitute economic theory, price signals, matrices and formulae for common sense. Our primary concern with the Postal Service is that, having the opportunity to seek reconsideration of the PRC decision on these rates, as it had on others, it failed to do so.

Yet, if nothing else, this hearing is an opportunity to remind Congress, and along with it the Postal Service and the PRC, that the Postal Service is indeed a service provided to the American people by our government. It is not and I hope never will be either a private service or a service that prices its products as would a for-profit, private-sector company. While it's easy—too easy, apparently, based on the outcome of this case—to get wrapped up in the fine-tuning of cost segments, efficient component pricing, price signals and economic efficiency, such myopia is not what the American people deserve. How else can one explain the unchallenged propriety of a postage charge of 41 cents to send a letter from Washington, D.C., either to Alexandria, Virginia or to Chugach, Alaska? How else can one explain why it's fair to other mailers that Periodicals as a whole receive a substantial rate break not at all justified by cost differentials but nevertheless appropriate because of their “educational, cultural and scientific, informational” value? Yet, why do the proponents of the great rate disparities created by the new rates find it perfectly acceptable to benefit from non-cost factors vis-à-vis, say, catalogs when the relative rate burdens between classes are being assessed, but bemoan any remnants of non-cost factors once safely inside the Periodical class?

What the PRC lost sight of in its desire to assure that every type of publication pays “its” costs is that there is no requirement that the reduced rate for Periodicals be spread evenly over the entire class. Even under the rates complained of by the mass-circulation magazines, they paid far less than they would have if mailed at the unsubsidized, Standard rate that would apply to a catalog that looked exactly like the

Periodical and that obtained worse service. The PRC should not have so readily cast aside 200 years of history in which the Periodicals "benefit" was applied in a way that assured a Periodicals class rich with diversity of both circulation size and content and that did not overburden smaller-circulation Periodicals with rates that make it much less likely they will be able to continue informing diverse audiences.

As I expect Victor Navasky will explain in detail and with passion, the basis for the protected Periodical status is the promotion of a wide range of ideas from publishers with a wide range of net asset value. The benefits of non-cost based Periodicals rates were not intended only for the wealthy or the popular.

American Business Media does not wish this testimony to be viewed as casting aspersions on either the PRC or the Postal Service as a result of the outcome of what we hope was the last litigated rate case. Perhaps we could have done more than to engage in active discovery, cross-examine many witnesses and present the testimony of three people with vast experience in the Periodicals business. Perhaps we underestimated the extent to which the PRC would be persuaded by those with outstanding economic credentials but no hands-on experience as publisher or a mailer. As American Business Media stated in its Initial Brief to the PRC (footnotes omitted):

American Business Media has presented the expert testimony of three publishing professionals, each with decades of hands on experience dealing with printers, arranging for transportation, deciding how to best prepare the mail and reacting to the impact of increases in postal costs. They have been on the front line of the constant battle to weigh postage costs, speed of delivery, editorial closing times, the demands of editors and art directors and a host of issues the combination of which is crucial to an understanding of how, in practice not in theory, postage rate design and level changes affect publishers.

In sharp contrast, it appears from their testimony and cross-examination that not one of the four witnesses for Time Warner and MPA/ANM has ever spent a single day, or a single minute, in the employ of a periodical publisher, or a printer. Rather, they are, by education, a mathematician, a physicist, and two economists who, to be sure, have a world of insight into the unique economics of postal costs, but their view is

gained from the lofty plane of theory rather than the more useful planes of the publishing office and the printing plant. American Business Media does not for a minute question their skill or their numerical, economic or theoretical premises or conclusions, lacking the resources even to make an attempt. But American Business Media does question in meaningful ways the application of their elegant yet sterile theories and conclusions to the real world of periodicals publishing and distribution.

In deciding to adopt the Time Warner-sponsored Periodicals rate matrix so complicated that the software still has not caught up with the rate design, and in accepting the proposition that mailers of small circulation publications can respond to the “price signals” in the rate by co-mailing, the PRC either ignored or gave insufficient weight to the evidence presented by American Business Media’s witnesses. Its apparent belief that smaller circulation Periodicals can be incentivised by high rates to co-mail with other publications was refuted on the record, which shows that there was unsatisfied demand even before the rate increase. For example, American Business Media witness Bradfield described (1) the unsuccessful efforts of the publishing company for which he works to persuade its major printers to co-mail volumes below 5,000 (Tr. 12,064)<sup>1</sup>, (2) a different, major printer’s announcement on its web site that it will not co-mail any publication with a version below 5,000 or more than two between 5,000 and 10,000 (Tr. 12,065), and (3) his company’s unsuccessful efforts to find a printer that would co-mail its tabloids and weeklies (Tr. 12,108). American Business Media witness McGarvy described Crain Communications’ inability to obtain co-mailing service for its weeklies or tabloids (Tr. 12,177; 12,179). American Business Media member Hanley Wood is able to obtain co-mailing service for only 2 of its 15 monthly publications (Tr. 12,178). Multiply the unsatisfied demands of these three companies by the hundreds of publishers with thousands of publications they seek to have co-mailed, and it is clear that the customers have been demanding service that the mail service industry is unable to provide.<sup>2</sup>

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<sup>1</sup> These “Tr.” references are to the official transcript of the proceeding before the PRC. The transcripts are available on the PRC web site, [www.prc.gov](http://www.prc.gov).

<sup>2</sup> Those seeking to minimize this problem pointed to the fact that printer Quebecor World had recently announced that it is increasing its co-mailing capacity by 50% (see Tr. 12,104-06). Yet that increase will permit, at most, only an additional 225 publications to commence co-mailing, out of the thousands that could benefit from co-mailing (see Exhibits MPA-X-1 and LB-5). When an expansion of this size justifies

The Commission's consideration of this important issue was as brief as it was unpersuasive. It found (¶ 5725):

The Commission's assessment is that the record in this case indicates that there is no reason that the state of the mailing services industry should stand as an automatic bar to adoption of proposals tied directly or indirectly to such services, assuming all applicable statutory considerations are met. Instead, theory and reality should converge in the rate structure, thereby sending price signals that provide the Postal Service, mailers and others with the information they need to achieve lowest combined cost.

As American Business Media proved on the record, there were price signals in the previous rate design that led publishers to seek co-mailing services that the mailing services industry is unable to provide. Enlarging those price signals, which simply is a nice way to say raising rates for the smaller circulation Periodicals, we showed, would inflict pain from which there is no escape until those services might become available – years from now, at best.

The second major error committed by the PRC in its haste to provide “price signals” for Periodicals found nowhere else in the Postal Service's rate schedules was the Commission's dismissal, as casual choice, of the business models underlying the very existence of certain publications, primarily those focused on presenting time-sensitive news) and those that must be prepared in several demographic or geographic versions in order to meet the demands of readers and advertisers. Neither business model is unusual among Periodicals publishers, yet neither practically allows for co-mailing because of the very nature of that business model.

Speaking of the news-oriented, weekly publications published by Crain Communications, witness McGarvy testified (Tr. 12,186-87) that the core of these publications' business model is to close editorial on Friday night and be in readers'

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a three-page press release, just imagine how long it will take for the expansion that is needed to satisfy the demand.

hands by Monday. If they cannot do that, she noted, they might as well not exist, and the Periodicals class would as a result be less broad and less diverse. As she said (Tr. 12,194), if Crain Communications is unable to get its editorial content into the hands of its readers while it is fresh, “we don’t have readers.” Similarly, publishers do not undertake lightly the costly task of separating a single, short-run publication into multiple versions, which as a practical matter limits or eliminates the possibility of co-mailing. Rather, witness Bradfield testified (Tr. 12,064) that “a publication to survive must make available to its advertisers editions broken down geographically and/or demographically.”

The Recommended Decision of the Postal Regulatory Commission (at ¶ 5719), which the Postal Service Governors accepted over American Business Media’s objections, characterizes these situations as those in which “some mailers may choose not to avail themselves of those opportunities [e.g., co-mailing], even if made available, for business reasons and therefore would still need to rely on sacks.”<sup>3</sup> It later added (¶5724) in response to contentions that weeklies simply do not have co-mailing services available that “[m]oreover, the record makes clear that some mailers may choose not to avail themselves of these services—even if widely available—for business reasons, such as maintaining editorial freshness.”<sup>4</sup>

What is even more puzzling about the results of this last rate case is that only 16 months earlier, in Docket No. C2004-1,<sup>5</sup> the Commission determined that the “vibrant” and “diverse” Periodicals class was a necessity and rejected a proposed rate structure very similar to the one approved in Docket No. R2006-1.

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<sup>3</sup> The Commission did not address the plight of the thousands of publications with total circulation below 5,000 for which co-mailing is unavailable. For them, there has never been any “choice.”

<sup>4</sup> This reference is akin to telling a catalog mailer that if he wants lower rates, he should abandon his “business decision” not to include editorial content and call it a magazine.

<sup>5</sup> Rec. Dec. C2004-1, App. B ¶36; App A ¶¶322-28; App. B ¶9.

Yet, those longstanding goals will now be sacrificed because in the cases of all but a few large weeklies, of versioned publications, and of others that cannot escape the severe impact of the recommended rates, the Commission showed a willingness to discard the baby with the bathwater. It stated (§ 5756) that delaying adoption of rates that will punish those that seek but cannot obtain co-mailing service “makes little sense because they apparently will never be able to take advantage of co-mailing service.” Moreover, it found (*id.*) that moving less far or more slowly is not an option merely because some mailers would have to change their essence to co-mail (*e.g.*, weeklies). In other words, abandon the very reasons that the Periodicals class was created and full steam ahead, notwithstanding that most publications cannot board the train.

In conclusion, Mr. Chairman, American Business Media is not opposed to change. It has supported measured changes to the Periodicals rate design, such as the introduction of presort, bar code and pallet discounts, and it has urged its members to do whatever is feasible to lower the Postal Service’s costs by moving out of sacks through co-mailing or co-palletizing. That effort, combined with the incentives that already existed in the Periodicals rate schedule prior to Docket No. R2006-1, have had a dramatic effect. The record before the PRC showed, for example, that the percentage of American Business Media member publication pieces on pallets has grown from about 57% to about 74% in just the past five years (Tr. 12,062).

The drastic measures recommended by the Commission and adopted by the Governors to improve “price signals” and thus efficiency were not needed to foster a continuation of that trend. It serves no laudable purpose to create a demand for co-mailing services well in excess of the ability of the industry to provide them. Thus, there was no justification for Periodicals rate increases that for many if not most smaller publications will turn out to be nearly three times the average rate increase for all mail.

As stated at the outset, however, we hold out little hope that the present rates will be modified prior to the advent of cap-based ratemaking under Postal Accountability and Enhancement Act, which, it appears, will occur as early as next spring. If this



hearing can accomplish anything, it can be used as a basis for revisiting that rate design the next time rates are changed, with an eye toward easing the burden on those most severely damaged by the present rates and to assuring that American readers still have available to them a rich and diverse variety of publications to inform them. At the very least, the record of this hearing ought to convince the Postal Service and, if necessary, the PRC, that any further movement toward allegedly "efficient" rates must be approached with much greater caution than in Docket No. R2006-1.

Respectfully submitted,

/s/ David R. Straus

David R. Straus

Attorney for American Business Media

Law Offices of:

Thompson Coburn LLP  
1909 K Street, NW  
Suite 600  
Washington, DC 20006-1167  
(202) 585-6900  
dstraus@thompsoncoburn.com