

United States Postal Service

§ 320.9

merchandise or the periodical has been ordered by or would otherwise be sent to the recipient even without the accompanying advertisement.

(ii) Notwithstanding § 320.7(a)(2)(i), an advertisement is not incidental to the merchandise when the pertinent circumstances, such as the nominal value of the merchandise, its shipment on an unsolicited basis, or its status as a sample, reasonably indicate that the shipper's primary purpose is the conveyance of the advertisement itself and that the merchandise is merely an adjunct to the advertisement.

(b) An item is an advertisement if its primary purpose is to cause or induce the purchase of goods or services from the shipper or others.

[45 FR 59874, Sept. 11, 1980]

§ 320.8 Suspension for international remailing.

(a) The operation of 39 U.S.C. 601(a)(1) through (6) and § 310.2(b)(1) through (6) of this chapter is suspended on all post routes to permit the uninterrupted carriage of letters from a point within the United States to a foreign country for deposit in its domestic or international mails for delivery to an ultimate destination outside the United States.

Example (1). The letters to overseas customers of commercial firm A in Chicago are carried by Carrier B to New York where they are delivered to Carrier C for carriage to Europe. Carrier C holds the letters in its distribution center overnight, then sorts them by country of destination and merges them with letters of other firms to those countries before starting the carriage to Europe in the morning. The carriage of firm A's letters is not interrupted. The suspension for international remailing applies to the carriage by Carrier B and by Carrier C.

Example (2). The bills addressed to foreign customers of the Chicago branch office of commercial firm D are carried by Carrier E to New York where they are delivered to the accounting department of firm D's home office. The accounting department uses the information in the bills to prepare its reports of accounts receivable. The bills are then returned to Carrier E which carries them directly to Europe where they are entered into the mails of a foreign country. The carriage of the bills from Chicago to Europe is interrupted in New York by the delivery to firm D's home office. The suspension for international remailing does not apply to the carriage from Chicago to New York. It does

apply to the subsequent carriage from New York to Europe.

(b) This suspension shall not permit the shipment or carriage of a letter or letters out of the mails to any foreign country for subsequent delivery to an address within the United States.

Example (1). A number of promotional letters originated by firm F in Los Angeles are carried by Carrier G to Europe for deposit in the mails of a foreign country. Some of the letters are addressed to persons in Europe, some to persons in the United States. The suspension for international remailing does not apply to the letters addressed to persons in the United States.

(c) Violation by a shipper or carrier of the terms of this suspension is grounds for administrative revocation of the suspension as to such shipper or carrier for a period of one year in a proceeding instituted by the General Counsel in accordance with part 959 of this chapter. The failure of a shipper or carrier to cooperate with an inspection or audit authorized and conducted by the Postal Inspection Service for the purpose of determining compliance with the terms of this suspension shall be deemed to create a presumption of a violation for the purpose of this paragraph (c) and shall shift to the shipper or carrier the burden of establishing the fact of compliance. Revocation of this suspension as to a shipper or carrier shall in no way limit other actions as to such shipper or carrier to enforce the Private Express Statutes by administrative proceedings for collection of postage (see § 310.5) or by civil or criminal proceedings.

[51 FR 29633, Aug. 20, 1986]

§ 320.9 Revocation or amendment of suspensions.

These suspensions may be revoked or amended in accordance with § 310.7. No revocation of the suspension provided in § 320.2 will curtail operations of particular carriers existing at the time of the revocation to a level of operations (in dollar or volume terms, whichever is larger) lower than that antedating the revocation in a particular market served prior to the revocation. Should the suspension referred to in § 320.2 be revoked, carriers, as a condition to