FINAL COMMENTS OF AMERICAN BUSINESS MEDIA TO THE PRESIDENT'S COMMISSION ON THE UNITED STATES POSTAL SERVICE

American Business Media, whose members publish the nation's leading business-to-business periodicals, was among the first to call for the establishment of a presidential commission and has participated actively in the Commission's activities. In our written comments, in our meetings with Commissioners and staff, and in our appearance through witness Guy Wendler at the May 28th hearing, American Business Media has delivered a consistent message, in two parts: (1) in order for the Postal Service to offer the level of service required by periodical publishers and others dependent upon the mail at an affordable price, it must be given the means to control its labor and facilities' costs, and (2) while improvements in the present rate-setting system are possible, captive mailers must not be subject to price changes implemented by the Postal Service without *prior review* by an independent regulator.

A large body of material addressing Postal Service costs, with focus on the shortcomings of the present collective bargaining system and the need to eliminate congressional interference in facilities decisions, has been accumulated by the Commission. Given that material and the near-unanimous call for greater Postal Service authority in these crucial areas, American Business Media has concluded that further comment on this point would be redundant. Therefore, other than to state, for the last time, that providing the Postal Service with an enhanced ability to control costs is by far the single most important change that can be made, we will add no more to the discussion of this issue.

On the other hand, American Business Media, recognizes that its members' share of the benefits from cost control—and indeed from any other improvements that result from the Commission's work—can be swept away if the Postal Service is permitted to implement future rate changes in an unfair manner that exploits its monopoly and ignores more than two hundred years of postal policy. For that reason, American Business Media has never wavered from its position that the Postal Service, a monopoly with a recent history of seeking rate increases that were deemed to be unfair by the independent Postal Rate Commission, should not be permitted to design and implement rates in the absence of prior review by an independent regulatory body.

The case for retention of prior review can be summarized as follows:

1. **Prior review is the universal standard.** The rates of monopolists providing essential services must be regulated by an independent body, and that regulation is virtually always undertaken before the rates become effective to assure that they are lawful when they take effect. See the Reply Comments of American Business Media. In the private sector, in those instances when rates are allowed to take effect before independent review is complete, customers are given refund protection.

2. **A system permitting refunds is not workable for the Postal Service.** It would not be possible to establish an equitable and workable system providing for after-the-fact review and refunds, because, even if refunds could be calculated, retroactive rate increases for some mailers to offset refunds for others would be unfair,

but the revenues lost to refunds must be made up somewhere. In the private sector, stockholders ultimately bear the burden of funding the cost of implementing rates that are later determined to be unlawful. In addition, rate refunds would in many cases fail to undo the harm that excessive rates have caused.

3. **Because there is so much judgment in postal ratemaking, after-the-fact review is not workable.** It is unclear what standards would be applied by the Commission hearing an after-the fact complaint, and no party urging this approach has addressed this threshold question. The most contentious issues in postal rate cases involve the proper way to measure costs and the fairest way, given the various statutory guidelines, to spread the institutional cost burden across subclasses. In most respects, these decisions are resolved with the application of judgment, not by the imposition of precise legal standards. Would a regulatory commission engaging in after-the-fact review be permitted, unlike a typical reviewing court, to substitute its judgment for that of the Postal Service? If so, every rate increase would turn into a complaint case, because so much of postal ratemaking depends upon the application of judgment. If not, the Commission would have little real authority, and customers would have very little protection.

4. **Complaint cases would turn into omnibus rate cases.** A complaint on behalf of any substantial (in revenue terms) category of mail would inevitably call other rates into question, because postal rates are a zero sum game. Thus, an after-the-fact complaint would tend to turn into a general rate case – nullifying the supposed

streamlining of the process (except for the ability of the Postal Service to charge inappropriate rates).

5. **The cost burden and burden of proof should not be shifted to customers.** "Rate flexibility" plus after-the-fact complaints would shift the cost of justifying rates by reference to factual data and legal principles from the USPS to mailers required to bring complaints. Few if any could afford to incur this cost, especially because they would almost certainly bear the burden of proof.

American Business Media recognizes that after-the-fact review would enable the Postal Service to change rates faster, and this "benefit" has frequently been cited as justifying the reduced level of protection to mailers. But upon closer examination, the alleged benefits of this change are illusory. First, even if greater Postal Service "flexibility" is needed to meet competition, it is axiomatic that this flexibility would be beneficial only where there is in fact price competition with the mail. Such competition exists in some segments of the overnight mail, package services and, perhaps, saturation advertising markets, but price competition does not exist in the letter mail,[1] Periodicals and non-saturation advertising markets, among others.

In addition, those seeking the degree of rate flexibility that would enable the Postal Service to be responsive in a rapidly-changing market fail to consider that, even

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[1] American Business Media of course recognizes the very serious issue of the diversion of First-Class mail to electronic media, but that diversion, we submit, is not a function of postage rates but of technology. It is highly unlikely that the difference between, for example, thirty-seven cents and forty cents will cause a bill payer to shift to electronic bill paying. But even if we are wrong, it would be wrong to conclude that an ability on the part of the Postal Service to change First-Class rates quickly, as opposed to slowly, will have any effect on that choice.

if the Postal Service could change its rates tomorrow, the changes could not be implemented for at least sixty days, in order to give mailers time to obtain and install modified rate and presort software. In fact, many of those organizations pushing hardest for after-the-fact review took the lead in attempting to persuade the Postal Service to allow a longer time period between announcing new rates and implementing them.

Finally, it is apparent that those seeking greater rate flexibility for the Postal Service and after-the-fact review are motivated primarily by the belief that they would be direct beneficiaries of lower rates, although they argue that such flexibility will enhance postal revenues for the benefit of all mailers. Of course, if their lower rates lead to higher rates for captive mailers, that miscalculation will be of little moment to those that benefit but of great concern to those who do not.

American Business Media submits that, as the Postal Service itself has stated many times, the loss of volume is inevitable. The resulting problems must be met with changes in the Postal Service's cost structure, not with the incremental revenues that might be produced by an alleged ability on the part of the Postal Service to increase revenues by decreasing selective rates. The following table, drawn from data in the appendices to the Postal Rate Commission's decision in R2000-1, demonstrates that even if the Postal service could increase volume substantially in the competitive classes, *and could do so while maintaining the same per-piece margin (or contribution to institutional costs) from the affected classes,* the increase in margin would be small.

USPS DATA FROM PRC DECISION
IN R2000-1
FOR THE
"COMPETITIVE CLASSES"

UNDERLYING DATA:

	Volume	$ Contribution to Institutional costs	Cents per piece contribution
Standard ECR	36 billion	$2.9 billion	8.13
Parcel Post	371 million	$148 million	40
Express Mail	69 million	$517 million	740

CONCLUSIONS:

(1) If USPS doubled Express Mail volume and kept same per-piece margin (which is unlikely), contribution would increase by $517 million.

(2) If USPS tripled Parcel Post volume and kept same per-piece margin (which is unlikely), contribution would increase by $444 million.

(3) If USPS increased ECR advertising mail by 3.6 *billion* pieces (or 10%), and kept the same per-piece margin, contribution would increase by $290 million.

(4) If USPS did all three, contribution would increase by $1.25 billion, equivalent to a rate increase of less than 2% (and less than contingency allowance in rate cases).

Notes: Attributable costs = $45 billion
Institutional costs = $28 billion

It has been suggested that ratepayer protection and Postal Service flexibility can exist simultaneously in a price cap regime. The Commission has posted on its website a paper by Robert Reisner, of Global Insight, that suggests the workability of a price cap approach for the Postal Service, but the paper hardly does so unequivocally. It warns (at page 1) that there will be "imperfections" and that without a sense of appropriate "goals and limits," an incentive pricing cure might be "worse than the price escalation disease."

That paper, which the author recognizes omits important concerns raised in testimony before a congressional subcommittee by "experienced economists and regulators" (see footnote 4), is unpersuasive. American Business Media cannot in the context of these space-constrained comments offer a point-by-point rebuttal, but we can point out several major flaws in Mr. Reisner's analysis.

The paper begins (at page 2) with the wholly unsupported, and wrong, assertion that the electric and gas industries are moving toward incentive-based (which it apparently equates to price cap) regulation, which if true would be an important point, since these industries, like the Postal Service but unlike the oft-cited telecommunications industry, remain characterized by monopoly service providers.[2] The sole authority cited in support of this important assertion is an as yet unpublished paper. See footnote 1. Surely, if there had been significant movement toward price cap regulation in the well-documented electric and gas industries, the author of the paper could easily have located support in published works available to the Commission and others. American Business Media submits that his inability to locate such authority results from the fact that the electric and gas industries continue to face cost-based rate regulation, with some recent, limited movement toward market-based rates, where there is a robust market to protect consumers from excessive prices. Price caps are antithetical to both cost-based and market-based rates.

The paper also fails to deal with the incentive under a price cap system for the Postal Service to reduce service, especially for captive customers, if faced with costs that appear likely to pierce the rate ceiling, and with the situation in which, notwithstanding its best efforts, the Postal Service requires revenues in excess of those attainable at capped rates.

But most importantly, the paper fails to recognize or address the very serious question of at what level the price caps would apply. In other words,

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[2] This distinction is important. Where there is competition, such as in the telecommunications industry, that competition tends to protect consumers from the natural tendency of the service provider to raise prices to the capped level even if it is earning a reasonable profit at lower rates. Where, as with most of the mail, there is no competition, this protection is lacking, and the Postal Service would naturally seek to raise the prices of monopoly services to the cap even if costs are not increasing.

would the caps apply to subclasses on average or to every piece of mail (by applying the caps to the hundreds of "rate cells")? Congress's flirtation with price caps foundered over this very question, and the Reisner paper does nothing to advance that ball. Rather it merely concludes (at page 13) that price caps would provide ratepayers with the "assurance that prices would not increase faster than inflation." The only way to offer that "assurance" is to apply the caps to every rate cell, which would be unworkable and would not permit the Postal Service to modify rates as cost patterns change because of the implementation of new technology or for other reasons.[3] If, as in the last version of H.R. 22, the price caps would apply at the subclass level, then it would be of little comfort to disadvantaged mailers with increases much larger than the permitted cap that, on average, rates for their subclass did not increase faster than some measure of inflation.

American Business Media does not believe that price caps can be sufficiently flexible to permit proper ratemaking and sufficiently strict to protect all groups of

[3] For example, the Postal Service now "delivery point sequences" most letter mail, so that the carrier receives a small bundle for each stop, in order, and no longer has to "case" that mail. The Postal Service hopes to "DPS" flat mail within the next few years. If and when it can do so efficiently, the value of carrier-route presorted flats—*i.e.*, the cost savings to the Postal Service from this level of sortation performed by the mailer—will be substantially reduced if not eliminated, because the mail will undoubtedly be entered into the DPS process upstream from the carrier station. The carrier sort will have no advantage over, for example, a 3-digit sort. Yet if a price cap of a few percentage points applied to the three carrier-route presort piece rates, the Postal Service would be forced—for years—to give a discount for mailer preparation that is of no benefit and over-charge other mail.

mailers. Our overriding concern, however, is that price caps will not lead to capped costs. Price cap proponents tout this approach as providing management the incentive to control costs. But we believe that Postal Service management lacks not the incentive to control costs but the means. Price caps will do little if any good if the Postal Service is not permitted to control the cost of its human and physical resources. And price caps will be unnecessary if it is given the cost control tools it needs.

In closing, we stress that rate setting process is not the cause for the Postal Service's problems, and replacing it will not present a cure. To be sure, greater "rate flexibility," by which its proponents mean the ability to raise and lower rates without regulatory oversight, is expected by those proponents to lower *their* rates if not others. Increasing some rates while lowering others is hardly a solution to the current problems. The solution must lie on the cost side, not the revenue side.

American Business Media thanks the members of the Commission and its hard-working staff for taking on what some have called the insoluble problems of the Postal Service. From the perspective of our members, those problems must be solved if we are going to continue to publish and mail the periodicals on which the leaders of this nation's businesses and professions depend.

David R. Straus
Thompson Coburn LLP
Suite 600
1909 K Street, NW
Washington, D.C. 20006

202-585-6921

Counsel to American Business Media