

Center for Research in Regulated Industries  
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# A New Governance Model for the U.S. Postal Service

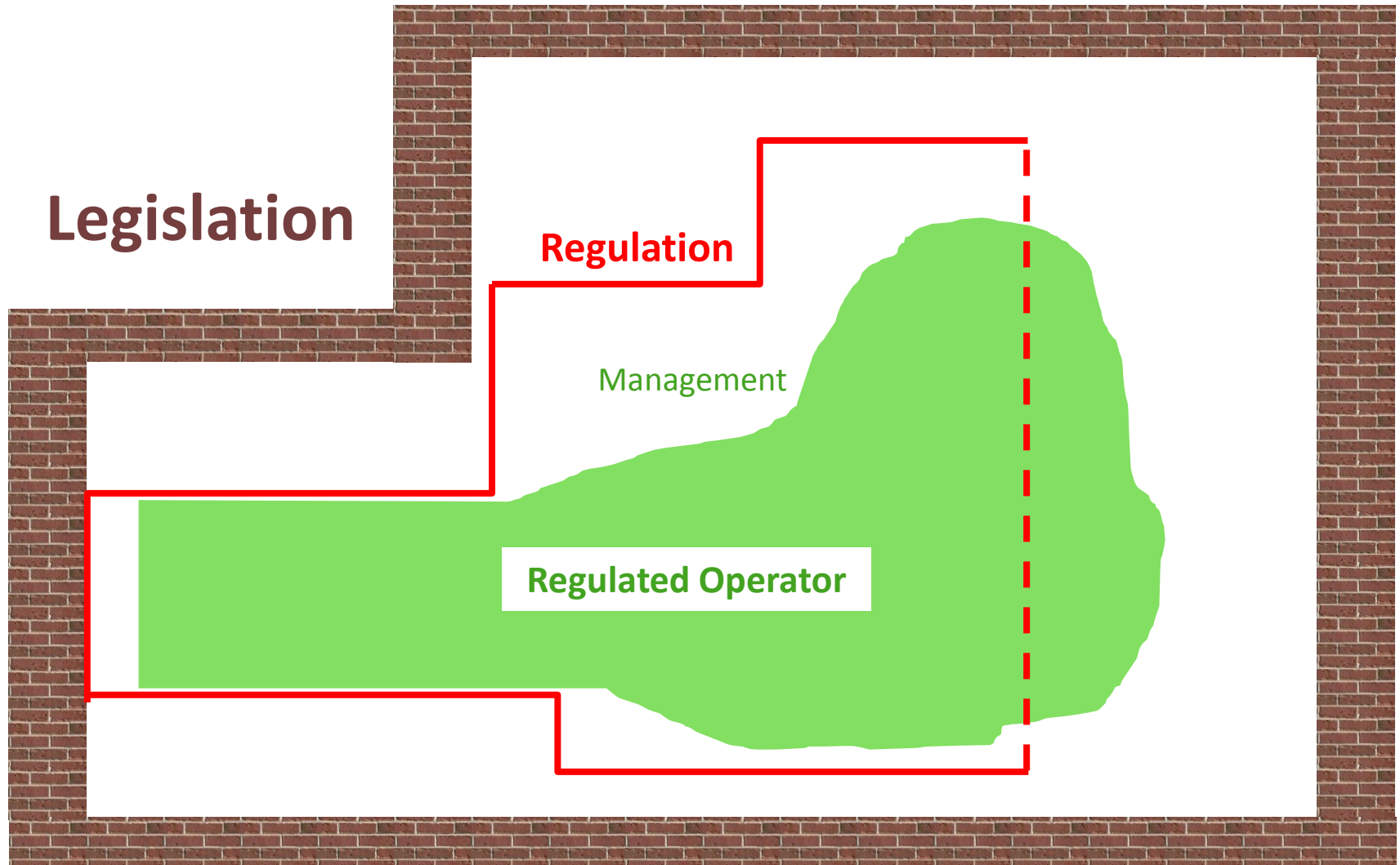
James I. Campbell Jr.

# Postal Reform and the Design of Government Institutions

# Design of Government Institutions

- Government institutions can be organized well or poorly.
  - Does the institution have a clear objective?
  - How is the institution led? How does it make decisions?
  - What are the authority and resources of the institution?
  - Are the motivations of key actors aligned with the public interest?
  - What checks and balances exist to prevent abuse of authority?
- Good governmental design:
  - U.S. Constitution
  - British Parliament
- Bad governmental design
  - Fannie Mae?
  - Various Italian government?
  - British Army on the eve of World War I?

# USPS: Product of Three Government Institutions



# Different Decision-making For Different Purposes

	Legislation	Regulation	Management
Definition	Fundamental rules of society supported by authority of government	Rules of government issued by a “regulator” under limited authority delegated by legislation	Management of the costs and products of an economic entity
The Basic Question	What do the voters want?	What does the law require?	What do the customers want?
Nature of Decision Making	Mediation among different political interests and values	Application of law and economic principles to specific situations	Organization of costs and products
Factors in Decision Making	Political constituents; broad concepts of government; squeaky wheels	Impartial and expert based on objective evidence	Welfare and continuity of the organization; esprit de corps
Speed and Flexibility of Decision Making	Rules persist over many years; difficult to change	Rules can evolve over time but speed and flexibility are limited by due process and respect for precedent	Decision making can be flexible and anticipatory, depends on management

**“Governance”**

**“Management”**

# Current Governance Model: Allocation of Decisions

	Legislation	Regulation	Management
<b>Basic Government</b>	Establish PRC Establish USPS Monopoly & MBX controls Nonmailability rules		Administer nonmailability
<b>Postal Services: Market Dominant Products</b>	Rate levels & classes Uniform rates Delivery frequency Post office policy & specific post offices Employment policies and sets benefits (not wages) Scope of business Reduced/free rates Alaskan bush services	Accounting controls Administer price cap Police discrimination/ unfair competition Define QoS measures (not standards) PO closing procedures Advise on service changes, growth, efficiency Compliance determination and complaints	Prices & products within 2006 cap/classes, reduced rate rules, etc. Service levels (not frequency or POs) Employee wages (not benefits) Consumer protection
<b>Competitive Products</b>	Policies and principles for regulation of the rates of competitive products	Accounting controls Define MD/CP categories Regulate institutional cost contribution Compliance determination and complaints	Prices & products within overall policy constraints

# The Governance Question

Not . . .      **“What products and services should the Postal Service provide to meet the needs of the Nation in the 21st century?”**

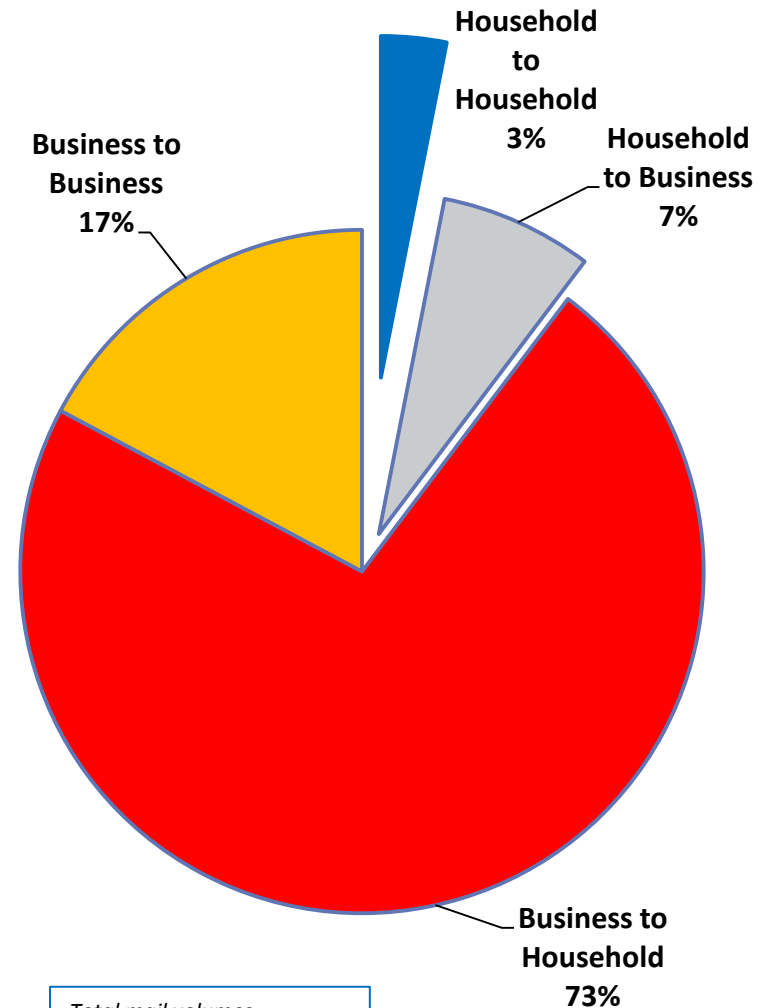
But . . .      **“How should the decision-making authority over national postal services be allocated so as to draw upon the strengths and avoid the weaknesses of the several governmental bodies which will determine the products and services of the Postal Service for the next decade or two?”**

# Three Imperatives for a New Governance Model



# 1. Satisfy (No-Longer-Captive) Commercial Mailers

- 97 percent of mail is sent by or to businesses and other groups. Commercial mailers —
  - Buy only what they need
  - Buy only if the service is worth the cost
- Viable competitive alternatives to all products are appearing. Postal Service can no longer rely on constant demand of captured customers

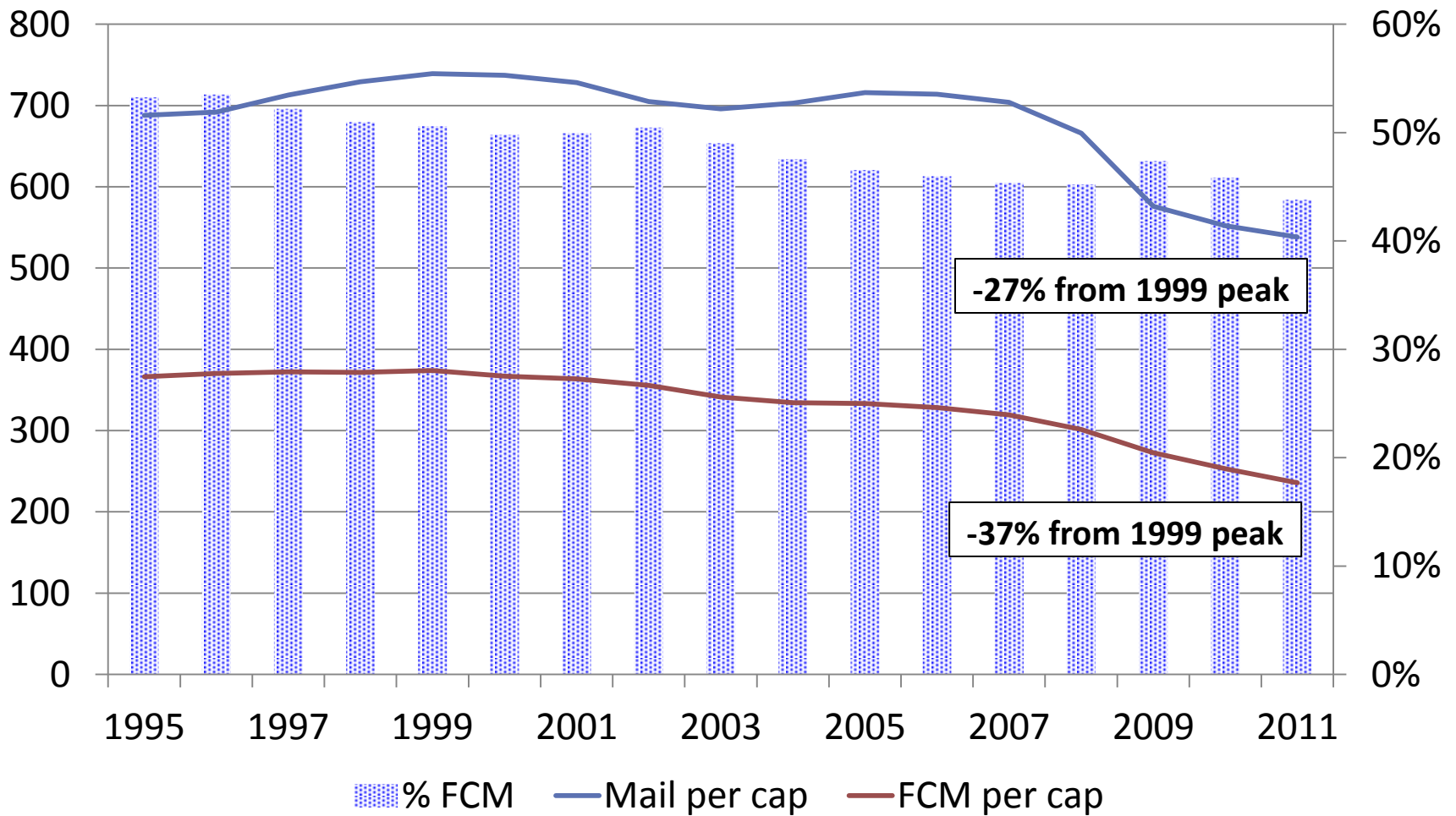


*Total mail volumes,  
Household Diary Study 2010  
(unknown mail allocated by  
known mail).*

## 2. Maintain Public Postal Services



### 3. Adjust to Rapidly Changing Markets



# Implication of Commercial / Public Service Products

	Commercial Products	Public Service Products
<b>Market Dominant Products</b>	Bulk FCM Advertisements Periodicals [57%]	<i>Universal services for all MD products</i> Single piece FCM Single-piece parcels Bound printed matter Media and Library mail In-county newspapers Nonprofit mail Free postage (blind, overseas voting) Alaskan bush services Single piece outbound int'l letter post and parcels Inbound int'l letter post and parcels [29%]
<b>Competitive Products</b>	Express mail Priority Mail Bulk parcels Bulk outbound int'l letter post [14%]	<i>Universal services for many CP products (e.g. Express Mail, Priority Mail)</i> [~0%]

# Add Implication of Rapidly Changing Markets

- **Production of commercial services in rapidly changing markets**
  - Legislation: establish self-adjusting institutions
  - Regulation: more flexible application of governance rules
  - Management structure of USPS
    - Flexible, commercially savvy management
    - Incentivized: well led and well paid, but no monopoly
- **Production of public services in rapidly changing markets**
  - Legislation
    - Define public service policies and principles
    - Financing of public services: cannot collect cost of public services from commercial mailers
  - Regulation
    - Specify and continually adjust legislative policies
    - Enforce public service policies

# Other Desiderata in New Governance Model

- **Improve accountability for public services**
  - Current governance model provides no way for users to enforce universal service “obligations”
  - User protection measures in multi-operator environment
- **Improve efficiency in the national delivery system**
  - Open access to public elements of postal network
    - Address databases
    - Private mailboxes
    - Post Office boxes
  - Commercially neutral penal laws
- **Improve implementation of international postal policy**
  - Better implementation of 2006 policies
  - Integration of postal and trade policies



# New Governance Model

	Legislation	Regulation	Management
<b>Basic Government</b>	Establish PRC Re-establish USPS (more flexible Govt Corp) Nonmailability rules	Administer nonmailability	
<b>Commercial Services</b> (services for commercially motivated mailers)	Powers and incentives of USPS management Policies and principles for regulation of commercial services Limits on scope of business	Accounting controls Define MD/CP categories Regulate MD discrimination and unfair competition Define MD QoS measures Compliance determination and complaints Facilitate efficiency of multi operator mkt (MBX, etc.) Consumer protection	Prices and products Delivery frequency Retail offices Employee wages & benefits Scope of business
<b>Public Services</b> (services requiring USG guarantee or support)	Policies and principles for definition and implementation universal and public services Appropriations for public services	Universal serv. protection (rates, delivery freq., post offices, etc.) Administer reduced rates Scope of Alaskan air trans	Provide prices and products within specifications of legislation and regulation

# **From a New Governance Model to a Postal Modernization Act**



# Key Legislative Issues

- Reorganization and reenactment of Title 39
- Reestablishment of USPS & the Appointments Clause
- Employment policies and legacy costs
- Universal service
- Other public services
- Compensation for universal and other public services
- Regulation of rates and services
- Multi-operator access to mailboxes and post office boxes

# Reorganization of Title 39 for Modern Purposes

## Current Title 39

I General	Public policies for operation of USPS
	Organization and authority of USPS
	Obligation of USPS to serve the nation
	International postal policy
	Postal Regulatory Commission
	Postal monopoly provisions
	Judicial review of USPS cases
II Personnel	Employment policies of USPS
III. Modernization and Fiscal Administration	Capital of USPS and authority to borrow
	Relations between USPS and Treasury
	Appropriations
	USPS annual report
	Strategic planning of USPS
IV. Mail Matter	Nonmailable matter restrictions
	Penalty and franked mail, free postage
	Regulation of postage rates and services
	USPS SEC-type report
	Compliance determination
	Reduced rates
	Commission complaint jurisdiction
	Judicial review of Commission
V. Transportation of Mail	Contracts for mail transportation
	Regulation of air transportation

## Reorganized Title 39

Postal Regulatory Commission	I. General Government
Postal monopoly provisions	
Nonmailable matter restrictions	
International postal policy	
Appropriations	
Judicial review	
Organization and authority of USPS	II. Organization of Postal Service
Employment policies of USPS	
Capital of USPS and authority to borrow	
Relations between USPS and Treasury	
USPS annual and other reports	
Strategic planning of USPS	
Contracts for mail transportation	
Public policies for operation of USPS	III. Universal Service and Other Public Services
Obligation of USPS to serve the nation	
Penalty and franked mail, free postage	
Reduced rates	IV. Regulation of Postal Services
Regulation of postage rates and services	
Compliance determination	
Commission complaint jurisdiction	V. Regulation of the Air Trans. of Mail
Regulation of air mail transportation	

# Parts of a Postal Modernization Act (“PMA”)

- **Part I — General Government**
  - Provisions establishing the Postal Rate Commission, international postal policy, monopoly and nonmailability, etc.
- **Part II — Organization of the Postal Service**
  - Provisions which establish the Postal Service and govern its organization, capital, etc.
- **Part III — Universal Service and Other Public Services**
  - Provisions which define obligatory public services, including universal postal services, free and reduced rates, penalty/franked mail services.
- **Part IV — Regulation of Postal Services**
- **Part V — Regulation of the Air Transportation of Mail**
  - Authority of Department of Transportation to regulate Postal Service’s purchase of air transportation in Alaska and international commerce.

# Reestablish US Postal Service as Non-Political SOE

Postal Service could remain a “government corporation” but become more flexible and professional, less political, similar to Conrail.

## U.S. Postal Service

Independent establishment  
of the executive branch

100% owned by U.S.

9 Governors chosen by President  
w/ advice/consent of Senate



## U.S. Postal Service Corporation

Organized under corporation  
law of a State

100% owned by U.S.

9 Directors chosen by Secretaries of  
Executive Depts w/o Senate review

## Postal Reorganization Act

- Independent agency managed by political appointees

## Postal Modernization Act

- Normal corporation with normal powers
- Board of non-political professional directors
- Postal Service “shall not be an agency or instrumentality of the Federal Government”

# Implications of the “Appointments Clause”

- Appointments Clause of the Constitution
  - Sovereign authority of the U.S. can be exercised only by —
    - Principal Officer appointed by President with Senate confirmation
    - Inferior Officer appointed by President or Head of Department without Senate confirmation
    - Inferior Officers cannot appoint other Inferior Officers
- Implications of the Appointments Clause
  - To become less political, USPS must become less governmental
  - Board of Directors is an Inferior Officer
  - Postmaster General and other officers are “Employees”
    - PMG and USPS officials cannot exercise “sovereign authority” (e.g., investigation, adjudication, rulemaking)

# General Authority and Duties of a Reestablished USPS

- Authority
  - All of the powers conferred under State corporation law
  - Laws apply to USPS in same manner as to private company
- Duty
  - To provide “adequate and efficient postal services at fair and reasonable rates and fees” and “as nearly as practicable the entire population of the United States.,” subject to the specific public requirements of Part III.
- Insulation from political interference
  - Prohibition against political interference is extended from selection of postmasters (current law) to all specific operational decisions.

# Employment Policies of Reestablished USPS

- USPS to determine compensation and benefits for officers and employees
  - Subject to collective bargaining provisions
  - Plus last best offer(?).
- Legacy benefits and liabilities
  - Benefits already earned are ensured by Federal government.
  - “Clean slate” policy:
    - Civil service status of employees ends after 1 year
    - All “overpayments” and “unfunded liabilities” retained by Treasury
  - Refund \$ 2.5 bill in RHB payments for 2007, 2008, 2010 (?)

# Universal Postal Service [1]

- **National policy for Essential Postal Services set by Congress,** for example —
  - Essential Postal Services defined as single piece services —
    - Guaranteed services for single piece documents and parcels
    - Services also available for bulk mail (direct mail, periodicals, parcels), but special rates and services for bulk products not guaranteed (except for public service products)
  - Rates shall be reasonable, equitable, and affordable for all residents.
  - Service shall be prompt, reliable, and efficient to patrons in all areas of the Nation
  - Effective and regular services to rural areas shall be assured and comparable to services in urban areas to maximum extent practicable.
  - Must include at least one service for letters sealed against inspection



# Universal Postal Service [2]

- **Specific requirements for Essential Postal Services set by PRC**
  - Rate standards (apply in all cases)
    - May include uniform or maximum rate requirements
    - Must provide reasonable cost coverage
    - Enforced by ex ante regulatory review
  - Service guidelines (do not apply in all cases)
    - May include guidelines for delivery frequency, density of post offices or agencies, transit times, etc
    - Must be non-discriminatory, objective, economical
- **Protective Orders for Essential Postal Services by PRC**
  - USPS must give PRC 90 days notice if service will fall below guidelines
  - Protective Order may require specific rates and services deemed necessary to protect Essential Postal Services in specific cases to the extent permitted by appropriations

# Other Public Postal Services

- **Free Postage and Reduced Rates**
  - Scope set by Congress
  - Provisions administered by PRC, not USPS
- **Alaskan Nonpriority Bypass Mail service**
  - Scope of service to be determined by PRC, not USPS
- **Franked and penalty mail**
  - Services ordered by Congress which may differ from what would be provided under normal commercial circumstances
- **Semipostals**
  - Funding raising by USPS for good causes
  - Appropriate causes should be defined by Congress, not USPS

# Compensation for Universal & Public Postal Services

- Public Postal Services Fund
  - Fund in Treasury funded by appropriations
  - Commission to compensate Postal Service, upon submission of satisfactory accounts, for net losses incurred in provision of
    - Essential Postal Services
    - Other public services
- Funding “safety valves” to protect USPS
  - PRC must adjust Essential Postal Service orders to available funds
  - USPS can raise rates of free/reduced rates mail if funding is lacking
  - USPS can raise nonpriority bypass mail rates if funding is lacking
  - Postal Service authorized to offset money owed for public services against debts owed to Treasury in case of lack of appropriations

# Simplified Regulation of Rates and Services [1]

- Market dominant products — rates
  - Simplified legal criteria for rates:
    - Cost coverage of at least 100 percent
    - Consistent with the national policy on rates for essential postal services
    - No undue or unreasonable discrimination among users
    - No unjustly or unreasonably high cost coverage
  - Ex ante review of rates for Essential Postal Services:
    - Postal Service must give Commission 120 day notice of rate changes
    - Commission shall hold hearings and may reject or accept rates
    - Commission review to be completed with 270 days from notice
  - More flexible review of rates for other market dominant products:
    - Review procedures to be established by the Commission
    - Commission limited to price caps or ex post review

## Simplified Regulation of Rates and Services [2]

- Market dominant products — services (like current law)
  - Postal Service must publish standards and performance reports
  - Commission may specify format of standards (not substance)
- Competitive products — rates
  - Cost coverage of at least 100 percent
  - Appropriate cost coverage for all competitive products collectively
    - Test is cost coverage, not contribution to institution costs
    - Reviewed annually, in consultation with DOJ and FTC
- Experimental products
  - Commission can exempt from legal standards
- User protection
  - Postal Service must adopt effective procedures for complaints
  - Appeal to Commission provided

# Multi-Operator Access to Mailboxes and PO Boxes

- Access to Mailboxes
  - Private delivery companies
    - Register with Commission
    - Comply with Commission regulations to protect security of the mailbox and ability of Postal Service to collect outbound mail
  - Individuals, neighborhood associations, charities, etc.
    - Commission may allow access based on public interest
  - Mailbox owner retains right to limit access to Postal Service alone or Postal Service and specific delivery companies
  - No change in criminal penalties for theft or obstruction of the mail
- Access to Post Office boxes
  - Postal Service must provide delivery to PO boxes for a reasonable fee
  - Commission may regulate

# Postal Monopoly — Repeal

*“The Postal Service will never change fundamentally until they repeal the postal monopoly.”*

— Tim May (to JC, 2003)

- Reasons for repeal
  - Necessary to justify greater commercial flexibility for USPS
  - Monopoly inhibits modernization by creating illusion of security
  - All major foreign postal reform laws agree that repeal is necessary for modernization
- Transition period
  - Long enough for adjustment but short enough to prevent procrastination (3 years?)

# Special Reviews Required

- Penal and enforcement provisions
  - Penal provisions (postal crimes and non-mailability) should be clearer and commercially neutral
  - Law enforcement by USPS is incompatible with commercial role
  - Should be reviewed by Congress after study by a task force established Attorney General
- Reduced rate and free postage provisions
  - Current law is based on pre-1970 principles; should be reviewed by Congress after a PRC analysis of cost and benefits
- Alaskan Nonpriority Bypass Mail service
  - Current law provides for convoluted regulation of intra-Alaskan air transportation; should be reviewed by Congress after study by Department of Transportation



# Summary

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