Mailers Hub News

November Summary *From the November 6 and 20 issues*

Mail Collection Plan Raises Discrimination Questions

The Postal Service has revealed a new plan for mail collection to establish a transportation system that would result in a level of service for collection and retail mail that is different for "spoke" postal facilities served by a sorting and delivery center compared to the service for facilities that are not.

As reported October 30 by *Save the Post Office*, the newly disclosed "Optimized Collections" initiative would change service to non-spoke post offices, "starting in Richmond (VA) on October 28, with potential expansion in November and January to Columbus (OH); Madison (WI); Oklahoma City (OK); and Santa Clarita (CA)."

Currently, contract transportation brings mail to a post office in the morning for delivery later by the facility's carriers. In the afternoon, another contracted trip takes the facility's retail mail and its carriers' collection mail back to the local plant for outbound processing.

This is changing under the new plan, *as best it can be discerned from what's been disclosed*. The "optimization" initiative calls for a single morning "milk run" to non-spoke post offices to both drop off mail for delivery that day and pick-up outgoing collection mail – but that would be the *previous day's* collection mail. There would be no longer be afternoon transportation.

Though this system would presume to "optimize" the efficiency of postal transportation, it would do so at the expense of service to the impacted customers. However, because there apparently *would be* an afternoon trip from the S&DC to the local processing facility, the obvious consequent difference would be that a retail customer's mail would reach the local plant a day earlier if that customer were served by an S&DC spoke office, compared to someone served by a non-spoke office getting only "milk run" transportation.

As the site further stated, the apparent disparity in service that the "Optimized Collections" initiative will produce "seems to be a fairly clear violation" of 39 USC 403, which bans "undue or unreasonable discrimination among users of the mails." It's unlikely the Postal Service would agree with such an assertion so, if the matter is to be resolved, it would require a complaint filing with the Postal Regulatory Commission – or the PRC could include the initiative in its current ongoing public inquiry. Which, if any, will happen, and how the matter will be resolved, remains to be seen.

Illinois Law Adds New Restrictions on Direct Mail

Last February 7, a bill was introduced in the Illinois Senate by Senator Rachel Ventura (43rd). Over the spring, the bill gained cosponsors and moved through committees, finally passing in both houses on May 8. It was signed into law by the governor on June 9, to be effective January 1, 2024. The text of the new public law [deletions stricken, additions underlined] states:

"Public Act103-0087

"Be it enacted by the People of the State of Illinois, represented in the General Assembly:

"Section 5. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2PP as follows:

"(815 ILCS 505/2PP)

"Sec. 2PP. Mail; disclosure.

<u>(a)</u> It is an unlawful practice under this Act to knowingly mail or send or cause to be mailed or sent a postcard or letter to a recipient in this State if:

(1) the postcard or letter contains a request that the recipient <u>contact the sender by mail, telephone, email, website, or other prescribed means</u> ~~call a telephone number~~; and

(2) the postcard or letter is mailed or sent to induce the recipient to <u>contact the sender by mail, telephone, email, website, or other prescribed means</u> ~~call the telephone number~~ so that goods, services, or other merchandise, as defined in Section 1, may be offered for sale to the recipient; and

(3) the postcard or letter does not disclose <u>or disclaim that it is not a bill and that it is a solicitation for</u> ~~that~~ goods, services, or other merchandise, as defined in Section 1, <u>that</u> may be offered for sale if the recipient <u>contacts the sender by mail, telephone, email, website, or any other prescribed means</u> ~~calls the telephone number~~<u>; and</u>~~.~~

<u>(4) the postcard or letter does not disclose or disclaim any and all affiliations or lack thereof.</u>

<u>(b) All disclosures and disclaimers appearing on a postcard or letter must be conspicuously located at the top of the postcard or letter, be easily readable in clear and unambiguous language, and be printed in at least 14-point bold-face font in a black-outlined box."</u>

Federal law (39 USC 3001 and 3005), reflected in DMM 601.9.1 and 601.9.2, already restricts deceptive mailings, such as solicitations in the guise of a bill or messages implying a connection to the federal government. Included in those standards are requirements for conspicuous markings and endorsements on the related mailpieces, as illustrated in DMM Exhibits 601.9.1.2 and 601.9.2.3(b). In effect, therefore, the Illinois statute seems to be substantively similar to existing federal law and postal regulations, at least in purpose if not in exact requirements.

In response to our question, the Postal Service's General Counsel provided the agency's views on the Illinois law:

> "... The Postal Service has not taken a position on state laws purporting to place restrictions on mailability that extend beyond the provisions of federal law and our own regulations, and we do not believe that we would have a legal basis to claim that a law like this is invalid under the Supremacy Clause.
>
> "With that said, any mailer who would be subject to the law may of course make its own judgment about any legal challenges it may mount or any legal remedies it may have. And it is also conceivable that a state could enact a law so restrictive that we could colorably claim that it frustrates our ability to provide universal postal services in a self-sustaining manner. But this law does not appear to go that far, although we will certainly keep an eye out for how this and other laws play out in practice. ..."

With all of that in mind, if commercial mailers sending advertisements into the state are compliant with the applicable postal and statutory requirements they *could* also be compliant with the Illinois law. Just the same, it might be prudent to get competent legal advice to be certain.

USPS Ends FY 2023 $6.5 Billion Short of Planned "Break-Even"

UNITED STATES POSTAL SERVICE
STATEMENTS OF OPERATIONS

	Year Ended September 30,		
(in millions)	**2023**	**2022**	**2021**
Revenue			
Operating revenue	$ 78,186	$ 78,507	$ 77,009
Other revenue	197	113	32
Total revenue	**78,383**	**78,620**	**77,041**
Operating expenses			
Compensation and benefits	52,853	51,520	50,085
Retirement benefits	10,001	8,362	7,376
Retiree health benefits	—	—	5,110
Workers' compensation	538	(2,119)	(580)
Transportation	10,111	10,281	9,652
Other operating expenses	11,884	11,526	10,201
Total operating expenses	**85,387**	**79,570**	**81,844**
Loss from operations before the impact of Postal Service reform legislation	**(7,004)**	**(950)**	**(4,803)**
Impact of Postal Service reform legislation	—	56,975	—
(Loss) income from operations	**(7,004)**	**56,025**	**(4,803)**
Interest and investment income	941	192	28
Interest expense	(415)	(171)	(155)
Net (loss) income	**$ (6,478)**	**$ 56,046**	**$ (4,930)**

See accompanying notes to the financial statements.

Following the November 13-14 meeting of the Postal Service's Board of Governors, the agency released its *Form 10-K*, containing the financial results for Fiscal Year 2023 (October 1, 2022, through September 30, 2023). As was widely anticipated, given the trend of the preceding months, the USPS ended the year with a loss of $6.478 billion.

(in millions)	**2023**	**2022**
Operating revenue:		
First-Class Mail[1]	$ 24,505	$ 23,990
Marketing Mail[2]	15,076	15,996
Shipping and Packages[3]	31,641	31,317
International	1,571	1,712
Periodicals	918	955
Other[4]	4,475	4,537
Total operating revenue	**$ 78,186**	**$ 78,507**
Volume:		
First-Class Mail[1]	45,979	48,960
Marketing Mail[2]	59,410	67,092
Shipping and Packages[3]	7,057	7,232
International	322	355
Periodicals	2,993	3,400
Other[5]	385	405
Total volume	**116,146**	**127,444**

Though the PMG argues otherwise, the annual figures for revenue and volume by class are widely believed to reflect the impact of two price increases totaling over 9.5% that followed price increases in FY 2022 of more than 13.3%. Actual revenue, again, did not grow in line with the increases.

Revenue from First-Class Mail and from Shipping and Package Services increased, but only by 2.1% and 1.0%, respectively, while revenue from Marketing Mail and Periodicals decreased by 5.8% and 3.9%, respectively.

Mail volume was sharply lower, falling by 8.87% from the previous year. None of the classes had higher volume than in FY 2022, with First-Class Mail, Marketing Mail, and Periodicals shrinking by 6.1%, 11.4%, and 12%, respectively.

(in millions)	2023	2022
Shipping and Packages revenue:		
Priority Mail Services[1]	$ 11,965	$ 13,097
Parcel Services[2]	10,622	9,550
USPS Ground Advantage[3]	2,313	—
First-Class Package Service[4]	5,848	7,811
Package Services	893	859
Total Shipping and Packages revenue	**$ 31,641**	**$ 31,317**
Shipping and Packages volume:		
Priority Mail Services[1]	1,103	1,229
Parcel Services[2]	3,705	3,566
USPS Ground Advantage[3]	447	—
First-Class Package Service[4]	1,367	1,962
Package Services	435	475
Total Shipping and Packages volume	**7,057**	**7,232**

Shipping and Package Services – a key part of the PMG's revenue strategy – was as anemic as other classes of mail. The above-mentioned 1.0% higher revenue – as elsewhere, derived from price increases – was not reflected in volume – which actually shrank by 2.4%.

	2023	2022
Career employees	525,000	516,750
Pre-career employees	115,000	118,500
Total employees	**640,000**	**635,250**

The only growth areas were complement – up 0.7%, including 1.6% more career personnel – and related costs.

(in millions)	2023	2022
Compensation	$ 43,110	$ 42,228
Employee health benefits	5,362	5,203
Social Security	2,540	2,423
TSP	1,476	1,334
Other	365	332
Total compensation and benefits	**$ 52,853**	**$ 51,520**

(FY 2006 had revenue of $72.817 billion – $104.53 billion when adjusted for inflation – and the all-time-high volume of 213.139 billion pieces. After seventeen years, revenue is about 25% lower, and more than 45.5% of mail volume has been lost; however, complement is only 19.6% smaller, suggesting "efficiency" and cost reductions remain elusive.)

September Financials: Ending a Bad Year

September continued the familiar trends of volume dropping and revenue less than it was planned to be. Volume for the four market-dominant classes was sharply lower – again – while competitive product volume, which, according to the PMG's 10-Year Plan, is expected to grow as a source of volume and revenue, was only slightly higher. Personnel costs were under plan, thanks to a $993 million favorable swing in the workers' comp liability. Helped further by healthy investment income, total monthly revenue was $6.285 billion, yielding a rare surplus of $176 million – but the total loss for the year was still $6.478 billion.

Total market-dominant mail volume was down 14.0% compared to the same month in 2022. First-Class Mail volume fell by 6.2% but Marketing Mail sank more alarmingly, down 18.7%, compared to September 2022. Meanwhile, competitive products volume was up slightly – 2.3%. Total USPS volume was 9.261 billion pieces, down 5.2% from 2022.

First-Class Mail: 3.440 bln pcs, -6.2%; 45.979 bln pcs, -6.1% YTD
Marketing Mail: 4.984 bln pcs, -18.7%; 59.435 bln pcs, -11.5% YTD
Periodicals: 230.12 mln pcs, -18.2%; 2.993 bln pcs, -12.0% YTD
Total Mkt Dom: 8.714 bln pcs, -14.0%; 109.227 bln pcs, -9.3% YTD
Total Competitive: 524.00 mln pcs, +2.3%; 6.597 bln pcs, -1.9% YTD
Total USPS: 9.261 bln pcs, -13.3%; 116.146 bln pcs, -8.9% YTD

Though market-dominant revenue should be higher because of price increases totaling over 10.7% since March 2022, revenue from the market-dominant classes, compared to SPLY, was up only 0.2% compared to September 2022. USPS operating revenue for the month was $6.250 billion, with the components mostly lower:

First-Class Mail: $1.923 bln, +2.8%; $24.505 bln, +2.1% YTD
Marketing Mail: $1.360 bln, -10.6%; $15.135 bln, -5.7% YTD
Periodicals: $77.64 mln, -8.9%; $918.1 mln, -3.8% YTD
Total Mkt Dominant: $3.622 bln, -5.6%; $44.425 bln, -1.3% YTD
Total Competitive: $2.510 bln, +10.3%; $32.190 bln, +1.3% YTD
Total USPS: $6.250 bln, +0.2%; $78.186 bln, -0.4% YTD

Total "controllable" compensation and benefit costs in September were $4.894 billion, 1.9% over plan and 1.2% higher than September 2022; total expenses were $6.196 billion.

Decreasing mail volume wasn't reflected in similarly fewer workhours; workhour usage was 1.6% over plan, and only 1.8% below September 2022. Total workhours for the year were 0.4% over plan but 2.3% below SPLY YTD. However, despite less work, the Postal Service is still expanding its workforce, and committing to more career employees.

Month's end complement: 639,715 employees (525,092 career, 114,623 non-career) **+0.68%** compared to last September (635,369 employees: 516,760 career, 118,609 non-career), but **1.61% more** *career* workers.

Compared to pre-pandemic September 2019, total USPS volume was down 17.98% (market dominant 19.35% lower; competitive up 25.96%), while revenue, after many price increases, was up only 13.9%. Despite significantly lower volume, total workhours were up 1.52% from three years ago.

USPS Announces Higher Competitive Product Prices for 2024

On November 15, following a November 13 vote by the Governors of the Postal Service, the Postal Service announced that it will raise prices on its competitive products effective January 1, twenty days before market-dominant prices rise. According to the Governors' Decision included in the filing with the Postal Regulatory Commission, price and classification changes will be:

I. Domestic Products

A. Priority Mail Express

Overall, the Priority Mail Express price change represents a 5.9% increase. Retail prices will increase an average of 5.9%. The price for the Retail Flat Rate Envelope, a significant portion of all Priority Mail Express volume, will increase to $30.45, with the Legal Size and Padded Flat Rate Envelopes priced at $30.65 and $31 .20, respectively. The Commercial price category will increase 5.9% on average. Commercial prices will, on average, reflect a 13.7% discount off of Retail prices. ...

B. Priority Mail

On average, the Priority Mail prices will be increased by 5.7%. Retail prices will increase by an average of 5.6%. Retail Flat Rate Box prices will be: Small, $10.40; Medium, $18.40; Large, $24.75 and Large APO/FPO/DPO, $23.00. Thus, the Large APO/FPO/DPO Flat Rate Box will be $1.75 less than the Large Flat Rate Box. The regular Flat Rate Envelope will be priced at $9.85, with the Legal Size and Padded Flat Rate Envelopes priced at $10.15 and $10.60, respectively. The Commercial price category will increase by 5.8% on average. Commercial prices will, on average, reflect a 20.5% discount off of Retail prices. ...

C. Parcel Select

On average, Parcel Select prices as a whole will increase 5.9%. New for 2024, we will be eliminating Parcel Select Lightweight as a separate price category; rather, ounce-based prices will be added under the destination-entered categories at 4-, 8-, and 12-ounce increments. With the elimination of Parcel Select Lightweight and prior structural changes made earlier in 2023, the prices for Parcel Select can now be expressed in a single price table, which further supports the Postal Service's product simplification efforts.

For destination delivery unit (DDU) entered parcels, ... destination hub (Dhub) entered parcels, ... destination sectional center facility (DSCF) destination entered parcels, [and] destination network distribution center (DNDC) parcels, the average price increase is 5.9%. ...

D. USPS Ground Advantage

USPS Ground Advantage, introduced in July 2023, is the Postal Service's flagship ground package product. The existing structure will be maintained for 2024. Overall, USPS Ground Advantage prices will increase 5.4% on average. Retail prices will increase 5.2% on average, while Commercial prices will increase 5.4% on average. The Alaska Limited Overland Routes (LOR) price category will see a 9.2% average increase for January 2024. ...

[For Priority Mail Express, Priority Mail, Parcel Select, and USPS Ground Advantage:]

The eVS Unmanifested Fee will be renamed as "Unmanifested Fee" to accommodate the ongoing migration of customers from eVS to the USPS Ship platform. Finally, certain Nonstandard Fees (NSFs) ... will see a 20% increase in 2024.

E. Domestic Extra Services

- Premium Forwarding Service (PFS) prices will increase 3.0% on average in 2024. The retail counter enrollment fee will increase to $26.20. The online enrollment option, introduced in 2014, will increase to $24.10. The weekly reshipment fee will increase to $26.20. The reshipment fee for PFS Local, which was introduced in 2019 for PO Box customers, will increase to $26.20.
- Prices for Adult Signature service will increase to $9.35 for the basic service and $9.65 for the person-specific service.
- Address Enhancement Service prices will increase 3.0% on average in 2024.
- Competitive Post Office Box prices will be increasing 6.5% on average, within the existing price ranges.
- Package Intercept Service will increase to $17.50.
- The Pickup On Demand fee will remain unchanged for 2024, at $26.50.
- Premium Data Retention and Retrieval Service (USPS Tracking Plus), which was introduced in 2020, will not see a price change in 2024.

The fee for Label Delivery Service, introduced in 2023 under the Competitive Ancillary Services product, will remain at $1.25 for 2024.

The PRC will review the filing for technical accuracy and legal compliance. Barring problems, the new competitive product rates will take effect as announced, on January 1, 2024.

PRC Finds USPS Flats Study Needs More Information

A provision in the *Postal Service Reform Act of 2022*, enacted April 6, 2022, required the Postal Regulatory

Commission, "in consultation with the Inspector General of the United States Postal Service (USPS OIG), to conduct a study evaluating the Postal Service's flats operations" and "to submit a report on the findings of the study no later than 1 year after enactment of the PSRA."

Accordingly, the PRC did so on April 6, 2023. As the commission stated in a related November 17 order, it "identified multiple causes of inefficiencies in the collection, sorting, transportation, and delivery of flats." In turn, the PRC "provided eight suggestions to the Postal Service for consideration" as the agency, in response, developed and implemented "a plan to remedy each inefficiency identified in the Commission's flats study or provide an explanation why remedying such inefficiency is not practicable."

The USPS submitted its plan to the commission on October 6. In the document, the PRC stated the Postal Service asserted "that its plan conforms to the relevant statutory requirements and should be approved by the Commission" and that "where it was unable to accept a Commission recommendation fully, the Flats Plan details how such recommendations may in the future become practicable."

As would be expected, the USPS flats plan invoked the Postmaster General's 10-Year Plan and claimed it's made "significant progress" since The Plan's issuance through "initiatives includ[ing] pricing to increase flats revenue, redesigning the network, improving the data quality, and pursuing initiatives to reduce bundle breakage."

Subsequently, the News Media Alliance and the Association for Postal Commerce (Postcom) moved to submit comments on the Postal Service's plan for flats. NMA stated the USPS "lacks the comprehensiveness, metrics, and accountability" needed to remedy well-established flats inefficiencies" and urged the commission to reject it until the Postal Service addresses the deficiencies NMA had identified. Postcom also urged the PRC to reject the flats plan, arguing that it was "essentially unchanged" from an earlier draft. Postcom further asked the commission to instruct the Postal Service "to revise the plan to respond to PSRA directives" and address cost coverage improvement.

After reviewing the USPS plan, the PRC determined that

> "... as submitted, this plan presents a high-level proposal that lacks both important details and analytical support needed to evaluate the plan and determine whether it sufficiently and effectively addresses the inefficiencies identified by the Commission and described in the Flats Operations Study Report. ...
>
> "While the Postal Service explains that there are processes to validate potential net financial benefits of initiatives and methodologies for calculating and tracking the results, it does not provide any quantifiable metrics for potential benefits or cost impact results as it describes the initiatives throughout the Flats Plan.
>
> "Furthermore, the Postal Service does not provide a clear timeline for implementing the initiatives, with some initiatives seemingly already implemented and others in various stages of implementation. ...
>
> "Accordingly, the Commission will seek more information from the Postal Service to enable evaluation of the Flats Plan prior to issuing its approval. ..."

The PRC granted the motions for comments, adding that those would be due by January 5.

The Postal Service has struggled for decades to process flats efficiently and past initiatives to improve the situation have rested on comparable proposals and yielded similarly unproductive results. Whether this round of reports with provide anything different remains to be seen.