



June 2017

# U.S. POSTAL SERVICE

## Key Considerations for Potential Changes to USPS's Monopolies

Accessible Version

# GAO Highlights

Highlights of [GAO-17-543](#), a report to congressional requesters

## Why GAO Did This Study

USPS's mission is to provide universal delivery service while operating as a self-financing entity. Congress has provided USPS with monopolies to deliver letter mail and access mailboxes to protect its revenues, which enables it to fulfill its universal service mission, among other reasons. Despite its monopolies, USPS's poor financial condition has placed its universal service mission at risk. USPS's net losses were \$5.6 billion in fiscal year 2016 and were greater than \$62 billion over the past decade.

GAO was asked to review the postal monopolies. This report examines (1) what is known about the value of USPS's letter delivery and mailbox monopolies, (2) views on the potential effects of narrowing or eliminating these monopolies; and (3) considerations that would need to be addressed to estimate the effects of laws that apply differently to USPS and its private competitors. To address these questions, GAO reviewed reports issued by PRC and others; obtained views from USPS and PRC, as well as postal stakeholders and experts who have submitted public comments to PRC proceedings; and collected information from six countries—France, Germany, Italy, Japan, Sweden, and the United Kingdom—that have eliminated their postal monopolies, selected based on criteria including their share of global mail volume.

GAO is making no recommendations in this report. USPS disagreed with some stakeholder perspectives, among other things. GAO believes that the information is portrayed in a balanced way and added USPS responses, where appropriate.

View [GAO-17-543](#). For more information, contact Lori Rectanus at (202) 512-2834 or [rectanusl@gao.gov](mailto:rectanusl@gao.gov).

June 2017

## U.S. POSTAL SERVICE

### Key Considerations for Potential Changes to USPS's Monopolies

#### What GAO Found

The value of the U.S. Postal Service's (USPS) letter delivery and mailbox monopolies was \$5.45 billion in fiscal year 2015, according to the most recent estimate prepared by the Postal Regulatory Commission (PRC), the regulator of USPS. This figure suggests that USPS's net income would decline by this amount if its monopolies were eliminated. To develop these estimates, PRC identifies the mail covered under USPS's monopolies for which a potential entrant might compete to provide service if the monopolies were to be eliminated; such mail is referred to as "contestable." PRC's estimated value of these monopolies has increased substantially in recent years—it was \$3.28 billion in fiscal year 2012—and PRC staff expects that the value will continue to increase in the next few years due to increased volumes of contestable mail.

Narrowing or eliminating USPS's letter delivery and mailbox monopolies would likely have varied effects, according to views provided by postal stakeholders, experts, USPS, and PRC. For example, all parties agreed that allowing other entities to deliver letters could decrease USPS's revenues, and that additional strain would be placed on USPS's ability to continue providing the current level of universal service. Additionally, some stakeholders said that allowing other entities to deliver items to the mailbox could adversely affect the security of mail and increase clutter that would impair USPS's delivery efficiency. On the other hand, most of the postal experts we interviewed said that allowing entry to this market by private competitors could result in increased competition that would spur USPS to become more efficient. Officials from foreign posts or regulators in all six of the countries GAO contacted reported increases in competition after ending their postal delivery monopolies, and some of these countries also reported losses of revenue and market share for the carriers providing universal service. Stakeholders, experts, foreign officials, and USPS agreed that postal policies are interdependent and therefore need to be considered in tandem with one another; officials from all six countries we contacted told us that concurrent postal policy changes, such as increasing a post's degree of commercial freedom or decreasing the scope of its universal service obligation, assisted their transitions away from postal monopolies.

Estimating the effects of laws that apply differently to USPS and its private competitors would require steps including defining appropriate study objectives and assessing scope and methodological tradeoffs. For example, objectives would need to clarify the extent of financial effects to be estimated—whether for USPS as a whole, for only specific products, or for USPS relative to competitors. Scoping decisions would need to define the specific areas to be studied, the period of time to be reviewed, and the type of data to be collected. This would involve multiple considerations, including determining which laws to include and how to address differing stakeholder views. Additional judgment would be needed to address any lack of consensus on methodologies and to determine the appropriate degree of time and resources. For example, a comprehensive study estimating the effects of every law would require significant time and resources; if estimates were desired in a shorter time frame—or if financial resources were limited—tradeoffs would be required.

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# Contents

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Letter	1
Background	3
PRC Estimated the Value of USPS's Monopolies to Be Over \$5 Billion in 2015	5
Relaxing USPS's Monopolies Could Likely Have Varied Effects	8
Assessing the Impact of Laws that Apply Differently to USPS and Private Competitors Would Involve Various Considerations	17
Agency Comments and Our Evaluation	29
Appendix I: Objectives, Scope, and Methodology	32
Appendix II: Information on the Postal Regulatory Commission's (PRC) Method for Estimating the Value of USPS's Monopolies	36
Appendix III: Comments from the U.S. Postal Service	42
Appendix IV: GAO Contact and Acknowledgments	50
GAO Contact	50
Staff Acknowledgments	50
Appendix V: Accessible Data	50
Agency Comment Letter	50
Tables	
Table 1: Postal Regulatory Commission (PRC) Estimates of the Value of the U.S. Postal Service's (USPS) Letter Delivery and Mailbox Monopolies, 2007-2015 (Dollars in billions)	7
Table 2: Analysis and Application of Selected Laws, Taxes, and Fees on the U.S. Postal Service (USPS) and its Private Competitors	20

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## Abbreviations

CBO	Congressional Budget Office
DOJ	Department of Justice
FTC	Federal Trade Commission
NALC	National Association of Letter Carriers
PAEA	Postal Accountability and Enhancement Act of 2006
PRC	Postal Regulatory Commission
UPS	United Parcel Service
USO	Universal service obligation
USPS	U.S. Postal Service

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June 22, 2017

The Honorable Ron Johnson  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate

The Honorable Jason Chaffetz  
House of Representatives

The U.S. Postal Service (USPS) is a critical part of today's communications and commerce. In fiscal year 2016, USPS delivered 154 billion pieces of mail to 156 million delivery points, generating revenues of \$71.5 billion. USPS has dual roles, one as an independent establishment of the executive branch required to provide universal delivery service,<sup>1</sup> and the other as a self-financing entity operating in a business-like manner. Congress has long provided USPS with revenue protection in the form of statutory monopolies to deliver letter mail and access mailboxes. These monopolies protect USPS's revenues, which helps USPS fulfill its universal service mission. The letter delivery monopoly has prevented private competitors from engaging in "cream-skimming" activity, wherein they could otherwise offer service on low-cost routes at rates below USPS's while leaving USPS with high-cost routes.<sup>2</sup> The mailbox monopoly was created to protect postal revenues by preventing the private delivery of unstamped mail.<sup>3</sup> Despite the revenue protection these monopolies have offered USPS as it has carried out its mission to provide prompt, reliable, and efficient services to the public, universal service remains at risk due to USPS's poor financial status. This is due, in large part, to trends that include declining volumes of profitable First-Class Mail and growing expenses. USPS's net losses were \$5.6 billion in fiscal year 2016—and are greater than \$62 billion over the past decade—and USPS has reported that it expects continuing losses and liquidity

<sup>1</sup> As part of its universal service obligation, USPS "shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people ... [by providing] ... prompt, reliable, and efficient services to patrons in all areas and ... postal services to all communities." 39 U.S.C. § 101(a).

<sup>2</sup> GAO, *Postal Service Reform: Issues Relevant to Changing Restrictions on Private Letter Delivery*, [GAO/GGD-96-129A](#) Volume I and [GAO-GGD-96-129B](#) Volume 2 (Washington, D.C.: Sept. 12, 1996).

<sup>3</sup> GAO, *U.S. Postal Service: Information About Restrictions on Mailbox Access*, [GAO/GGD-97-85](#) (Washington, D.C. May 30, 1997).

challenges for the foreseeable future under its current business model and statutory framework.

Congress, USPS, and other postal stakeholders have considered a range of different business models to address USPS's financial difficulties and define its future role in an evolving postal marketplace. As part of these considerations, questions have been raised about the continued need for the letter delivery monopoly and the mailbox monopoly and, more broadly, about a variety of laws that apply differently to USPS and its private delivery competitors such as United Parcel Service (UPS) and FedEx. As your request noted, it is important that policymakers understand the advantages and disadvantages of USPS's status as an independent establishment of the executive branch. This report focuses on (1) what is known about the value of USPS's letter delivery and mailbox monopolies, (2) views on the potential effects of narrowing or eliminating these monopolies; and (3) considerations that would need to be addressed to estimate the value of USPS's financial advantages and burdens resulting from laws that apply differently to USPS and its private competitors.

To determine what is known about the value of USPS's letter delivery and mailbox monopolies, we primarily focused on the latest estimates of their value issued by the Postal Regulatory Commission (PRC)—an independent establishment of the executive branch that regulates USPS<sup>4</sup>—by interviewing and obtaining supporting documentation from PRC officials. To identify potential effects of narrowing or eliminating (“relaxing”) USPS's monopolies, we obtained views of 16 selected postal stakeholder organizations (“stakeholders”) and 9 selected postal experts, chosen because they had previously expressed views on these monopolies and other postal issues. These perspectives are not generalizable, but they provide a wide range of views on postal monopoly issues—and they represent some of the key groups with whom Congress interacts when developing postal policy. We also contacted selected foreign postal operators and their regulators in six industrialized countries that have eliminated statutory delivery monopolies to collect information on their experiences; the six countries were selected based on several criteria including their revenues relative to other nations who have eliminated their postal monopolies. To identify considerations that would need to be addressed to estimate the value of USPS's financial

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<sup>4</sup> PRC is composed of five commissioners, each of whom is appointed by the President, by and with the advice and consent of the Senate, for terms of 6 years.

advantages and burdens resulting from laws that apply differently to USPS and its private competitors, we reviewed criteria from the government auditing standards,<sup>5</sup> relevant laws, and a 2007 Federal Trade Commission (FTC) report that identified federal and state laws that apply differently to USPS private companies providing similar competitive products.<sup>6</sup> In addition, we obtained the views of postal stakeholders who have previously submitted relevant public comments to obtain their views on considerations regarding how these estimates could be updated. See appendix I for more information on our objectives, scope, and methodology.

We conducted this performance audit from December 2015 to June 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

Congress created USPS's letter delivery monopoly as a revenue protection measure so that USPS can meet its universal mail service obligation, which includes service to all communities and uniform rates for some mail.<sup>7</sup> As a practical matter, mail covered by this monopoly primarily consists of First-Class Mail and USPS Marketing Mail. Since USPS's original establishment, its letter delivery monopoly has been both broadened and reduced at various times through statutory and regulatory changes that have redefined which types of correspondence and other materials are covered. For example, the enactment of the 2006 Postal Accountability and Enhancement Act (PAEA) resulted in several changes

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<sup>5</sup> GAO, *Government Auditing Standards: 2011 Revision*, [GAO-12-331G](#) (Washington, D.C.: December 2011).

<sup>6</sup> FTC, *Accounting for Laws that Apply Differently to the United States Postal Service and its Private Competitors* (Washington, D.C.: December 2007) ('2007 FTC report').

<sup>7</sup> USPS's letter delivery monopoly is codified in a set of criminal and civil laws called the Private Express Statutes. These laws generally prohibit anyone from establishing, operating, or using a private company to carry letters for compensation on regular trips or at stated periods over postal routes or between places where mail regularly is carried. 18 U.S.C. §§ 1693-1699 and 39 U.S.C. §§ 601-606.

to USPS's letter delivery monopoly, including establishing price and weight limits on mail covered by the monopoly.<sup>8</sup>

With regard to USPS's mailbox monopoly, legislation enacted in 1934 prohibited the delivery of unstamped mail into mailboxes, essentially granting exclusive access to mailboxes ("mailbox monopoly") to USPS which remains in place to this day.<sup>9</sup> The U.S. Supreme Court upheld the constitutionality of the mailbox monopoly in 1981, stating that mailboxes are an essential part of national mail delivery and that postal customers agree to abide by laws and regulations that apply to their mailboxes in exchange for USPS agreeing to deliver and pick up mail.<sup>10</sup> In addition, USPS regulations restrict which types of items may be placed upon, supported by, attached to, hung from, or inserted into a mailbox.<sup>11</sup> The Postal Inspection Service, a part of USPS, is responsible for enforcing postal laws, including the restriction on placing mail without postage in mailboxes and laws that prohibit mail theft, obstruction of mail, and mail fraud.<sup>12</sup>

PAEA also set forth reporting requirements on USPS's letter delivery and mailbox monopolies, its universal service obligation (USO), and laws that apply differently to USPS and its competitors. Pursuant to these requirements, PRC issued a 2008 report that, among other things, estimated the value of USPS's letter delivery and mailbox monopolies

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<sup>8</sup> The price limit provides that a letter may be carried out of the mails when the amount paid is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece of First-Class Mail letter. The weight limit provides that a letter may be carried out of the mails when "the letter weighs at least 12½ ounces." Pub. L. No. 109-435 § 503 (2006), codified at 39 U.S.C. § 601(b)(1)-(2).

<sup>9</sup> 18 U.S.C. § 1725.

<sup>10</sup> *U.S. Postal Service v. Council of Greenburgh Civic Ass'n*, 453 U.S. 114 (1981).

<sup>11</sup> Exemptions allow (1) mailable matter to be left without postage in door slots and nonlockable bins or troughs used with apartment house mailboxes; (2) mailable matter to be left without postage on a hook or ring attached to the post or other support for the mailbox; and (3) unstamped delivery of newspapers that are regularly mailed Periodicals to curbside mailboxes on Sundays and national holidays, if they are removed before the next scheduled day of mail delivery. USPS Domestic Mail Manual (DMM) § 508.3, which is incorporated into the Code of Federal Regulations. 39 C.F.R. § 211.2(a).

<sup>12</sup> For example, see 18 U.S.C. §§ 1701, 1702, 1708, 1709 and 1341.



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and the cost of its USO.<sup>13</sup> The Federal Trade Commission issued a 2007 report that, among other things, estimated the financial impact of laws that apply differently to USPS and its competitors.<sup>14</sup> FTC's report concluded that, "from USPS's perspective, its unique legal status likely provides it with a net competitive disadvantage versus private carriers."<sup>15</sup>

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## PRC Estimated the Value of USPS's Monopolies to Be Over \$5 Billion in 2015

Since 2008, PRC has conducted an annual analysis to estimate the lost net revenues that USPS would incur if the monopolies were eliminated.<sup>16</sup> To conduct this analysis, PRC assesses the value of the monopolies based on the volume of mail—and the associated net revenues—that USPS would be expected to lose if its monopolies were eliminated and

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<sup>13</sup> Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly* (Washington, D.C.: Dec. 19, 2008)(2008 PRC USO/Monopoly Report). This report was required by PAEA. Pub. L. No. 109-435 § 702. In developing its 2008 report, PRC contracted with George Mason University's (GMU) School of Public Policy to provide a methodology for calculating the value of the letter and mailbox monopolies and the cost of the USO), as well as the history of the monopolies, among other things. See GMU School of Public Policy, *Study of Universal Service and the Postal Monopoly: Appendix F* (Arlington, VA: November 2008), including *Appendix F: Section 2: Methodologies for costing the USO and Valuating the Letter and Mailbox Monopolies* (by John C. Panzar); *Appendix F: Section 4: Quantitative Analysis of the Value of the Postal and Mailbox Monopolies* (by Robert H. Cohen), and *Appendix C: Postal Monopoly Laws: History and Development of the Monopoly on the Carriage of Mail and the Monopoly on Access to Mailboxes* (by James I. Campbell Jr.). PRC also held a public proceeding to solicit input from interested parties.

<sup>14</sup> FTC, *Accounting for Laws that Apply Differently to the U.S. Postal Service and its Private Competitors* (Washington, D.C.: December 2007).

<sup>15</sup> 2007 FTC report, page 8.

<sup>16</sup> PRC is not required to estimate the value of the postal monopolies on a yearly basis. However, PRC is required by law to estimate the cost of USPS's universal service obligation. 39 U.S.C. § 3651(b)(1). Nevertheless, PRC has chosen to also provide an estimate of the monopoly value on a yearly basis.

new entrants were allowed to provide mail delivery.<sup>17</sup> PRC also examines the impact of eliminating solely the mailbox monopoly using the same methodology. Most of the postal experts we interviewed said they consider PRC's method of estimating the loss in mail volume and revenues that USPS would experience if the monopolies were lifted to be a reasonable approach to measuring their value. See appendix II for a discussion of the methodology PRC employs to develop its estimates of the value of USPS's monopolies.

PRC's annual estimate of the value of USPS's monopolies has increased substantially in recent years—from \$3.28 billion in fiscal year 2012 to \$5.45 billion in fiscal year 2015.<sup>18</sup> Similarly, the value of the mailbox monopoly alone rose from \$700 million to \$1.03 billion over the same timeframe. Moving forward, although USPS's overall mail volumes are declining, PRC staff told us that they believe the volume of mail that entrants would be likely to successfully compete for if the monopolies were eliminated will increase, and therefore the value of the monopolies is expected to rise. Table 1 provides PRC's annual estimates of the value of USPS's monopolies since 2007.

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<sup>17</sup> See Postal Regulatory Commission, *Report on Universal Postal Service* (2008), and Postal Regulatory Commission, *Annual Report to the President and Congress*, Fiscal Year 2016. In particular, PRC's method involves estimating—if the monopolies were eliminated—the extent to which entrants would be able to profitably deliver certain types of mail—known as “contestable” mail. Contestable mail is mail that is entered into USPS's system at a processing facility or postal delivery unit near its destination, for which a competitor would need to perform little or no mail processing to prepare it for delivery. Most contestable mail volumes are comprised of First-Class Mail entered in bulk quantities and USPS Marketing Mail (e.g., primarily advertising mail). Certain of the contestable mail categories are outside the letter monopoly, and PRC only considers these volumes when estimating the value of the mailbox monopoly alone.

<sup>18</sup> For PRC's latest estimates of the effect of laws related to USPS's universal service and public service obligations, and of USPS's delivery and mailbox monopolies, see Postal Regulatory Commission, *Annual Report to the President and Congress*, Fiscal Year 2016.

**Table 1: Postal Regulatory Commission (PRC) Estimates of the Value of the U.S. Postal Service’s (USPS) Letter Delivery and Mailbox Monopolies, 2007-2015 (Dollars in billions)**

Year	Both letter delivery and mailbox monopolies	Mailbox monopoly
2007	\$3.48	\$1.33
2008	2.96	1.07
2009	2.93	0.79
2010	3.33	0.69
2011	3.34	0.91
2012	3.28	0.70
2013	3.93	0.81
2014	4.61	0.77
2015	5.45	1.03

Source: PRC. | GAO-17-543

Note: These values represent the effect on USPS’s net income if its mailbox monopoly or both monopolies were eliminated. Although the value of the combined monopolies is derived by assuming that both the letter delivery and mailbox monopolies are eliminated, and the value of the mailbox monopoly is derived assuming only the mailbox monopoly is eliminated, the value of USPS’s letter delivery monopoly is not able to be determined by simply subtracting the value of the mailbox monopoly from the value of both monopolies. PRC does not estimate the value of USPS’s letter monopoly alone because it is unlikely that a competitor would enter the market to deliver letters that could not be delivered to the mailbox.

In addition to PRC’s efforts to estimate the value of USPS’s monopolies, another study recently examined other financial implications of USPS’s exclusive access to mailboxes.<sup>19</sup> This analysis focused on the benefit that USPS’s exclusive access to mailboxes provides, relative to competitors that are not allowed to place items in mailboxes. In particular, the study examined the extra costs that are involved in door delivery—the main option available to USPS’s competitors—compared to delivery to mailboxes, especially when mailboxes are located at the curbside, in cluster boxes, or centralized mailrooms in large residential and commercial buildings. Using the average costs of door delivery compared to average delivery costs to these other mailbox locations that are less costly to access, the study estimated that USPS’s costs would have been \$14.9 billion greater in fiscal year 2013 if it had to deliver all mail and packages to the door, as its competitors generally do. It is important to note that this work did not measure the value of USPS’s monopolies as

<sup>19</sup> Shapiro, Robert J., *The Basis and Extent of the Monopoly Rights and Subsidies Claimed by the United States Postal Service* (March 2015).

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the reduction in USPS's net revenues if they were to be eliminated; as such, this work is not comparable to PRC's analysis or estimates.

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## Relaxing USPS's Monopolies Could Likely Have Varied Effects

Narrowing or eliminating ("relaxing") USPS's letter delivery and mailbox monopolies could likely have a number of varied effects. While postal stakeholders, experts, and USPS told us that relaxing these monopolies could decrease USPS's revenues and threaten its ability to continue providing universal service as currently implemented, experts stated doing so could also lead to greater efficiencies and innovation. The experiences of selected foreign postal operators and regulators we contacted illustrate that, while some postal operators saw decreases in revenue and losses in market share, some also reported increases in competition and efficiency. Stakeholders, experts, and the experiences of selected foreign posts all suggest that USPS's monopolies and other postal policies are interdependent—particularly the specifics around universal service—and therefore should be considered in tandem. We have previously reported that, given the changing use of mail, many of the statutory and regulatory elements that shape USPS's structure and service—as well as the broader delivery market—might be relevant to reconsider.

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### Postal Stakeholders, Experts, and USPS Believe Relaxing Postal Monopolies Could Reduce USPS's Revenues and Threaten Its Ability to Provide Universal Service

Stakeholders, experts, and USPS told us that narrowing or eliminating the existing letter delivery and mailbox monopolies could likely reduce USPS's revenues and threaten its ability to provide the current level of universal service.

*Stakeholders:* Eight of the 16 stakeholders who responded to our questionnaire stated that the letter delivery monopoly is needed to protect

USPS's ability to continue universal service at affordable rates.<sup>20</sup> In particular, some of these stakeholders said that, if the letter monopoly were narrowed or eliminated, new entrants would be more likely to serve profitable areas, such as cities, and leave less profitable rural areas to USPS—assuming that it were to remain the nation's universal service provider. One postal management organization told us that removing the letter delivery monopoly would result in a devastating shortfall between USPS revenues and its costs related to meeting its universal service obligation.

*Experts:* Likewise, eight of the nine experts we interviewed agreed that relaxing USPS's monopolies would likely result in greater financial burden on USPS, and six of them said that doing so could lead to the need for reduced provision of universal service.<sup>21</sup> Despite this, seven of the nine experts support pursuing such changes to USPS's letter delivery monopoly. Two of the experts favor narrowing—but not fully eliminating—the letter delivery monopoly, and five favor completely eliminating both monopolies.

*USPS and PRC:* USPS stated that narrowing or eliminating the letter delivery monopoly would place significant mail volume and related revenues at risk, compromising its ability to provide high quality, affordable universal service in a financially self-sufficient manner. Further, USPS stated that narrowing or eliminating its letter delivery monopoly would result in competitors diverting the most profitable mail volume, which would significantly accelerate trends that are already very

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<sup>20</sup> Eleven of the 16 stakeholders (e.g., mailing associations, postal unions and management associations, and private companies) oppose any changes to USPS's monopolies. One stakeholder favors the elimination of USPS's monopolies. Four of the 16 stakeholders did not take a position; 2 of these 4 explained that it was difficult for their diverse memberships to reach a position.

<sup>21</sup> In our interviews with postal experts, potential options for narrowing USPS's letter delivery monopoly were discussed including retaining the monopoly for certain types of mail but opening the market for entrants to provide certain other mail (i.e., a distinction between USPS Marketing Mail vs. First-Class Mail), reducing statutory price and weight limits for mail retained within the monopoly, or reducing the scope of federal regulations that define "letter" for the purpose of mail covered. For the mailbox monopoly, most of the experts viewed a 'narrowing' option as one that would only allow new entrants to place items in mailboxes that had been granted a license to do so to ensure safety and security.

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challenging to its financial sustainability.<sup>22</sup> According to USPS, additional decline in mail volumes would pose a fundamental challenge because economies of scale are crucial to its ability to provide a high level of universal service at affordable rates. USPS also told us that there is no basis to conclude that eliminating the letter monopoly is necessary for it to promote efficiency, quality service, and innovative postal products. As in the past, USPS strongly opposes any changes to its letter delivery and mailbox monopolies. While PRC has not taken a position on whether USPS's letter delivery monopoly should be narrowed or eliminated, it reported in 2008 that "...under the current system, the (letter delivery) monopoly is maintained to offset the costs placed on [USPS] by the USO."<sup>23</sup>

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### Most Postal Stakeholders and Experts Agree That Relaxing USPS's Mailbox Monopoly Could Affect Mail Safety, Security, and Efficiency

**Stakeholders:** Nine of the 16 stakeholders believe that narrowing or eliminating USPS's mailbox monopoly could decrease mail security, and they also oppose changes to this monopoly. One mailer association said that the mailbox monopoly provides USPS customers with assurance that their mail is secure. This stakeholder also said that USPS's exclusive access to mailboxes helps facilitate investigations of mail theft and other mail crimes. One of the 16 stakeholders who responded to our questionnaire favors relaxing USPS's mailbox monopoly and stated that it is unnecessary to protect the security of the mailbox, as criminal and civil law punish theft and trespass.

**Experts:** Although seven of the nine experts we interviewed support relaxing this monopoly, four experts cited increased concerns about mail

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<sup>22</sup> According to USPS, due to both the recent recession and electronic diversion of mail, it has experienced a substantial decline in mail volumes over the past decade. Total mail volumes have declined 28 percent since fiscal year 2006, while First-Class Mail volumes have declined by 36 percent in that period (and 40 percent since fiscal year 2000). USPS expects mail volume to continue declining for the foreseeable future.

<sup>23</sup> The estimates that PRC develops for the value of USPS's monopolies and the universal service obligation (USO) are not comparable. While PRC's estimate of the value of USPS's monopolies represents the projected loss in net income USPS would experience if its letter delivery and mailbox monopolies were eliminated, the estimated value of the USO represents the costs that USPS incurs by providing public services or activities it would not provide but for legal requirements, and the revenue not received from free or reduced rates required by law.

security if the mailbox monopoly no longer limited access to USPS's competitors.<sup>24</sup> Two experts stated that having multiple entities with access to the mailbox could cause problems such as cluttering. One expert opposed to relaxing USPS's mailbox monopoly noted that much of the increased delivery to mailboxes—were access to be broadened—would be advertising mail and suggested that it would be questionable to relax this monopoly to primarily facilitate advertising distribution.

*USPS and PRC:* USPS stated that relaxing its mailbox monopoly could negatively affect mail safety and security and that doing so would result in both decreased efficiencies and service performance, and threaten the financing of its universal service obligation. First, USPS stated that removing this monopoly could increase opportunities for criminal activity involving mail and complicate the enforcement of postal laws. USPS added that, in addition to direct harm to consumers and employees who could be harmed by dangerous substances in mailboxes, USPS and the mailing industry could suffer from the resulting lack of public trust in the mail as a secure communication medium. Second, according to USPS, its efficiency and service performance could also be adversely impacted, particularly regarding the delivery of market-dominant mail volumes. For example, increased mailbox clutter due to the presence of items left there by third-parties would mean that USPS letter carriers would have to spend time determining which items to take with them (collection mail) and which to leave behind (items delivered by alternative delivery providers)—or may not be able to fit mail into a mailbox at all. Third, USPS advised that allowing third-party mailbox deliveries could allow competing providers to skim relatively profitable mail volume away from USPS, leaving it with less revenue to finance the costs of its universal service obligation. In regard to the mailbox monopoly, PRC cited its 2008 report, which stated that past public proceedings indicate a broad spectrum of support for its continuation and cited disadvantages to USPS if this monopoly were to be eliminated, including difficulty investigating mail fraud, maintaining mail security, and efficiently collecting mail from cluttered mailboxes.

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<sup>24</sup> Three of seven experts who favor modification of USPS's mailbox monopoly prefer a narrowing—rather than a full elimination—through which competitors would be required to obtain a license to obtain access to mailboxes. The three other experts favor a complete elimination of USPS's mailbox monopoly.

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## Most Postal Experts Believe Relaxing USPS's Monopolies Could Increase Competition, Efficiency, and Innovation

Seven of the nine experts we interviewed said that relaxing USPS's monopolies could create competition in the postal market. Additionally, seven of these experts also said relaxing the monopolies could induce USPS to become more efficient and increase innovation across the postal market. Although experts offered mixed views regarding how much actual entry into the postal delivery market would occur if the letter delivery monopoly were withdrawn, they generally stated that the prospect of competitive pressure would stimulate USPS to be more efficient through both cost-cutting and general restructuring of the organization. One expert told us that such changes would also benefit the economy as a whole. Similarly, some of the experts we interviewed also said that relaxing USPS's mailbox monopoly would have beneficial effects. With regard to USPS's mailbox monopoly, four of the nine experts told us that its elimination would stimulate USPS to be more efficient and six experts said it would stimulate more innovation. For example, one expert noted that the characteristics of mailboxes have changed little in decades and suggested that opening them to competitive providers might bring innovation to the mailbox itself.

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## Some Countries Reported Revenue Losses for Postal Operators, Increases in Competition and Efficiency after Elimination of Monopolies

A number of countries have narrowed or eliminated their postal monopolies over the past two decades as part of overall postal reform that expanded the commercial freedom of their postal services.<sup>25</sup> In responding to our questionnaire requesting information on the effects experienced as a result of modifications to their respective postal

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<sup>25</sup> Notably, countries in the European Union (EU) followed EU directives that narrowed their delivery monopolies over time before eliminating them. A number of these countries had defined their monopolies with limitations based on the price and weight of a mail piece, among other things; the EU issued directives that required its member countries to successively lower the monopoly weight limits over time before eliminating them completely. EU countries also are subject to minimum EU requirements for universal postal service, which were established in 1997. In addition to these developments, some national postal services in Europe and elsewhere have been either partially or fully privatized in recent years.



monopolies, a number of the selected foreign posts and regulators told us that their respective changes resulted in losses of market share, mail volume, and revenues for the incumbent carrier, as well as varying changes in postal rates. Officials from all six of the countries we contacted noted increases in competition; some also cited increases in efficiency as well as improved customer service and performance.

- *Effect on Market Share, Mail Volumes, and Revenue:* Officials from Italy, Germany, and the United Kingdom reported that the liberalization of their postal markets resulted in the incumbent carrier experiencing a loss of market share, volumes, and revenues generated by items previously covered by monopoly. In Germany, Deutsche Post<sup>26</sup> reported that it has lost about 12 percent of market share compared with when it had a full monopoly. In the United Kingdom, Royal Mail and its regulator both reported that, although its market share for letters was minimally impacted, it has lost substantial business from large senders of bulk mail.<sup>27</sup> Officials from Japan, Sweden, and France were unable to confirm whether the liberalization of their countries' respective postal markets resulted in such effects.
- *Effect on Postal Rates:* Officials from Italy and the United Kingdom reported that liberalization of their respective postal markets resulted in changes to some postal rates. Italian officials reported that some of Poste Italiane's rates increased, but its business rates either remained stable or were slightly reduced.<sup>28</sup> In the United Kingdom, Ofcom officials told us that a new regulatory framework was put in place which allowed Royal Mail to rebalance its prices; Royal Mail then increased the price of single piece stamped items substantially in many cases, while bulk mail prices increased to a lesser extent. Officials from Germany, Sweden, and Japan stated that the liberalization of their postal markets did not result in increased prices of services provided by their posts.

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<sup>26</sup> Germany has not formally designated a postal operator with the Universal Postal Union; however, Deutsche Post AG is the practical equivalent, as described below. Deutsche Post AG has been a private company listed on the German stock exchange since November 2000. As of March 2016, the Government of Germany owned about 21 percent of the company's stock.

<sup>27</sup> The United Kingdom's Office of Communications (Ofcom), which is the nation's independent communications regulator including of the postal service, designated Royal Mail as the designated operator required to provide universal service in March 2012.

<sup>28</sup> Poste Italiane, a public company, is the designated universal service provider in Italy.

Many foreign posts also reported that changes to their postal monopolies resulted in increases in competition and efficiency, as well as improvements in customer service and performance. Specifically:

- *Increased Competition:* The post and/or regulator from all six of the countries that we contacted—Sweden, Italy, Japan, Germany, France, and the United Kingdom—said the liberalization of their postal markets resulted in increased competition. According to officials from Italy, competition in the Italian mailing industry increased significantly after liberalization, especially for bulk mail services. French officials said that the number of providers has increased; however, they added that the increase in competition has not been as great as some stakeholders expected and La Poste<sup>29</sup> maintains a dominant market position.
- *Effects on Efficiency of the Collection and Delivery of Mail:* Officials from three countries—Germany, Sweden, and the United Kingdom—reported that the liberalization of their postal markets, which was done in tandem with other postal reforms, resulted in increased efficiency of the collection and delivery of mail. For example, in the United Kingdom, officials from Royal Mail stated that it had to modernize its operations to successfully compete in the current postal market. However, officials from Italy stated that liberalization did not lead to greater efficiencies, as increased competition resulted in a large volume decline for Poste Italiane, which was forced to also maintain a heavily fixed cost structure to meet its universal service obligation.
- *Effects on Customer Service and Performance:* Officials from three countries—Germany, Sweden, and the United Kingdom—stated that the liberalization of their postal market resulted in improved customer service and performance of their posts.<sup>30</sup> According to German officials, the speed and reliability of their nation’s postal services has increased since liberalization. Officials from Royal Mail stated that while it is meeting service targets, the changes to the way in which services are delivered in the United Kingdom (e.g., post delivered later in day or delivery offices relocating) have not always been popular with customers; both residential and business consumers

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<sup>29</sup> La Poste, a limited public company, is the designated postal operator in France. In 2010, La Poste was named as France’s designated postal operator and universal service provider for a period of 15 years, beginning January 1, 2011.

<sup>30</sup> Japan Post’s regulator responded that that it does not know whether the liberalization of its postal market resulted in improved customer service and performance of its postal market.

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have reported slightly higher levels of satisfaction with other postal operators in recent years.

- *Effect on Universal Service Obligation:* Officials from three countries—Germany, Sweden, and the United Kingdom—stated that liberalization of their postal markets did not negatively impact their universal service obligation for postal retail and delivery services. According to German officials, no changes to its provision of universal service or financial support were required. However, officials from Poste Italiane stated that its competitors are free to enter whichever markets they like (i.e., potentially implement cream-skimming policies), a situation that has put the sustainability of their ability to provide universal service at risk.

The experiences of these foreign posts illustrate the variety of effects of making changes to existing postal monopolies. However, it is also important to remember the context in which the posts operate differs greatly from one country to the next—each country is in a unique situation and uses specific measures to address its challenges and opportunities. When compared with other countries, the United States lies in the higher range of universal service obligation scope requirements, especially for quality standards including frequency of delivery and coverage. USPS officials said that some of the effects of liberalization among foreign posts have no bearing in the United States, stating that some of the efficiency advances that other countries have seen in recent years were made long ago in this country. Although we did not directly evaluate the implications of each liberalization experience or how it may apply to the United States, these experiences nonetheless provide important context for the consideration of any changes to USPS's monopolies.

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## There is Broad Consensus That Potential Monopoly Changes Should Be Considered in Tandem with Broader Postal Policies

Postal stakeholders and experts—as well as both USPS and PRC—suggested that any consideration of changes to USPS's letter delivery and mailbox monopolies should take place within the context of broader U.S. postal policy.

*Stakeholders:* Although eleven of 16 postal stakeholders oppose the idea of narrowing or eliminating USPS's monopolies, some noted that additional postal policy issues should be included in discussion of potential changes to the monopolies. For example, one stakeholder who opposes modifying USPS's monopolies said that, if they were to be

changed, policies to ensure universal delivery service would need to be adopted. Another stakeholder stated that no change in law or regulation could offset the adverse consequences that would come from narrowing or eliminating USPS's letter delivery monopoly, but suggested that the financial burden of requiring USPS to prefund retiree health benefits be eliminated. Another postal stakeholder explained that improved security and more thorough background checks would need to be required for businesses that would have access to the mailbox, in addition to laws to which non-USPS firms must adhere when delivering to currently prohibited mailboxes.

*Experts:* All nine of the experts we interviewed said that analysis of possible changes to USPS's monopolies should be conducted in tandem with other postal policy considerations. Experts cited issues such as USPS's universal service obligation, postal pricing flexibility, and the fair application of policies and rules across providers as important for policymakers to consider.

*USPS and PRC:* USPS and PRC also stressed the importance of considering any potential changes to USPS's monopolies within the context of the nation's broader postal policy. USPS officials told us that any modification of its monopolies would require Congress to make significant policy decisions regarding how to ensure that existing postal services could still be achieved in their absence. USPS officials also stated that many foreign posts that have liberalized have not done so in isolation, but rather along with other reforms including government aid and measures to afford the incumbent carriers greater commercial freedom to manage their businesses. PRC staff told us that the scope of the monopoly and the cost of providing universal service are interdependent, such that changes in one alter the value/cost of the other, adding that any changes to the monopoly should carefully consider the relationship of the monopoly and the universal service obligation.

*Foreign Posts and Regulators:* Officials from all six of the countries we contacted told us that, as their respective postal markets were opened to competition from new entrants, the concurrent implementation of other postal policies helped to manage their transition away from their incumbent providers' monopolies. For example, officials from the United Kingdom stated that The Postal Services Act of 2011 privatized Royal Mail and gave it complete commercial freedom to raise funds for modernization; Royal Mail was also relieved of its pension deficit of 10 billion pounds. In Italy, policymakers decreased the scope of Poste Italiane's universal service obligation to enable it to maintain its

obligations as competition increased in the market. According to officials from the postal regulator in Japan, the Japan Post was granted greater freedom to establish prices for first and second class mail items as part of the process of the liberalization of the Japanese postal market.<sup>31</sup>

We have previously reported that action by Congress and USPS is urgently needed on a number of difficult issues to facilitate progress toward USPS's financial viability. The significant deterioration in USPS's financial condition, its increasing debt, and the grim forecast for declining overall mail volumes over the next decade led GAO to add USPS's financial condition to its High-Risk List in 2009.<sup>32</sup> Moreover, the financial condition of USPS is but one outcome of the changing landscape of the postal sector. We reported in 2010 that, given the changing use of mail, many of the statutory and regulatory elements that shape USPS's structure and service—as well as the broader delivery market—might be relevant to reconsider.<sup>33</sup> These include (1) the appropriate universal service obligation, in light of fundamental changes in the use of mail; (2) whether USPS requires a monopoly over delivery of certain types of letter mail and access to mailboxes to finance—in part or wholly—its universal postal service obligation; and (3) whether USPS should be solely responsible for providing universal postal service, or whether that responsibility should be shared with the private sector. Such considerations may assist Congress, USPS, and other postal stakeholders as they work not only on issues related to the letter delivery and mailbox monopolies, but also to address USPS's financial difficulties and define its future role in an evolving postal marketplace.

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## Assessing the Impact of Laws that Apply Differently to USPS and Private Competitors Would Involve Various Considerations

We have reported that, as long as it remains a federal entity protected by the postal monopoly, USPS's ability to compete with the private sector

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<sup>31</sup> Japan Post was established as a private company responsible for universal postal services since 2007.

<sup>32</sup> GAO, *U.S. Postal Service: Strategies and Options to Facilitate Progress toward Financial Viability*, [GAO-10-455](#) (Washington, D.C.: Apr. 12, 2010).

<sup>33</sup> [GAO-10-455](#).

should be balanced with appropriate oversight and adequate legal standards to ensure fair competition.<sup>34</sup> In this regard, some postal stakeholders have maintained that USPS has competitive advantages because it is exempt from some laws governing the private sector. On the other hand, USPS has reported that it is subject to statutory requirements to which its private competitors are not. Given these differences, it is important to understand the constraints and limitations that would complicate the process of arriving at estimates that would be useful for policymakers. To help summarize the key considerations that would need to be addressed to estimate the value of USPS's financial advantages and burdens resulting from laws that apply differently to USPS and its private competitors, they are organized into four broad categories: (1) objectives to study, (2) scope to be covered, (3) methodology to be used, and (4) reporting.

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### Study Objectives Would Need to Be Defined

Consistent with government auditing standards, it would be important for anyone examining the laws that apply differently to USPS and its private competitors to carefully define the objectives of the study. As explained by those standards, the objectives for any future study could be framed as questions that the organization conducting the research would seek to answer. Developing these questions is a critical step, as their answers will guide decisions on what specific information will be needed for reporting, which in turn will identify the parameters of the study's scope and methodology and lay the framework for the context in which the findings are presented.<sup>35</sup> Objectives for such a study could be defined as questions related to the following:

- What are the financial effects of laws that apply differently to USPS and its private competitors on ***USPS's net income?***

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<sup>34</sup> GAO, *U.S. Postal Service: Key Elements of Comprehensive Postal Reform*, [GAO-04-397T](#) (Washington, D.C.: Jan. 28, 2004).

<sup>35</sup> GAO, *Government Auditing Standards: 2011 Revision*, [GAO-12-331G](#) (Washington, D.C.: December 2011).

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- What are the financial effects of laws that apply differently to USPS and its private competitors on ***USPS's competitive mail products?***<sup>36</sup>
  - What are the financial effects of laws that apply differently to USPS and its private competitors on ***both USPS and its private competitors?***

As these questions demonstrate, a study's objectives can become increasingly complex, requiring more and varied sources of information.

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### Scope Decisions Would Involve Multiple Considerations

Defining the scope of any study is critical because, according to the government auditing standards, the scope defines aspects of the subject matter to be studied and other key data collection considerations—such as the period of time reviewed and the type of data to be collected, among other things. Scoping considerations for this type of study would include, for example: (1) which laws to include, (2) whether to include data already studied or collect new data, (3) how to address the difficulty in quantifying some effects, and (4) how to handle differing stakeholder views on scope.

#### **Many Laws Apply Differently to USPS Than to Its Competitors**

Many laws apply differently to USPS and its competitors (see table 2). FTC found that some laws have positive financial effects on USPS, while others have negative financial effects. These laws also affect private competitors; for example, USPS's letter and mailbox monopolies limit the types of items competitors can deliver and where they can leave items. The number and type of laws to be included in such a study would affect its approach and eventual results. For example, significant time and resources would be required for a study to estimate the financial effects for all laws that apply differently to USPS and its competitors—as well as the net effect of these legal differences. If results were needed more immediately—or if financial resources were limited—decisions would need to be made to narrow the scope.

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<sup>36</sup> USPS's competitive mail products mainly include Priority Mail Express, Priority Mail, First-Class Package Service, Parcel Select, USPS Retail Ground, Parcel Return Service, and some types of International Mail.

**Table 2: Analysis and Application of Selected Laws, Taxes, and Fees on the U.S. Postal Service (USPS) and its Private Competitors**

Citation(s)	Description
<p><b>Letter mail monopoly</b> 18 U.S.C. §§ 1693-99 and 39 U.S.C. §§ 601-06</p>	<p>USPS’s letter delivery monopoly is codified in criminal and civil laws known as the Private Express Statutes. These laws generally prohibit anyone from establishing, operating, or using a private company to carry letters for compensation on regular trips or at stated periods over postal routes or between places where mail regularly is carried.</p> <p>This means that competing private delivery companies can only deliver items (e.g., packages) not covered under this monopoly.</p>
<p><b>Mailbox monopoly</b> 18 U.S.C. § 1725</p>	<p>Restricts access to mailboxes by prohibiting anyone from intentionally placing mailable matter without postage in any mailbox, essentially granting USPS exclusive access to mailboxes. USPS’s private competitors cannot deposit such items in mailboxes.</p>
<p><b>Assumed federal income tax on competitive products</b> 39 U.S.C. § 3634</p>	<p>USPS is required to annually compute its assumed federal income tax on competitive products income, which represents the amount of net income that would be imposed if USPS were assessed such taxes, and transfer this amount from its Competitive Products Fund to its Postal Service Fund.</p> <p>According to the Federal Trade Commission’s 2007 report, USPS’s competitors are subject to federal income tax—a tax that is to be paid to the U.S. Treasury.</p>
<p><b>Tax/fee exemptions</b> U.S. Const. art. VI, cl. 2.</p>	<p>Generally, states may not impose taxes directly on the federal government, thus exempting USPS from state taxes. According to FTC’s 2007 report, various state and local taxes have not been applied to USPS, such as state and local income taxes, property and real estate taxes for USPS-owned properties, sales and use taxes, vehicle registration fees, tolls, state franchise taxes, business licensing fees, franchise fees, and business taxes.</p> <p>The Federal Trade Commission further noted that these state and local taxes can be applied to USPS’s competitors.</p>
<p><b>Borrowing authority</b> 39 U.S.C. § 2005</p>	<p>USPS has the authority to borrow up to \$15 billion from the U.S. Treasury, unlike its private competitors. However, although the Treasury is authorized to approve the issuance of USPS obligations to private creditors, it does not do so, as a matter of policy, according to USPS.</p>
<p><b>Regulatory authority</b> 39 U.S.C. § 401(2)</p>	<p>USPS has the authority to issue federal postal regulations, unlike its private competitors. For example, USPS has issued regulations further defining the scope of its mailbox monopoly.</p>
<p><b>Power of eminent domain/ payment of debt priority</b> 39 U.S.C. § 401(9)</p>	<p>USPS has the authority to exercise the power of eminent domain and the possession of the priority of the United States with respect to the payment of debts out of bankruptcies, insolvencies, and estates.</p> <p>USPS’s private competitors are not authorized to exercise eminent domain.</p>
<p><b>Protection from damages related to U.S. mail delivery</b> 28 U.S.C. § 2680(b)</p>	<p>No claims can be made arising out of the loss, miscarriage, or negligent transmission of letters or postal matter—that is, items handled by USPS.</p> <p>This specific restriction does not apply to items handled by USPS’s competitors.</p>
<p><b>Postal law enforcement</b> 39 U.S.C. § 204, 18 U.S.C. § 3061</p>	<p>The U.S. Postal Inspection Service—the law enforcement, crime prevention, and security arm of USPS—investigates postal-related crimes including mail theft, mail fraud, and postal robberies, among others.</p> <p>Other law enforcement agencies also investigate theft of items being handled by USPS, as well as its competitors.</p>



Citation(s)	Description
<b>Geographic scope of service</b> 39 U.S.C. §§ 101(a), 403(a)	USPS is required to provide prompt, reliable, and efficient services to patrons in all areas, to render postal services to all communities, and to service as nearly as practicable the entire population of the United States. USPS is specifically required to receive, transmit, and deliver written and printed matter, parcels, and like matter throughout the United States, its territories and possessions, and pursuant to international agreements, throughout the world.  The specific requirements summarized above do not apply to USPS's private competitors.
<b>Degree of service</b> 39 U.S.C. § 101(b)	USPS is required to provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office can be closed solely for operating at a deficit.  These specific requirements do not apply to USPS's private competitors.
<b>Mail delivery</b> 39 U.S.C. § 101(e),(f); Pub. L. No. 114-113 (2015)	In determining all policies for postal services, USPS is required to give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail. In selecting modes of transportation, USPS is required to give the highest consideration to the prompt and economical delivery of all mail.  For many years, provisions in annual appropriations acts have stated "[t]hat 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level."  These specific requirements do not apply to USPS's private competitors.
<b>Uniform rates</b> 39 U.S.C. §§ 404(c), 3683	USPS is required to provide uniform postal rates for certain types of mail, including at least one class of mail sealed against inspection (which traditionally has been fulfilled by First-Class Mail), Media Mail, and Library Mail.  Such requirements do not apply to USPS's private competitors.
<b>Nonprofit rate discount</b> 39 U.S.C. § 3626	USPS is required to provide reduced rates for nonprofit periodicals and for advertisements sent by nonprofit organizations and qualifying national and state political committees.  Such requirements do not apply to USPS's private competitors.
<b>Alaska Bypass mail</b> 39 U.S.C. § 5402	USPS is required to provide Alaska Bypass service, which allows mailers to ship goods and other cargo on pallets directly to rural customers in Alaska, bypassing USPS's network. USPS pays for the cost of air transportation from hub airports to Alaska bush sites.  Such requirements do not apply to USPS's private competitors.
<b>Collective bargaining</b> 39 U.S.C. §§1004,1206-07	USPS negotiates collective bargaining agreements with its labor unions. If they are unable to agree, binding arbitration by a third-party panel will ultimately be used to establish agreement. USPS is also statutorily required to consult with postal supervisory and managerial organizations concerning changes in pay, benefits, and other programs that affect their membership.  These specific requirements for the collective bargaining process do not apply to USPS's private competitors.
<b>Benefit programs</b> 5 U.S.C. §§ 8301 et seq., 8401 et seq., and Chapter 89; 39 U.S.C. §§ 1005(d), 1005(f)	USPS is required to participate in federal pension and health benefit programs, with specific provisions regarding the required level of USPS's funding of these programs and retiree health benefits coordinate with Medicare. The law requires USPS's fringe benefits to be at least as favorable as those in effect when the Postal Reorganization Act of 1970 was enacted.  These specific requirements governing pension and health benefits do not apply to USPS's private competitors.
<b>Pricing restrictions</b> 39 U.S.C. § 3622(d)	An inflation-based price cap generally limits rate increases for market-dominant products, including First-Class Mail, USPS Marketing Mail, Periodicals and Package Services such as Bound Printed Matter, Media Mail, and Library Mail.  Such requirements do not apply to USPS's private competitors.

Citation(s)	Description
<b>Funding of regulatory/oversight agencies</b> 39 U.S.C. §§ 504(d), 2003(e)	USPS is required to fund the Postal Regulatory Commission, the Postal Inspection Service, and the USPS Office of the Inspector General.  USPS's private competitors are not required to fund the federal agencies that have authority to regulate and investigate them.
<b>Federal purchase laws</b> 39 U.S.C. § 410	USPS is required to comply with specific laws that relate to federal purchases of products and services, such as the Davis-Bacon Act. <sup>a</sup>  Such requirements do not apply to USPS's private competitors.
<b>Workers' compensation</b> 5 U.S.C. §§ 8101 et seq.; 39 U.S.C. § 1005(c)	USPS is required to participate in the federal workers' compensation program, which covers postal and other federal and provides compensation to federal employees, as well as dependents, in the event of an employee's death.  USPS's private competitors and employees are covered by state-based workers' compensation laws and programs.

Source: GAO analysis based on the U.S. Code and Federal Trade Commission, *Accounting for Laws that Apply differently to the United States Postal Service and Its Private Competitors* (Washington, D.C.: December 2007), Postal Regulatory Commission, *Report on Universal Postal Service and the Postal Monopoly* (Washington, D.C.: Dec. 19, 2008), Postal Regulatory Commission, *Annual Report to the President and Congress: Fiscal Year 2016* (Washington, D.C.: January 2017). | GAO-17-543

Note: The Federal Trade Commission found in 2007 that some laws have positive financial effects on the U.S. Postal Service (USPS), while others have negative financial effects. See Federal Trade Commission, *Accounting for Laws that Apply differently to the United States Postal Service and Its Private Competitors* (Washington, D.C.: December 2007). This table includes selected laws, taxes, and fees that were identified by the Federal Trade Commission in its 2007 report, by USPS and other stakeholders in the public proceeding for that report, by PRC in its 2008 report, as well as in responses to GAO for this review.

<sup>a</sup>Under the Davis-Bacon Act, USPS's contracts for public buildings and public works in a given local area worth more than \$2,000 must require the contractors involved to pay all the laborers and mechanics they employ on those contracts the prevailing wage for that area, as calculated by the U.S. Department of Labor. See 40 U.S.C. §§ 3141-3147; 39 U.S.C. § 410(b)(4)(A).

The analysis of what laws to include and their impact on USPS's operations is further complicated because while some laws appear to provide USPS with financial advantages, whether or not they actually do may depend on how they are interpreted and applied in practice. For example, FTC's 2007 report stated that, although some jurisdictions refrain from ticketing its vehicles, USPS has agreed to pay parking fines in other jurisdictions; it is unclear whether USPS vehicles are exempt from being ticketed.<sup>37</sup> In another area, the FTC report found that USPS benefits from "disparate customs treatment," but did not offer explanation for the reasoning behind this finding. Further, postal pension and retiree health benefit fund assets for postal retirees are in funds that by law are required to be invested solely in Treasury securities,<sup>38</sup> which are backed by the full faith and credit of the federal government. In contrast, private companies can and do invest retirement funds in more diversified portfolios.

<sup>37</sup> Federal Trade Commission, *Accounting for Laws that Apply differently to the United States Postal Service and Its Private Competitors* (Washington, D.C.: December 2007).

<sup>38</sup> 5 U.S.C. §§ 8348(c), 8909a(c).

### **Use of Findings from Other Studies**

Another consideration is what information to include from previous studies. One would have to decide whether or not to use PRC's annual estimates and reports on the financial effects on USPS of laws related to its universal service and public service costs and the value of USPS's monopolies.<sup>39</sup> In postal labor negotiations, USPS has presented the result of studies on the comparability of postal wages and benefits with the private sector; however, the results have been contested by major postal labor unions involved in collective bargaining.

### **Challenges in Quantifying Some Effects**

In some cases, effects may be challenging to quantify—in part because they have not been previously quantified, and in part due to the complexity of developing estimates. For example, FTC's 2007 report that estimated the effects of laws on USPS wages did not attempt to estimate the financial effects of every law. FTC's report stated it would have been difficult to quantify the effects of some laws, such as USPS's ability to obtain property through eminent domain and disparate customs treatment for USPS and its competitors. Overcoming these challenges may require additional time and resources, as well as the acceptance of risk beyond the control of the team conducting the study, such as lack of available data.

### **Addressing Differing Stakeholder Views on Scope**

Key postal stakeholders hold differing views on what the scope of a potential study might be. For example, although National Association of Letter Carriers (NALC)<sup>40</sup> officials told us that NALC does not see any need for an update to the 2007 FTC report, they added that such an update should not attempt to study the comparability of USPS wages to the private sector. NALC officials explained that postal unions have negotiated and debated with USPS over the definition of "comparability"

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<sup>39</sup> For PRC's latest estimates of the effect of laws related to USPS's universal service and public service obligations, and of USPS's delivery and mailbox monopolies, see PRC, *Annual Report to the President and Congress: Fiscal Year 2016* (Washington, D.C.: January 2017).

<sup>40</sup> NALC represents carriers who deliver mail on city routes.

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and “comparable levels of work.”<sup>41</sup> NALC officials added that there is no one objective or scientific definition of these terms, which must be negotiated by the parties in the face of changing circumstances and debate, and stated that the collective bargaining table is the appropriate venue for this debate. In contrast, USPS officials told us that any future study should estimate the comparability of both USPS wages and benefits to the private sector.

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## Methodology Considerations Would Involve Judgments

Government auditing standards state that a study’s methodology describes the nature and extent of procedures for gathering and analyzing evidence needed to address its objectives, which should be sufficient and appropriate to support findings to reduce the risk of improper conclusions.<sup>42</sup> When deciding upon a study’s methodology, one would need to address such challenges as (1) lack of consensus on methodology options, (2) constraints on time and resources, and (3) limitations on publicly available data and supporting documentation. The decisions made about how to address these challenges would help determine the usefulness of the estimates to policymakers.

### Lack of Consensus of Methodology Options

No consensus exists on the most appropriate methodology that should be used to estimate the financial effects of certain laws that apply differently to USPS and its competitors. For example, USPS officials told us that there is no generally accepted consensus on how to measure the comparability of postal wages and benefits and said it has used numerous methodologies over the years to make estimates in this area. A NALC official explained that USPS and postal unions have long disagreed on the definition of “comparability” and “comparable” levels of work. Depending on how a study approaches this issue, it could affect decisions about methodology and data. USPS has preferred to define comparability as the level of USPS wages and benefits for different jobs performed by

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<sup>41</sup> USPS is required to achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in the private sector. 39 U.S.C. § 101(c). USPS also is required to have a policy of compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. 39 U.S.C. § 1003.

<sup>42</sup> [GAO-12-331G](#).

USPS relative to similar jobs performed by companies in the entire private sector (e.g., similar jobs performed by USPS competitors and mail processing jobs performed by private companies in the mailing industry), while the postal unions have preferred to compare USPS with its large competitors such as United Parcel Service (UPS) and FedEx.

### **Potential Constraints on Time and Resources**

Some methodologies would require considerable time and resources to collect the necessary data, and any constraints in these areas may influence the choice of methodology. A study estimating the financial effects of all laws that apply differently to USPS and its private competitors would require significant time and resources; if estimates were desired in a shorter time frame—or if financial resources were limited—tradeoffs would be required. For example, USPS officials told us that, when estimating the value of USPS's exemption from property and real estate taxes for USPS-owned properties, the most appropriate data would be the current assessed value of each USPS-owned property and the current applicable tax rate(s). However, they noted that USPS does not have data on the assessed value for its owned properties. They estimated that collecting data on a valid sample of USPS-owned properties<sup>43</sup> would require specialists such as tax assessors and appraisers, and cost \$7.6 million to \$9 million—an amount they deemed to be cost-prohibitive.<sup>44</sup> With respect to estimating wage and benefit comparability, USPS officials stated that the different types of work performed by postal employees in the various bargaining units does not lend itself to a one-size-fits-all approach to private sector comparability or a single answer for all USPS employees. They said that USPS has generally used multiple methodologies to estimate wage and benefit

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<sup>43</sup> In fiscal year 2016, USPS reported that it owned 8,484 properties with 192.5 million interior square feet, such as post offices and mail processing facilities. USPS also reported that it leased 23, 214 properties with 78.7 million interior square feet. See USPS, *United States Postal Service FY2016 Annual Report to Congress* (Washington, D.C.: December 2016).

<sup>44</sup> This amount did not include the cost to develop data on the value of USPS personal property such as sorting equipment, or to collect data on what the state and/or local property tax rates would be for each USPS property or piece of equipment. Further, USPS officials said that the appropriate benchmark for estimating the financial effect of its exemption would be the amount that USPS would pay relative to its competitors if both were fully subject to these taxes, a process that would require collecting information on the dollar value of any exemptions that USPS's private competitors receive.

comparability in each collective bargaining proceeding.<sup>45</sup> They also noted that some of these methodologies require a high degree of expertise and/or subject matter knowledge, such as expertise in statistical or regression analyses, as well as specialized knowledge and experience in employee compensation and wage determination. These factors have implications for the time and resources that would be required to estimate wage and benefit comparability.

Additionally, USPS officials said that collecting data on the value of USPS's exemption from vehicle registration fees would require a review of state registration fees for each state and vehicle type, as well as other information.<sup>46</sup>

### **Limitations on Public Data and Supporting Documentation**

Some USPS data and documentation that could be useful for a future study may not be publicly available, either because USPS has not been asked to disclose it in public proceedings or because it is considered exempt from public disclosure. For example, USPS is not required to disclose information prepared for use in connection with the negotiation of collective bargaining agreements, which would include USPS studies of

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<sup>45</sup> USPS has four major postal labor unions. As noted above, NALC represents city delivery carriers. The National Rural Letter Carriers Association represents rural delivery carriers, the American Postal Workers Union represents clerks, maintenance employees, motor vehicle operators, and non-mail processing professional employees, and the National Postal Mail Handlers Union represents mail handlers who load, unload, prepare, sort and containerize mail for delivery. USPS said specific methodologies it has used in collective bargaining proceedings with these unions have included (1) matching postal bargaining unit jobs with similar work in the private sector requiring similar skills, and using wage surveys to compare postal compensation with private sector compensation; (2) using a Department of Labor database to compare postal wages to the pay of private sector employees with similar skill levels, as well as comparing skill levels of postal employees with private sector employees who make similar pay; (3) looking at mailers who use "drop shipping" (transporting mail to a destination facility or delivery unit) because it is less expensive for them to bypass most of the postal delivery network and do the work themselves than to pay full postal rates; (4) looking at companies that consolidate mail from multiple sources and presort it for entry into USPS's system at a discount, which USPS said pay significantly less than postal wages for mail processing work; (5) reviewing job postings from direct competitors like FedEx and UPS for positions where the work is similar; and (6) examining quit rate data of postal bargaining unit employees and comparing it to private sector quit rate data.

<sup>46</sup> USPS's vehicle fleet includes more than 227,000 vehicles used for delivery, transport, administrative, and other purposes. See USPS, *United States Postal Service FY2016 Annual Report to Congress* (Washington, D.C.: December 2016).

wage and benefits comparability prepared for such negotiations.<sup>47</sup> While data and documentation relating to USPS's competitive products could be instrumental to evaluating any specific financial effects of legal advantages and disadvantages on competitive products, USPS often classifies this information as proprietary and does not disclose it publicly.<sup>48</sup> In addition, according to USPS officials, certain data may need to be collected from USPS's private competitors who may consider such data to be proprietary and exempt from public disclosure, such as trade secrets.<sup>49</sup> Thus, it is unclear whether these data and their supporting documentation would be available to certain organizations conducting such a study and, if so, under what circumstances and with what limitations they may be able to be discussed in a publicly-available report.

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## Reporting Considerations

In order for estimates to be as useful as possible to readers, the report would need to include sufficient information to allow for informed discussion about the results. Government auditing standards state that a report should disclose the objectives, scope, and methodology—as well as the results, including findings and conclusions. According to these standards, readers need this information to understand the study's purpose, the nature and extent of the research, context and perspective on what is reported, and any significant limitations.<sup>50</sup> In addition, the standards also state that a report should describe the scope of the work performed and any limitations, including issues that would be relevant to readers, so they can reasonably interpret the findings, conclusions, and recommendations without being misled. Further, according to government auditing standards, a report should also discuss any significant

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<sup>47</sup> 39 U.S.C. § 410(c)(3).

<sup>48</sup> USPS is not required to disclose information of a commercial nature which under good business practice would not be publicly disclosed. 39 U.S.C. § 410(c)(2).

<sup>49</sup> Trade secret information is generally defined as information for which the owner has taken reasonable measures to keep secret and the information derives independent economic value from not being generally known by the public. See 18 U.S.C. § 1839. See also GAO, *Department of Commerce—Property Implications of Proposed Transition of U.S. Government Oversight of Key Internet Technical Functions*, B-327398 (Washington, D.C.: Sept. 12, 2016). Officers or employees of the United States, under penalty of criminal sanctions, are prohibited from disclosing proprietary information except as authorized by law. 18 U.S.C. §1905.

<sup>50</sup> [GAO-12-331G](#).

constraints imposed on the approach by information limitations or scope impairments, which might include data that were unavailable due to restrictions on time or resources. This discussion would help readers understand how much confidence to place in the findings.

To put the importance of such reporting into context, USPS and many postal stakeholders have made various proposals over the years to change laws that apply differently to USPS and its competitors. A wide range of reasons have been given in support of such proposals, such as enhancing USPS's financial position, assuring the continuation of universal postal service or revising the universal service obligation to better meet changing customer needs, and assuring fair competition. Regardless of the reasons behind any given proposal, estimating the potential financial effects of specific laws could provide Congress and other stakeholders with information that could be used to consider possible changes to these laws. Estimates of the effects of certain laws on USPS, specifically on its competitive products, and on these products relative to its competitors could be different in their nature and timeframes than the information regularly provided by the Congressional Budget Office (CBO) on the estimated financial effects of proposed laws on federal government revenues and expenses.<sup>51</sup>

Considering the longstanding disagreements over controversial issues in this area, it would be particularly helpful for such a study to be conducted by an independent party free of conflicts of interest. Any party tasked with such an undertaking would require sufficient time and resources to produce estimates of sufficient precision to prove useful for decision makers and facilitate broad stakeholder acceptance and use of the results.

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<sup>51</sup> CBO estimates are generally prepared for proposed legislation that has been reported by a full committee of the U.S. House of Representatives or of the U.S. Senate, other than the House and Senate Committees on Appropriations, and often have a 10-year horizon.



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## Agency Comments and Our Evaluation

We provided a draft of this report to USPS, PRC, FTC, and the U.S. Department of Justice (DOJ) for review and comment prior to finalizing the report. FTC and DOJ did not have any comments on the report. We received written comments from USPS, which are reproduced in appendix III. USPS and PRC separately provided technical comments, which we incorporated as appropriate.

In its written response, USPS stated that it appreciated our effort to develop an understanding of its monopolies in supporting secure and affordable universal postal service and other postal policy goals. However, USPS disagreed with aspects of our discussion of (1) the impact of relaxation of foreign postal monopolies, (2) PRC's estimates of the value of USPS's letter delivery and mailbox monopolies, (3) the 2015 paper by Robert Shapiro, and (4) selected laws that apply differently to USPS and its competitors.

In its comments, USPS stated that it appreciated our efforts to obtain views from a broad cross-section of postal stakeholders, although it stated that it does not agree with all of the perspectives expressed. USPS emphasized that, while some believe that narrowing or eliminating its monopolies might have some beneficial effects, it believes doing so would divert revenue away from USPS, compounding its financial pressures. USPS also wrote that, in the current financial environment, it would not be responsible for policymakers to implement such changes while maintaining the USO in its current form. Our report acknowledges these points and states that postal stakeholders and experts agree that actions to narrow or eliminate USPS's monopolies could reduce its revenues, placing a greater financial burden on USPS and threatening its ability to provide universal service.

Regarding the relaxation of foreign postal monopolies, USPS emphasized that other reforms were made in tandem with changes to postal monopolies in other countries, including government aid and changes to afford the incumbent carrier greater commercial freedom to manage its businesses. Although our draft report stated that we found broad consensus among postal stakeholders and experts—as well as both USPS and PRC—that any potential changes to USPS's monopolies should be considered in tandem with broader postal policies, we updated our report to include additional context in response to USPS's comments.

USPS took issue with the information provided by officials from foreign posts and regulators that the narrowing or elimination of their monopolies resulted in increased efficiency, and noted that many other postal policies were undertaken at the same time, as discussed above. Moreover, USPS wrote that the effects of postal liberalization in other countries has no bearing upon USPS because some of the efficiency advances that other countries have seen in recent years were realized many years ago in the United States. Our report states that it is important to remember the context in which the posts operate differs greatly from one country to the next, and that each country is in a unique situation and uses specific measures to address its challenges and opportunities. At the same time, we state that although we did not directly evaluate the implications of each liberalization experience or how it may apply to the United States, the experiences nonetheless provide important context for the consideration of any changes to USPS's monopolies. For additional context, we also updated our report to include USPS's perspective on this issue.

In its letter, USPS also suggested further clarification regarding our discussion of certain aspects of PRC's estimates of the value of USPS's monopolies. In response to USPS's suggested clarification of PRC's estimates presented in table 1, we added a note to make it clear that, while PRC's estimates presented in the table represent the effect on USPS's net income if its mailbox monopoly or both monopolies were to be eliminated, it is not the case that subtracting the estimated value of the mailbox monopoly from the estimated value of the combined letter delivery and mailbox monopolies provides the value of the letter delivery monopoly alone. In addition, USPS also expressed concern that the discussion of the 2015 paper by Robert Shapiro could wrongly imply equivalent credibility to the work performed by PRC. We recognize this concern. Our report states that Shapiro's work did not measure the value of the monopolies as the reduction in USPS's net revenues if they were to be eliminated, but rather focuses on other financial implications of the mailbox monopoly. We further state that the Shapiro work is not comparable to that conducted by PRC.

Regarding our summary of selected laws that apply differently to USPS and its competitors, USPS found it to be relatively thorough, but offered a series of technical comments and suggested additional laws that could be added to the summary. We incorporated technical comments to this section, as appropriate. However, we did not include any additional laws, as our intent was not to provide an exhaustive summary of laws, taxes, and fees that apply differently to USPS and its private competitors.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Postmaster General, the Chairman of PRC, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or [rectanusl@gao.gov](mailto:rectanusl@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff making key contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Lori Rectanus". The signature is written in a cursive, flowing style.

Lori Rectanus  
Director  
Physical Infrastructure Issues

## Appendix I: Objectives, Scope, and Methodology

Our objectives were to assess: (1) what is known about the value of the U.S. Postal Service's (USPS) letter delivery and mailbox monopolies, (2) views on the potential effects of narrowing or eliminating these monopolies; and (3) considerations that would need to be addressed to estimate the value of USPS's financial advantages and burdens resulting from laws that apply differently to USPS and its private competitors.

To determine what is known about the value of USPS's letter delivery and mailbox monopolies, we reviewed relevant literature, and discussed existing estimates with postal experts. Specifically, we reviewed the Postal Regulatory Commission's (PRC) 2016 annual report, which includes an estimate of the value of the postal monopolies, as well as PRC's original 2008 study that described the effort's methodology in depth. We also reviewed several other studies conducted by other researchers soon after the 2006 enactment of The Postal Accountability and Enhancement Act (PAEA), studies that either described methods for analyses or actually conducted analyses of the value of USPS's monopolies. In addition to reviewing PRC's studies, we also met with PRC staff to further discuss aspects of its analyses. Further, we reviewed a study authored by Dr. Robert Shapiro entitled *The Basis and Extent of the Monopoly Rights and Subsidies Claimed by the United States Postal Service*, which discusses other financial implications of USPS's mailbox monopoly. Finally, we discussed both the analysis conducted by PRC and Dr. Shapiro's study with the nine postal experts we interviewed to obtain their views on the methods and findings of these studies.

To identify the potential impacts of narrowing or eliminating USPS's letter delivery and mailbox monopolies, we took a series of steps. First, we created and distributed a questionnaire to 21 postal stakeholder organizations ("stakeholders") that (1) testified and filed comments during the public comment solicitations as part of the work of the 2003 President's Commission on the USPS; (2) provided testimony or comments to PRC on universal service and the postal monopoly, and (3) GAO previously surveyed during audit work conducted in support of the prior GAO report titled *U.S. Postal Service: Strategies and Options to*

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*Facilitate Progress toward Financial Viability.*<sup>1</sup> We initially selected and contacted 25 organizations—including postal unions, management associations, mailing associations, and private companies—to which it was planned to distribute the questionnaire. Subsequently, GAO learned that two of these stakeholders were no longer in existence and that two of them had merged into a single organization, resulting in a list of 21 stakeholders who received a copy of the questionnaire. GAO pretested this questionnaire with two stakeholders to ensure that it was clearly worded, unbiased, comprehensive, and that terminology was used correctly and made changes to the content of the questions in response. GAO received responses from 16 of the 21 stakeholders—a response rate of 76.2 percent—11 of which were completed questionnaires and 5 were comprised of correspondence answering some or all the questions posed. We also provided this questionnaire to USPS and PRC, both of whom completed it. In addition, we also conducted structured interviews with nine postal experts to obtain their views on the potential impacts of narrowing or eliminating USPS’s monopolies. Many of these experts were identified as postal consultants and individuals who worked on or commented on PRC’s 2008 report on universal service and the postal monopoly;<sup>2</sup> others were recommended by stakeholders or agency officials. We determined through a literature search and prior audit work that each expert has substantial knowledge and experience in postal issues. We created and pretested an interview guide with two experts to ensure that questions were accurate, clear, and unbiased, and made changes in response. We analyzed the responses received from postal stakeholders and experts and summarized both their reasons for favoring, opposing, or holding no position on whether USPS’s monopolies should be narrowed or eliminated and what they believed the potential effects of doing so may be. While the responses from the judgmentally-selected group of postal stakeholders and experts are not generalizable, they provide a wide range of views among those who have previously expressed views on the postal monopoly and related policy issues—and represent some of the key groups with whom Congress interacts when developing postal policy.

Further, to determine what have been the experiences of foreign postal administrations in selected industrialized countries that have narrowed or

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<sup>1</sup> GAO, *U.S. Postal Service: Strategies and Options to Facilitate Progress Toward Financial Stability*, [GAO-10-455](#) (Washington, D.C.: Apr. 12, 2010).

<sup>2</sup> PRC, *Report on Universal Postal Service and the Postal Monopoly* (Washington, D.C.: Dec. 19, 2008)

eliminated its postal monopolies, we collected information from the top 20 major postal markets, as determined by the Universal Postal Union (UPU), a specialized agency of the United Nations that coordinates international postal policies. Using this information, we identified countries (1) with the largest global shares of postal revenue and domestic mail, (2) with developed economies (classified by their level of development as measured by per capita gross national income);<sup>3</sup> and (3) have fully liberalized their postal monopoly laws. Based on these criteria, we selected six countries—Germany, France, Japan, Italy, Sweden, and the United Kingdom. Using a list of contacts provided by PRC officials, we sent requests to both the postal administration and regulator in each of these six nations to obtain information regarding their respective liberalization experiences. While the responses from foreign postal operators and their regulators in these judgmentally-selected countries are not generalizable, they provide information and perspectives that complement the views of experts and American postal stakeholders on the potential effects of narrowing or eliminating the USPS monopolies.

To identify considerations that would need to be addressed to estimate the value of USPS's financial advantages and burdens resulting from laws that apply differently to USPS and its private competitors, we reviewed criteria from the Government Auditing Standards.<sup>4</sup> These standards provide a framework for performing high-quality performance audits, including establishing an overall approach to obtain reasonable assurance that the evidence is sufficient and appropriate to support the findings. In addition, we reviewed relevant laws and a 2007 Federal Trade Commission (FTC) report<sup>5</sup> and obtained information from FTC on how some of its estimates were compiled. We identified and focused upon four of the largest financial effects of USPS's legal status estimated in the 2007 FTC report: the comparability of USPS and private sector wages and USPS's exemptions from property real estate taxes, sales and use taxes, and vehicle registration fees, and obtained information on how these estimates were compiled. We contacted USPS and four postal industry stakeholders who had submitted comments in the FTC

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<sup>3</sup> Based on the United Nations classification of developed economies, economies in transition, and developing economies, among all of the countries in the world.

<sup>4</sup> GAO, *Government Accounting Standards: 2011 Revision*, [GAO-12-331G](#) (Washington, D.C.: December 2011).

<sup>5</sup> FTC, *Accounting for Laws that Apply Differently to the United States Postal Service and its Private Competitors* (Washington, D.C.: December 2007) ('2007 FTC report').

proceeding leading up to its 2007 report to obtain their opinion on considerations regarding how these estimates could be updated, considering the factors we had identified. These five stakeholders represented different sectors, including USPS, some of its private competitors, and some of its postal labor unions. We received responses from USPS and the National Association of Letter Carriers (NALC)<sup>6</sup> on considerations for estimating financial advantages and disadvantages of USPS's unique legal status. Our analysis was limited to identifying key considerations, some of which included different options, for how to conduct research to estimate the financial effects of certain aspects of USPS's legal status; we did not evaluate these options or recommend which should be pursued if a new study were to be conducted.

We conducted this performance audit from December 2015 to June 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>6</sup> NALC represents carriers who deliver mail on city routes.

## Appendix II: Information on the Postal Regulatory Commission's (PRC) Method for Estimating the Value of USPS's Monopolies

This appendix describes the method used by PRC to estimate the value of the U.S. Postal Service's (USPS) letter delivery and mailbox monopolies. In particular, this appendix discusses (1) why economic value to USPS may derive from the statutory monopolies, (2) the method that PRC employs to estimate the value of the monopolies, and (3) PRC's findings.

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### Statutory Monopolies May Confer Economic Value

Statutory monopolies are sometimes granted when the provision of a good has certain cost conditions. In particular, in a case where one large firm can produce a product for the entire market more cheaply, on average, than a set of smaller firms, monopoly is sometimes viewed as a preferred market structure, and a legal limitation on entry may be used to ensure that the market remains monopolistic. In the case of postal service, for example, USPS's large and interconnected operational network leverages both economies of scale and scope and, as such, it is unlikely that it would be profitable for a new firm to compete against USPS for all forms of mail or in all locations.<sup>1</sup> However, certain segments of the market may be more profitable to enter—both due to lower costs of service and/or higher potential revenues. If entry is open, competitors may be able to compete for business in these profitable submarkets, leaving the incumbent carrier with higher average costs to serve the remaining market.<sup>2</sup> The loss suffered by the incumbent from the elimination of a statutory monopoly can be viewed as the “value” that the legal monopoly affords the incumbent firm—in this case, USPS.

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<sup>1</sup> Economies of scale exist when producing more of a product results in lower average costs of production, and economies of scope occurs when a firm produces more than one product using overlapping resources and the result is lower per unit of costs of production than if each product was produced independently.

<sup>2</sup> This form of entry is often referred to as “cream skimming” because entrants only serve submarkets with lower costs and/or higher revenues.



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**Appendix II: Information on the Postal  
Regulatory Commission's (PRC) Method for  
Estimating the Value of USPS's Monopolies**

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## PRC Estimates the Value of USPS's Monopolies based on Lost Net Revenues Due to Elimination of the Monopolies

PRC's method for estimating the value of USPS's monopolies rests on a counterfactual: how would USPS's net revenues be affected if the statutory monopolies were removed? As such, PRC estimates (1) the extent to which entry, if it were to be legally allowed, into the mail delivery market would be economically profitable; and (2) based on that entry, the extent of lost net revenues USPS would experience.<sup>3</sup> To do so, PRC makes a variety of assumptions about the prospects for new firms to profitably enter segments of the postal delivery market.

### Contestable Mail

The first key element of PRC's analysis is the identification of which types of mail are "contestable." PRC identifies contestable mail as those mail items that are presorted and drop-shipped at local destinations—such as advertising mail or First-Class Mail presorted by 5-digit ZIP Codes that could be drop-shipped. Contestable mail is of most interest to an entrant because there is minimal work related to sorting and transport. For the analysis of the elimination of both monopolies, all contestable mail categories are considered to be available to a potential entrant, should it decide to serve the route. In the case of the analysis of the mailbox monopoly alone, PRC only analyzes the contestable mail categories that fall outside of the letter delivery monopoly. In the latter case, private delivery companies are currently allowed to provide such service, such as delivery of magazines and advertising mail not covered by USPS's delivery monopoly; however, because private delivery companies are not currently able to place items in mailboxes, they may choose not to deliver these items. There are fewer categories of contestable mail outside the letter monopoly; therefore, when examining the value of only the mailbox monopoly, the volume of contestable mail is less than half of that when both monopolies are examined.

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<sup>3</sup> It is possible that the removal of a monopoly right might result in no entry. This could occur if there are no profitable entry opportunities for other firms—even if they only serve the most profitable segment of the market. In such a case there would be no economic value to the legally-imposed monopolies. However, if removal of a statutory monopoly invoked new entry and some of the monopolist's business were competed away, the monopoly has an economic value under this method.

### **Entrant Cost and Pricing**

Once contestable mail volumes are identified, PRC makes a variety of assumptions about the economic circumstances of the potential entrant, relative to USPS. In particular:

- PRC makes assumptions about the extent to which a potential entrant would be able to deliver contestable mail with a lower cost structure than USPS. Two key elements of an entrant's cost advantage include:
  - The extent of the entrant's reduced variable costs relative to those of USPS, due to various efficiencies or cost advantages it may enjoy—most notably lower labor rates. PRC's base assumption is that the entrant has a 10 percent cost advantage relative to USPS.
  - The extent of the entrant's lower fixed costs, relative to USPS. Reduced fixed costs are due largely to the assumption that an entrant will not deliver mail 6 days per week, as USPS is required to do. The base case assumption is that an entrant would deliver 3 days per week if both monopolies were eliminated and only 1 day per week if only the mailbox monopoly were eliminated. The reduction in delivery days would provide a cost advantage for the entrant over USPS.
- PRC also makes assumptions regarding the prices an entrant would charge for its service, relative to USPS rates. PRC's base assumption is that the entrant's prices would be 10 percent lower than USPS's rates.

### **Entrant's Determination of which Routes to Serve**

The PRC analysis focuses on the likelihood of entry—that is, the ability of an entrant to make a profit—at the route level. PRC staff told us that PRC's analysis of entry decisions was conducted at the route level because the data it obtained from USPS for this analysis are for individual routes. To ascertain which routes an entrant might serve, PRC uses data on mail volumes, by each type of mail category, for a sample of routes it obtains from USPS. Based on that route-level volume data, and the specific economic assumptions described above, PRC is able to calculate the entrant's prospective profitability on the set of sample routes—and thus ascertain which routes the entrant would enter if the monopolies were lifted. Once the entered routes are determined, PRC can estimate

USPS's volume and revenue losses due to entry.<sup>4</sup> PRC's calculation of USPS's expected loss in net revenues is considered to be the estimated "value" of USPS's monopolies.<sup>5</sup>

### Some Considerations of PRC Method

PRC's economic analysis informs, with caveats, stakeholders and decision-makers about the value of USPS's monopolies. However, some elements of its analysis are important to consider when interpreting the findings. In particular:

- PRC assumes that if an entrant chooses to serve a route—that is, the entrant believes it can make a profit on the route—it will immediately garner 100-percent of the contestable mail volume on that route. However, in practice, it may take time for an entrant to gain a significant foothold in the market. Alternative assumptions or sensitivity analyses that attempt to consider the time an entrant would require to build its business—in part due to how mailers make purchasing decisions when there are multiple competitors—might shed light on the reasonableness of the model's current assumptions on the entrant's market share.
- PRC uses USPS data on individual postal routes as the geographic level for this analysis. However, it is possible that potential entrants could make decisions on a broader regional basis, particularly because mailers (i.e., the entrant's potential customers) might make their purchasing decisions on a broader geographic basis. PRC staff told us that routes abutting one another typically have similar volume characteristics, which would minimize concerns about the small geographic scope of the PRC approach. Nevertheless, it is difficult to ascertain the extent to which using this small geographic scope in this analysis would result in a pattern of entry in alignment with a viable business plan.

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<sup>4</sup> In addition to reductions in revenues from the loss of volume, there are also offsetting reductions in USPS costs due to delivering a smaller volume of mail.

<sup>5</sup> When PRC first estimated the value of USPS's monopolies in 2008, based on fiscal year 2007 data, it conducted a variety of sensitivity analyses by altering the various assumptions. For example, the 2008 study included assumptions using both higher and lower variable and fixed costs savings for the entrant than the assumptions used in the base case, as well as alternative assumptions about the extent of contestable mail an entrant would capture upon entry. In recent years, PRC has not published these alternative model specifications in its reports. PRC staff told us that their results were not highly sensitive to these alternative assumptions.

## PRC's Estimated Value of USPS's Monopolies Has Risen in Recent Years Due to Increased Volumes of Contestable Mail

Since 2008, PRC has conducted an annual analysis to estimate the lost net revenues that USPS would incur if its monopolies were eliminated. For 2015, which is the most recent year available, PRC estimated that the elimination of both the letter and mailbox monopolies would result in \$5.45 billion loss in net revenues for USPS, while the elimination of solely the mailbox monopoly would result in \$1.03 billion in lost net revenues. PRC staff told us that increases in the value of the postal monopolies in recent years were due to growing contestable mail volumes, and added that they expect these volumes to continue rising in the near future.<sup>6</sup> As such, PRC staff said that both the value of the combined postal monopolies—and the value of the mailbox monopoly on its own—are likely to continue to increase in the next few years.

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<sup>6</sup> Despite such increases in contestable mail, overall USPS mail volumes have been steadily decreasing in recent years. As we reported in 2016, USPS continues to face decreases in mail volume, its primary revenue source, as online communication and e-commerce expand. As of fiscal year 2016, USPS's total mail volume had declined 27 percent from its peak in fiscal year 2006.

## Appendix III: Comments from the U.S. Postal Service

THOMAS J. MARSHALL  
GENERAL COUNSEL  
AND EXECUTIVE VICE PRESIDENT



June 1, 2017

Ms. Lori Rectanus  
Director, Physical Infrastructure Issues  
Government Accountability Office

RE: Key Considerations for Potential Changes to USPS's Monopolies  
(Report No. GAO-17-543-DRAFT)

Dear Ms. Rectanus:

On behalf of the United States Postal Service, this letter responds to your invitation to comment on the draft of the Government Accountability Office's (GAO's) audit report number GAO-17-543, which was transmitted to us for review on May 10, 2017.

We appreciate the effort undertaken by GAO to develop an understanding of the importance of the letter delivery and mailbox monopolies in supporting secure, affordable universal postal service and other longstanding policy goals. We likewise appreciate GAO's efforts to seek the views from a broad cross-section of postal stakeholders, although we do not agree with all of the perspectives that those stakeholders expressed.

We note that the draft report importantly recognizes the vital role that the monopolies play in supporting the Postal Service's universal service obligation (USO). Congress recognized this interrelationship when, in section 702 of the Postal Accountability and Enhancement Act of 2006 (PAEA), it directed the Postal Regulatory Commission (PRC) simultaneously to study and report on both the cost of the USO and the value of the monopolies. And as the draft report notes (page 4, footnote 17), the PRC provides Congress with annual updates of both the USO's cost and the monopolies' value, even though only the former is required to be annually updated by statute; this testifies to the need, recognized by the PRC, of providing Congress with full context when considering policy matters related to the USO and the monopolies, which cannot be considered separately from each other.

In fact it is eminently clear that any diminution in the scope of the monopolies would negatively impact postal revenue and would, as a result, negatively impact the Postal Service's ability to satisfy its USO as it now stands. While some have postulated that relaxation of the monopolies might have some beneficial effects, they are by no means certain or indisputable, and they must be considered against the uncontroverted fact that such relaxation would divert revenue away from the Postal Service, thereby compounding its financial pressures. In the current financial environment, it would not be responsible of policymakers to implement such changes while maintaining the USO in its current form.

While we appreciate the draft report's emphasis of these important points, we do believe there are some aspects of the report that could bear further clarification or revision.

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**General Comments**

**Misattribution of Efficiency Gains to Monopoly Changes**

The draft report suggests (pages 9-11) that relaxation of the letter delivery monopoly in other countries led to increased efficiency among some of the relevant foreign postal operators. We do not believe that this conclusion is adequately demonstrated or logical, or that there is much evidence to establish a causal link between a change in this single factor and any efficiency gains that occurred during the same timeframe. Nor does the report provide any evidence or information to suggest that any such results, even if they had been demonstrated to have been produced by the relaxation of the letter delivery monopoly, are generalizable to the Postal Service. In our view, this narrative is overly simplistic and potentially misleading in both respects.

Liberalization of monopolies in many, if not all, of the countries surveyed by GAO did not occur in isolation. Specifically, adjustments to monopolies were implemented along with other reforms, including significant government aid, measures to afford the postal operators greater commercial freedom to manage their businesses, and shifts toward privatization. For instance, the U.K. removed its letter delivery monopoly in 2006, but U.K. regulators and the blue-ribbon Hooper Commission continued to fault Royal Mail for weak modernization efforts for years thereafter. Things only turned around after the 2011 Postal Act, which opened Royal Mail to private ownership, deregulated its pricing, relieved it of responsibility for both its post office network and its pension obligations, and provided it with an infusion of £ 1.1 billion to invest in modernization. It is incorrect to suggest (as the draft report does at pages 10-11) that the efficiency gains that followed the 2011 Postal Act are somehow attributable to the relaxation of the monopoly five years prior. Similarly, the efficiency gains of Deutsche Post in Germany owe at least as much to privatization, the government's assumption of pension liabilities, the spinoff of the retail network, and the diversification of the enterprise (which would tend to yield economies of scope and capital to invest in modernization) as to any marginal increase in competitive pressures from the monopoly's relaxation.

At the same time that the draft report ignores other contributing factors to increased efficiency, it dramatically overstates the role of the competitive pressures supposedly created by liberalization. Despite the abolition of legal monopolies on letter delivery, incumbent postal operators remain overwhelmingly dominant in their respective markets. Other market pressures, such as the general decline in volume due to electronic alternatives, play a far greater role in stimulating postal efficiency. In the U.K., a single competitor, Whistl, entered the market for end-to-end letter delivery in limited areas in 2012, only to exit the market three years later. Despite liberalization's inability to produce true market competition in letter delivery, U.K. postal regulator Ofcom decided in March 2017 that other market pressures (e.g., electronic substitution) provide adequate efficiency incentives to Royal Mail, such that additional regulatory safeguards are unnecessary as a substitute for competitive pressures.

Moreover, there is no reason to believe that any of the supposed efficiency effects described in the draft report (which, again, are dubious) have any bearing whatsoever on the Postal Service. By discussing them in connection with the Postal Service, the draft report implies that they do. However, that overlooks the key fact that the Postal Service has long been recognized as at the forefront of postal operators – ahead of those cited in the draft report – in terms of operating efficiency. Many of the efficiency gains achieved by foreign postal operators essentially represent efforts to catch up to what the Postal Service has done already (e.g., worksharing and automated delivery-point sequencing) or to keep pace with changes that the Postal Service is implementing even without relaxation of its letter delivery monopoly (e.g., consolidation of its processing network and introduction of two-tier wage schedules). For example, the Postal Service was the first postal operator in the world to automate delivery sequencing (Royal Mail and La Poste followed more than a decade later). This, in turn, has allowed the Postal Service to make greater strides in reducing its delivery network and streamlining carrier functions. Moreover, much of the "competition" that has emerged in foreign countries that have relaxed their letter delivery monopolies has arisen in the collection segment, not the delivery segment: a form of liberalization that the Postal Service itself ushered in with the advent of worksharing forty years

ago. Relaxation of the monopolies is clearly unnecessary to goad the Postal Service to be more efficient, nor would it be effective, as the Postal Service has already – without relaxation of its monopolies – exhausted far more of its efficiency potential than other postal operators.

Whatever the effects of letter-delivery monopoly relaxation in foreign countries, it is an overstatement to say that it is responsible for efficiency gains among foreign postal operators. It is even more speculative to suggest that it would do so with respect to the Postal Service.

Shapiro Paper

On page 6, the draft report discusses a 2015 paper by Robert Shapiro that purports to offer an alternative method for estimating the value of the mailbox monopoly. By presenting the paper on its own terms, the draft report wrongly implies that the paper has equivalent credibility to the PRC and Federal Trade Commission (FTC) studies discussed elsewhere in the draft report. The draft report neglects to mention that Dr. Shapiro is hardly a neutral authority on par with the FTC and PRC: the Shapiro paper acknowledges, on its very first page, the patronage of United Parcel Service (UPS), a Postal Service competitor. Nor does the draft report indicate that Dr. Shapiro lacks any background in regulatory or postal economics, in sharp contrast to the stakeholders and economists that informed the PRC and FTC reports.

It is therefore no surprise that Dr. Shapiro's paper is rife with one-sided, simplistic, and fallacious conclusions, including with respect to the mailbox monopoly. As the draft report acknowledges, Dr. Shapiro's purported estimate of the mailbox monopoly's value actually has nothing to do with the exclusion of competitors from mailboxes or the loss of profitability that would result from open access. Rather, it represents the Postal Service cost savings inherent in the sheer existence of centralized and curbside mailboxes. These cost differences are the result of the Postal Service's universal service obligation, which requires the Postal Service to deliver to all mailboxes regardless of whether they are protected by a monopoly.

Beyond this fundamentally mistaken premise, Dr. Shapiro's concern is with the Postal Service's competitive position, yet he fails to adjust his monopoly figure to account for the fact that competitive products represent less than 3 percent of the total mailpieces that the Postal Service delivers. Nor does Dr. Shapiro account for how, among that marginal percentage of mailpieces, many packages do not fit into the mailbox anyway and therefore are unaffected by the monopoly. Finally, Dr. Shapiro ignores the fact that almost half of competitive packages are Parcel Select items delivered on behalf of its own competitors, among others, with whom the Postal Service thereby shares any benefits of the mailbox monopoly. Dr. Shapiro's paper offers no serious material for consideration, certainly not in light of the FTC and PRC's far more rigorous (if imperfect) treatment of the same subjects.

Finally, the draft report is incorrect in its characterization of door delivery as "the only [and, impliedly, more expensive] option available to USPS's competitors" (page 6), for multiple reasons:

- FedEx and UPS are increasingly establishing their own networks of centralized delivery points. These are either businesses or banks of parcel lockers (essentially, FedEx and UPS "cluster boxes") from which recipients are advised to retrieve their packages. These centralized delivery points tend to be located farther from the average recipient address than Postal Service cluster boxes. As a result, FedEx and UPS's centralized delivery points may be even more cost-effective than the Postal Service's delivery options.
- The Postal Service's curbside and cluster boxes are not necessarily available to the Postal Service, either, when it comes to the sorts of products that compete with FedEx and UPS. Many packages do not fit in curbside boxes or the letter receptacles in cluster boxes. While some cluster boxes may have a larger compartment for parcels, door delivery remains "the only option available" for many Postal Service package deliveries as well.



- Finally, in commercial and apartment buildings (referenced on page 6), FedEx, UPS, and Postal Service packages all are often delivered to the front desk. To the extent that some Postal Service packages might fit in the boxes within "centralized mailrooms," it might actually be less cost-effective for the Postal Service carrier to deposit them in that location than to leave them at the front desk, as UPS or FedEx would.

PRC Estimates

Regarding the PRC monopoly-value estimates presented in the draft report and the USO-cost estimates that we hope will be similarly presented in the final report (as discussed above), we would like to point out a few caveats and considerations that should be noted in the report. We note that the draft report already includes a section on "considerations" "when interpreting the [PRC's] findings" (at pages 29-30). We suggest featuring these and other important qualifications more prominently, particularly in light of the estimates' unqualified presentation at the outset of the draft report.

First, the final report should clarify a key point that often confuses even experienced postal observers. The monopoly estimates presented on page 5 of the draft report are non-additive. That is, the first column of Table 1 ("Both letter delivery and mailbox monopolies") minus the second column ("Mailbox monopoly") does not yield the value of the letter delivery monopoly. As the PRC takes pains to remind readers in its annual reports (e.g., Annual Report to the President and Congress, Fiscal Year 2016, at page 48, footnote 85), the PRC does not estimate the standalone value of the letter delivery monopoly. Rather, the PRC does not believe that a new market entrant would be likely to find much value in delivering letters if that monopoly were relaxed but the mailbox monopoly retained, as all letters would still have to be tendered to the Postal Service for placement in the mailbox. What the difference between the two sets of values represents is, as the column header suggests, the value of mail that is covered by both monopolies (e.g., First-Class Mail letters that are delivered to mailboxes). The "mailbox monopoly" figures represent the value of the mailbox monopoly with respect only to those products not also covered by the letter delivery monopoly (e.g., Periodicals that are delivered to mailboxes); in other words, the profitability impact if the mailbox monopoly were eliminated but the letter delivery monopoly left in place.

Second, it bears noting that the PRC estimates reflect only the direct revenue impact of losing contestable mail on certain routes. They do not account for potentially significant second-order effects on the Postal Service, such as the loss of economies of density and the strain on the Postal Service's ability to provide other value-enhancing services.

Third, at pages 4-5 and 30, the draft report discusses the recent and expected future growth in the PRC's estimate of the monopolies' value, apparently due to growth in contestable volumes notwithstanding the overall decline in mail volumes. While this accurately reflects the trend in the PRC's numbers, it also illustrates how these counterintuitive results might justify reexamination of the PRC's methodology. For instance, the reported growth in monopoly values appears to deviate significantly from trends in actual Postal Service revenues for the relevant products during the same period. The PRC's annual reports also indicate shifts in the roster of products that the PRC regards as "contestable," but the rationale for these changes is not clear, and at least one of them (the inclusion of Parcel Select) appears to be contrary to the PRC's decision in its 2008 Report on Universal Postal Service and the Postal Monopoly (USO Report) not to include competitive products in its estimate.

Finally, it might also be noted that the PRC's USO cost estimates are not necessarily comprehensive, either. For example, the single largest component of the PRC's USO cost estimate is six-day delivery, which comprised half of the total USO cost estimate for FY2015. This estimate reflects the cost of delivering six days a week rather than five. However, an entity not subject to that universal service mandate likely would not serve every address in the nation five days a week; some addresses might indeed receive five-day delivery, but business economics might justify only three delivery days, or fewer, for other addresses. (Indeed, as the draft report acknowledges (at page 28), the PRC's monopoly estimation methodology assumes that a private carrier would only provide one- to three-day delivery.) In its 2008 USO Report, the PRC rejected an alternative proposal to set the USO threshold at

three-day delivery, but that proposal and the PRC's evaluation of it assumed that delivery frequency must be uniform. The PRC has never examined the extent to which specific geographic areas would profitably support less than five-day delivery but for the USO. (It should also be noted that the PRC based its rejection on insufficient supporting data, and not on principle.) The likely effect is that the PRC's estimates understate the true cost burden of the USO.

**Laws That Apply Differently**

We found the draft report's synopsis of laws that apply differently to the Postal Service and its competitors (pages 15-18) to be relatively thorough. In addition to the general comments above, however, we have a number of comments and suggestions on this section of the draft report.

- On page 16, the draft report mentions that the Postal Service has the "authority" to borrow from the U.S. Treasury, "unlike its private competitors," thereby implying that this places the Postal Service at an advantage. Only in a footnote two pages later, however, is it mentioned that this "authority" comes with a significant disadvantage: that the Treasury Department bars the Postal Service from accessing any other sources of credit, much less equity financing, as its private competitors are free to do. Nor is it emphasized that the Postal Service's private competitors are not subject to caps on their borrowing authority.
- On page 16, the draft report mentions the Postal Service's law enforcement authority. However, it does not mention that private competitors are free to hire their own security services. Those private security services enjoy more latitude than the Postal Inspection Service in certain regards: their lack of governmental status frees them from constitutional warrant requirements and statutory restrictions like 39 U.S.C. § 404(c)'s seal. Rather, private competitors are free to open packages without a warrant under any circumstances, subject only to any limitations that they adopt in their terms of service.
- Page 17 includes an item for Alaska bypass service. However, 39 U.S.C. § 5402 also establishes a complex set of requirements for the Postal Service's purchase of air transportation for non-bypass mail in Alaska. The Postal Service must also pay carriers rates that are set by the Department of Transportation and that may not be as beneficial as what an unregulated delivery provider could contract for on the open market.
- Another item on page 17 discusses collective bargaining. It should also be noted that, unlike its private competitors, the Postal Service is statutorily required to engage in formal consultation and dispute resolution with postal supervisory and managerial organizations concerning changes in pay, benefits, and other programs that affect their membership (39 U.S.C. § 1004).
- We have the following suggestions concerning the "Benefit programs" item on page 17:
  - o The vague assertion of "different requirements" for private competitors elides an important point. In fact, private competitors are subject to no statutory requirements to provide pension or retiree health benefits at all; any such programs are determined through negotiation with employee organizations or in the employer's discretion. Most private employers do not provide retiree health benefits at all; of those that do, most do not prefund those benefits, and the remainder do so at a far lower level than the Postal Service's 100-percent funding mandate. Defined-benefit pension plans similar to those for Federal retirees are increasingly rare in the private sector.
  - o To the extent that private and other non-Federal employers do provide defined-benefit pensions and retiree health benefits, they enjoy significant latitude to structure those programs in a far more cost-effective manner than the Federal programs in which the Postal Service must participate. For example, non-Federal employers typically invest postretirement benefits fund assets in diversified assets portfolios that yield higher annual returns than the U.S. Treasury securities to which the Postal Service's fund

assets are restricted. These higher yields reduce the level of capital contributions that the employers must make to meet their funding targets (which, as noted in the previous bullet, they are free to set at a lower level than the Postal Service).

- As another example, no non-Federal employer would calculate its pension liabilities on the basis of another employer's workforce. By contrast, the Office of Personnel Management calculates the Postal Service's pension liabilities on the basis of government-wide demographic and economic assumptions, notwithstanding material differences between the Postal Service and non-Postal Service populations.
- Yet another example is Medicare coordination. The first sentence of the item is worded awkwardly on this point, but it appears to suggest that "specific provisions" require coordination of the Postal Service's retiree health benefits with Medicare. This is not the case. In fact, the problem is the very absence of any requirement that Federal Employee Health Benefits Program enrollees, including Postal Service retirees, enroll in Medicare Parts A and B or that the benefits of such enrollment by Postal Service retirees be reflected in the costs charged to the Postal Service. The Postal Service is also not authorized to establish an employer group waiver plan or to access other means of supporting prescription drug costs under Medicare Part D. By contrast, private competitors are free to – and universally do – structure their health benefits programs (to the extent that they offer them) as supplements to Medicare, rather than alternatives to it, and to capture any available benefits from Medicare Part D.
- We would also like to note some additional items that could be included in the list of laws that apply differently to the Postal Service and other entities:
  - The Postal Service must comply with public transparency laws like the Freedom of Information Act, the Sunshine Act, and the Privacy Act, as well as manifold regulatory reporting and transparency requirements. The Postal Service's competitors are not subject to these laws, do not incur expenses to administer them, and need not incur business risks from public disclosure of information.
  - Equal employment opportunity laws also apply differently, and in a more costly fashion, to the Postal Service than to private employers. In many states, and under Equal Employment Opportunity Commission (EEOC) procedures applicable to private employers, private-sector employees can pursue their claims only in court and while off the clock, whereas Postal Service employees can access EEOC processes and administrative hearings geared toward laypersons and must be allowed paid official time to work on their claims. Unlike private employers, the Postal Service must bear many of the EEOC process's institutional costs. The EEOC also applies a more lenient standard to certifying class actions than do the courts with respect to non-Federal employees. In addition, Postal Service employees can appeal certain adverse employment determinations to the Merit Systems Protection Board: rights that private-sector employees – many of whom are at-will – do not have.
  - The Postal Service is prohibited from closing small Post Offices solely for operating at a deficit (39 U.S.C. § 101(b)). By contrast, private employers are free to make facility decisions on whatever criteria they choose, particularly financial performance. Nor are private-sector facility decisions subject to procedural requirements and regulatory review (39 U.S.C. § 404(d)).
  - Congress has required the Postal Service to issue hundreds of millions of dollars in interest-free credit to the U.S. Government, in the form of mandatory free and reduced-rate mail for which Congress has not reimbursed the Postal Service. Private entities are not subject to such mandates.

- On page 18, the draft report recounts the FTC's discussion of the variability in whether Postal Service vehicles are treated as exempt from or subject to parking fines. Although it was not discussed in the FTC report, it could be noted that the Postal Service's exemption from fuel taxes is similarly not absolute. While a majority of jurisdictions exempt Postal Service-operated vehicles from fuel taxes at the pump, the Postal Service must pay the taxes and seek reimbursement in others. Due to the administrative burden and potential for error inherent in an after-the-fact reimbursement process, the Postal Service does not necessarily receive full recoupment of all fuel taxes that it has paid up front. (It should also be noted that Postal Service contractors that provide surface and air transportation are not exempt from fuel taxes, which are passed through to the Postal Service via contract prices.)
- In the same paragraph on page 18, the draft report makes a point of noting that postal pension and retiree health benefit fund assets are invested in U.S. Treasury securities, "which are backed by the full faith and credit of the federal government," in contrast to assets of private companies' postretirement benefits funds. More salient than government backing, however, is the fact that the U.S. Treasury securities in which Postal Service fund assets must be invested yield far lower returns than private employers' diversified fund asset portfolios. This increases the Postal Service's capital cost of funding postretirement benefits.

**Other Specific Comments**

Finally, we offer a handful of miscellaneous comments and suggestions.

- At various junctures, the draft report frames the discussion of foreign postal experiences in terms of "losses of revenue and market share for the carriers providing universal service, but [also] increases in competition" (page 1; multiple similar occurrences appear in pages 9-11, as well as in the general structure of that section). This formulation is puzzling. Loss of revenue and market share are not direct effects of liberalization that happen to coincide with or are compensated by increases in competition, as the "but" suggests. Rather, the premise of liberalization is that it will lead directly to an increase in competition, which will, in turn, lead directly to loss of revenue and market share for the market incumbent. To liberalization advocates, this causal chain is the whole point: in theory, relaxing postal monopolies would increase competition, and competition is seen as desirable precisely because it places pressure on the incumbent's revenue and market share. (Of course, that same loss of revenue may have other negative results, such as loss of support for the USO: a clearly deleterious effect so long as the relevant policymakers seek to maintain the USO as currently constituted, as discussed at the outset of this letter.)
- On page 8, the draft report recounts the concern that relaxation of the mailbox monopoly would lead to third-party-delivered matter cluttering mailboxes and thereby force Postal Service letter carriers to take more time distinguishing collection mail from other mailbox contents. The final report should note an additional way in which third-party clutter could harm Postal Service efficiency, insofar as letter carriers may not be able to fit (delivery) mail into the mailbox at all.
- On page 21, the draft report claims that data collection might be hindered by "USPS's private competitors who may consider such data to be proprietary and exempt from disclosure, such as trade secrets." The phrase "exempt from disclosure" calls to mind the Freedom of Information Act, which affirmatively mandates public disclosure of certain information unless exempt. Private companies do not operate under this framework. They are typically under no obligation to disclose information publicly, but they must respond to subpoenas and other record-production requirements by government agencies. While a requesting agency may be bound to protect private parties' trade secrets and other commercially sensitive information from public disclosure (see 5 U.S.C. § 552(b)(4)), that does not mean that private parties are "exempt" from disclosing such information to the government when requested for the government's use. For example, the FTC is authorized to compel private parties to furnish it with "such information as it may require," without any exemption for trade secrets; by contrast, the FTC is not authorized to

publicly disclose trade secrets and other confidential business information in most circumstances (15 U.S.C. § 46(b), (f)).

- On page 22, the draft report discusses the importance of transparency regarding "objectives, scope, and methodology," the better to fully inform readers about a study's "purpose, the nature and extent of the research, context and perspective on what is reported, and any significant limitations." We agree with this point. While the FTC report does much to inform readers about these aspects of its study, it bears noting that the FTC report does not explain how it arrived at its value estimates for the Postal Service's legal advantages and disadvantages. In some cases, the FTC refers to comments that may or may not be publicly available as the source of estimates; in others, the FTC refers to confidential submissions; in still others, the source is unclear. Even where data itself may be confidential, the FTC offers no indications to inform readers – including subsequent researchers interested in validating, updating, or criticizing the FTC's findings – of the methodology or types of data sources used. As a result, any effort to conduct a new, similar study will have to work from a clean slate in many areas.

Thank you once again for providing us with the opportunity to comment. We would be pleased to assist your office with further information or discussion of this matter if you believe it would be helpful.

Sincerely,



Thomas J. Marshall

cc: Ms. Haring  
CARM

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## Appendix IV: GAO Contact and Acknowledgments

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### GAO Contact

Lori Rectanus, (202) 512-2834 or [RectanusL@gao.gov](mailto:RectanusL@gao.gov)

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### Staff Acknowledgments

In addition to the individual named above, Derrick Collins (Assistant Director); Chad Williams (Analyst-in-Charge); Samer Abbas; Amy Abramowitz; Antoine Clark; Pat Donahue; Jaci Evans; Kenneth John; Kim McGatlin; Oliver Richard; Frank Todisco; Walter Vance; Michelle Weathers; and Crystal Wesco made key contributions to this report.

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## Appendix V: Accessible Data

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### Agency Comment Letter

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Text of Appendix III: Comments from the U.S. Postal Service

Page 1

June 1, 2017

Ms. Lori Rectanus

Director, Physical Infrastructure Issues Government Accountability Office

RE: Key Considerations for Potential Changes to USPS's Monopolies (Report No. GA0-17-543-DRAFT)

Dear Ms. Rectanus:

On behalf of the United States Postal Service, this letter responds to your invitation to comment on the draft of the Government Accountability Office's (GAO's) audit report number GA0-17-543, which was transmitted to us for review on May 10, 2017

We appreciate the effort undertaken by GAO to develop an understanding of the importance of the letter delivery and mailbox monopolies in supporting secure, affordable universal postal service and other longstanding policy goals. We likewise appreciate GAO's efforts to seek the views from a broad cross-section of postal stakeholders, although we do not agree with all of the perspectives that those stakeholders expressed.

We note that the draft report importantly recognizes the vital role that the monopolies play in supporting the Postal Service's universal service obligation (USO). Congress recognized this interrelationship when, in section 702 of the Postal Accountability and Enhancement Act of 2006 (PAEA), it directed the Postal Regulatory Commission (PRC) simultaneously to study and report on both the cost of the USO and the value of the monopolies. And as the draft report notes (page 4, footnote 17), the PRC provides Congress with annual updates of both the USO's cost and the monopolies' value, even though only the former is required to be annually updated by statute; this testifies to the need, recognized by the PRC, of providing Congress with full context when considering policy matters related to the USO and the monopolies, which cannot be considered separately from each other.

In fact it is eminently clear that any diminution in the scope of the monopolies would negatively impact postal revenue and would, as a result, negatively impact the Postal Service's ability to satisfy its USO as it now stands. While some have postulated that relaxation of the monopolies might have some beneficial effects, they are by no means certain or indisputable, and they must be considered against the uncontroverted fact that such relaxation would divert revenue away from the Postal Service, thereby compounding its financial pressures. In the current financial environment, it would not be responsible of policymakers to implement such changes while maintaining the USO in its current form.

While we appreciate the draft report's emphasis of these important points, we do believe there are some aspects of the report that could bear further clarification or revision.

## Page 2

### **General Comments**

#### **Misattribution of Efficiency Gains to Monopoly Changes**

The draft report suggests (pages 9-11) that relaxation of the letter delivery monopoly in other countries

led to increased efficiency among some of the relevant foreign postal operators. We do not believe that this conclusion is adequately demonstrated or logical, or that there is much evidence to establish a causal link between a change in this single factor and any efficiency gains that occurred during the same timeframe. Nor does the report provide any evidence or information to suggest that any such results, even if they had been demonstrated to have been produced by the relaxation of the letter delivery monopoly, are generalizable to the Postal Service. In our view, this narrative is overly simplistic and potentially misleading in both respects.

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Moreover, there is no reason to believe that any of the supposed efficiency effects described in the draft report (which, again, are dubious) have any bearing whatsoever on the Postal Service. By discussing them in connection with the Postal Service, the draft report implies that they do. However, that overlooks the key fact that the Postal Service has long been recognized as at the forefront of postal operators - ahead of those cited in the draft report - in terms of operating efficiency. Many of the efficiency gains achieved by foreign postal operators essentially represent efforts to catch up to what the Postal Service has done already (e.g., worksharing and automated delivery-point sequencing) or to keep pace with changes that the Postal Service is implementing even without relaxation of its letter delivery monopoly (e.g., consolidation of its processing network and introduction of two-tier wage schedules). For example, the Postal Service was the first postal operator in the world to automate delivery sequencing (Royal Mail and La Poste followed more than a decade later). This, in turn, has allowed the Postal Service to make greater strides in reducing its delivery network and streamlining carrier functions. Moreover, much of the "competition" that has emerged in foreign countries that have relaxed their letter delivery monopolies has arisen in the collection segment, not the delivery segment: a form of liberalization that the Postal Service itself ushered in with the advent of worksharing forty years

### Page 3

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Page 4

Finally, in commercial and apartment buildings (referenced on page 6), FedEx, UPS, and Postal Service packages all are often delivered to the front desk. To the extent that some Postal Service packages might fit in the boxes within "centralized mailrooms," it might actually be less cost-effective for the Postal Service carrier to deposit them in that location than to leave them at the front desk, as UPS or FedEx would.

**PRC Estimates**

Regarding the PRC monopoly-value estimates presented in the draft report and the USO-cost estimates that we hope will be similarly presented in the final report (as discussed above), we would like to point out a few caveats and considerations that should be noted in the report. We note that the draft report already includes a section on "considerations" "when interpreting the [PRC's] findings" (at pages 29-30). We suggest featuring these and other important qualifications more prominently, particularly in light of the estimates' unqualified presentation at the outset of the draft report.

First, the final report should clarify a key point that often confuses even experienced postal observers. The monopoly estimates presented on page 5 of the draft report are non-additive. That is, the first column of Table 1 ("Both letter delivery and mailbox monopolies") minus the second column ("Mailbox monopoly") does not yield the value of the letter delivery monopoly. As the PRC takes pains to remind readers in its annual reports (e.g., Annual Report to the President and Congress, Fiscal Year 2016, at page 48, footnote 85), the PRC does not estimate the standalone value of the letter delivery monopoly. Rather, the PRC does not believe that a new market entrant would be likely to find much value in delivering letters if that monopoly were relaxed but the mailbox monopoly retained, as all letters would still have to be tendered to the Postal Service for placement in the mailbox. What the difference between the two sets of values represents is, as the column header suggests, the value of mail that is covered by both monopolies (e.g., First-Class Mail letters that are delivered to mailboxes). The "mailbox monopoly" figures represent the value of the mailbox monopoly with respect only to those products not also covered by the letter delivery monopoly (e.g., Periodicals that are delivered to mailboxes): in other words, the profitability impact if the mailbox monopoly were eliminated but the letter delivery monopoly left in place.

Second, it bears noting that the PRC estimates reflect only the direct revenue impact of losing contestable mail on certain routes. They do not account for potentially significant second-order effects on the Postal Service, such as the loss of economies

of density and the strain on the Postal Service's ability to provide other value-enhancing services.

Third, at pages 4-5 and 30, the draft report discusses the recent and expected future growth in the PRC's estimate of the monopolies' value, apparently due to growth in contestable volumes notwithstanding the overall decline in mail volumes. While this accurately reflects the trend in the PRC's numbers, it also illustrates how these counterintuitive results might justify reexamination of the PRC's methodology. For instance, the reported growth in monopoly values appears to deviate significantly from trends in actual Postal Service revenues for the relevant products during the same period. The PRC's annual reports also indicate shifts in the roster of products that the PRC regards as "contestable," but the rationale for these changes is not clear, and at least one of them (the inclusion of Parcel Select) appears to be contrary to the PRC's decision in its 2008 Report on Universal Postal Service and the Postal Monopoly (USO Report) not to include competitive products in its estimate.

Finally, it might also be noted that the PRC's USO cost estimates are not necessarily comprehensive, either. For example, the single largest component of the PRC's USO cost estimate is six-day delivery, which comprised half of the total USO cost estimate for FY2015. This estimate reflects the cost of delivering six days a week rather than five. However, an entity not subject to that universal service mandate likely would not serve every address in the nation five days a week; some addresses might indeed receive five-day delivery, but business economics might justify only three delivery days, or fewer, for other addresses. (Indeed, as the draft report acknowledges (at page 28), the PRC's monopoly estimation methodology assumes that a private carrier would only provide one- to three-day delivery.) In its 2008 USO Report, the PRC rejected an alternative proposal to set the USO threshold at

### Page 5

three-day delivery, but that proposal and the PRC's evaluation of it assumed that delivery frequency must be uniform. The PRC has never examined the extent to which specific geographic areas would profitably support less than five-day delivery but for the USO. (It should also be noted that the PRC based its rejection on insufficient supporting data, and not on principle.) The likely effect is that the PRC's estimates understate the true cost burden of the USO.

### **Laws That Apply Differently**

We found the draft report's synopsis of laws that apply differently to the Postal Service and its competitors (pages 15-18) to be relatively thorough. In addition to the general comments above, however, we have a number of comments and suggestions on this section of the draft report.

On page 16, the draft report mentions that the Postal Service has the "authority" to borrow from the U.S. Treasury , "unlike its private competitors," thereby implying that this places the Postal Service at an advantage. Only in a footnote two pages later, however, is it mentioned that this "authority" comes with a significant disadvantage: that the Treasury Department bars the Postal Service from accessing any other sources of credit, much less equity financing, as its private competitors are free to do. Nor is it emphasized that the Postal Service's private competitors are not subject to caps on their borrowing authority.

On page 16, the draft report mentions the Postal Service's law enforcement authority.

However, it does not mention that private competitors are free to hire their own security services. Those private security services enjoy more latitude than the Postal Inspection Service in certain regards: their lack of governmental status frees them from constitutional warrant requirements and statutory restrictions like 39 U.S.C. §404(c)'s seal. Rather, private competitors are free to open packages without a warrant under any circumstances, subject only to any limitations that they adopt in their terms of service.

Page 17 includes an item for Alaska bypass service. However, 39 U.S.C. § 5402 also establishes a complex set of requirements for the Postal Service's purchase of air transportation for non-bypass mail in Alaska. The Postal Service must also pay carriers rates that are set by the Department of Transportation and that may not be as beneficial as what an unregulated delivery provider could contract for on the open market.

Another item on page 17 discusses collective bargaining. It should also be noted that, unlike its private competitors, the Postal Service is statutorily required to engage in formal consultation and dispute resolution with postal supervisory and managerial organizations concerning changes in pay, benefits, and other programs that affect their membership (39 U.S.C. § 1004).

We have the following suggestions concerning the "Benefit programs" item on page 17:

- The vague assertion of "different requirements" for private competitors elides an important point. In fact, private competitors are subject to no statutory requirements to provide pension or retiree health benefits at all; any such programs are determined through negotiation with employee organizations or in the employer's discretion. Most private employers do not provide retiree health benefits at all; of those that do, most do not prefund those benefits, and the remainder do so at a far lower level than the Postal Service's 100-percent

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funding mandate. Defined-benefit pension plans similar to those for Federal retirees are increasingly rare in the private sector.

- To the extent that private and other non-Federal employers do provide defined-benefit pensions and retiree health benefits, they enjoy significant latitude to structure those programs in a far more cost-effective manner than the Federal programs in which the Postal Service must participate. For example, non-Federal employers typically invest postretirement benefits fund assets in diversified assets portfolios that yield higher annual returns than the U.S. Treasury securities to which the Postal Service's fund

### Page 6

assets are restricted. These higher yields reduce the level of capital contributions that the employers must make to meet their funding targets (which, as noted in the previous bullet, they are free to set at a lower level than the Postal Service).

- As another example, no non-Federal employer would calculate its pension liabilities on the basis of another employer's workforce. By contrast, the Office of Personnel Management calculates the Postal Service's pension liabilities on the basis of government-wide demographic and economic assumptions, notwithstanding material differences between the Postal Service and non-Postal Service populations.
- Yet another example is Medicare coordination. The first sentence of the item is worded awkwardly on this point, but it appears to suggest that "specific provisions" require coordination of the Postal Service's retiree health benefits with Medicare. This is not the case. In fact, the problem is the very absence of any requirement that Federal Employee Health Benefits Program enrollees, including Postal Service retirees, enroll in Medicare Parts A and B or that the benefits of such enrollment by Postal Service retirees be reflected in the costs charged to the Postal Service. The Postal Service is also not authorized to establish an employer group waiver plan or to access other means of supporting prescription drug costs under Medicare Part D. By contrast, private competitors are free to - and universally do - structure their health benefits programs (to the extent that they offer them) as supplements to Medicare, rather than alternatives to it, and to capture any available benefits from Medicare Part D.

We would also like to note some additional items that could be included in the list of laws that apply differently to the Postal Service and other entities:

- The Postal Service must comply with public transparency laws like the Freedom of Information Act, the Sunshine Act, and the Privacy Act, as well as manifold regulatory reporting and transparency requirements. The Postal Service's

competitors are not subject to these laws, do not incur expenses to administer them, and need not incur business risks from public disclosure of information.

- Equal employment opportunity laws also apply differently, and in a more costly fashion, to the Postal Service than to private employers. In many states, and under Equal Employment Opportunity Commission (EEOC) procedures applicable to private employers, private-sector employees can pursue their claims only in court and while off the clock, whereas Postal Service employees can access EEOC processes and administrative hearings geared toward laypersons and must be allowed paid official time to work on their claims. Unlike private employers, the Postal Service must bear many of the EEOC process's institutional costs. The EEOC also applies a more lenient standard to certifying class actions than do the courts with respect to non-Federal employees. In addition, Postal Service employees can appeal certain adverse employment determinations to the Merit Systems Protection Board: rights that private-sector employees - many of whom are at-will- do not have.
- The Postal Service is prohibited from closing small Post Offices solely for operating at a deficit (39 U.S.C. § 101(b)). By contrast, private employers are free to make facility decisions on whatever criteria they choose, particularly financial performance. Nor are private-sector facility decisions subject to procedural requirements and regulatory review (39 U.S.C. § 404(d)).
- Congress has required the Postal Service to issue hundreds of millions of dollars in interest-free credit to the U.S. Government, in the form of mandatory free and reduced-rate mail for which Congress has not reimbursed the Postal Service. Private entities are not subject to such mandates.

### Page 7

On page 18, the draft report recounts the FTC's discussion of the variability in whether Postal Service vehicles are treated as exempt from or subject to parking fines. Although it was not discussed in the FTC report, it could be noted that the Postal Service's exemption from fuel taxes is similarly not absolute. While a majority of jurisdictions exempt Postal Service-operated vehicles from fuel taxes at the pump, the Postal Service must pay the taxes and seek reimbursement in others. Due to the administrative burden and potential for error inherent in an after-the-fact reimbursement process, the Postal Service does not necessarily receive full recoupment of all fuel taxes that it has paid up front. (It should also be noted that Postal Service contractors that provide surface and air transportation are not exempt from fuel taxes, which are passed through to the Postal Service via contract prices.)

In the same paragraph on page 18, the draft report makes a point of noting that postal pension and retiree health benefit fund assets are invested in U.S. Treasury securities, "which are backed by the full faith and credit of the federal government,"

in contrast to assets of private companies' postretirement benefits funds. More salient than government backing, however, is the fact that the U.S. Treasury securities in which Postal Service fund assets must be invested yield far lower returns than private employers' diversified fund asset portfolios. This increases the Postal Service's capital cost of funding postretirement benefits.

### **Other Specific Comments**

Finally, we offer a handful of miscellaneous comments and suggestions.

At various junctures, the draft report frames the discussion of foreign postal experiences in terms of "losses of revenue and market share for the carriers providing universal service, but [also] increases in competition" (page 1; multiple similar occurrences appear in pages 9-11, as well as in the general structure of that section). This formulation is puzzling. Loss of revenue and market share are not direct effects of liberalization that happen to coincide with or are compensated by increases in competition, as the "but" suggests. Rather, the premise of liberalization is that it will lead directly to an increase in competition, which will, in turn, lead directly to loss of revenue and market share for the market incumbent. To liberalization advocates, this causal chain is the whole point: in theory, relaxing postal monopolies would increase competition, and competition is seen as desirable precisely because it places pressure on the incumbent's revenue and market share. (Of course, that same loss of revenue may have other negative results, such as loss of support for the USO: a clearly deleterious effect so long as the relevant policymakers seek to maintain the USO as currently constituted, as discussed at the outset of this letter.)

On page 8, the draft report recounts the concern that relaxation of the mailbox monopoly would lead to third-party-delivered matter cluttering mailboxes and thereby force Postal Service letter carriers to take more time distinguishing collection mail from other mailbox contents. The final report should note an additional way in which third-party clutter could harm Postal Service efficiency, insofar as letter carriers may not be able to fit (delivery) mail into the mailbox at all.

On page 21, the draft report claims that data collection might be hindered by "USPS's private competitors who may consider such data to be proprietary and exempt from disclosure, such as trade secrets." The phrase "exempt from disclosure" calls to mind the Freedom of Information Act, which affirmatively mandates public disclosure of certain information unless exempt.

Private companies do not operate under this framework. They are typically under no obligation to disclose information publicly, but they must respond to subpoenas and other record- production requirements by government agencies. While a requesting



agency may be bound to protect private parties' trade secrets and other commercially sensitive information from public disclosure (see 5 U.S.C. § 552(b)(4)) , that does not mean that private parties are "exempt" from disclosing such information to the government when requested for the government's use. For example, the FTC is authorized to compel private parties to furnish it with "such information as it may require," without any exemption for trade secrets; by contrast, the FTC is not authorized to

Page 8

publicly disclose trade secrets and other confidential business information in most circumstances (15 U.S.C. §46(b), (f)).

On page 22, the draft report discusses the importance of transparency regarding "objectives, scope, and methodology," the better to fully inform readers about a study's "purpose, the nature and extent of the research, context and perspective on what is reported, and any significant limitations." We agree with this point. While the FTC report does much to inform readers about these aspects of its study, it bears noting that the FTC report does not explain how it arrived at its value estimates for the Postal Service's legal advantages and disadvantages. In some cases, the FTC refers to comments that may or may not be publicly available as the source of estimates; in others, the FTC refers to confidential submissions; in still others, the source is unclear. Even where data itself may be confidential, the FTC offers no indications to inform readers - including subsequent researchers interested in validating, updating, or criticizing the FTC's findings - of the methodology or types of data sources used. As a result, any effort to conduct a new, similar study will have to work from a clean slate in many areas.

Thank you once again for providing us with the opportunity to comment. We would be pleased to assist your office with further information or discussion of this matter if you believe it would be helpful.

Thomas J. Marshall

cc: Ms. Haring

CARM

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