



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

18687

Office of Info. Systems
and Services
Rm. 4131

B-202936

JUN 26 1981

The Honorable William D. Ford
Chairman, Committee on Post
Office and Civil Service
House of Representatives

Dear Mr. Chairman:

Your letter of April 3, 1981, requested that we comment on H.R. 2813, 97th Congress, which your Committee is considering. The subject bill, if enacted, would permit the U.S. Postal Service to provide electronic mail services by using transmission services of privately owned telecommunications carriers.

Based on our work on the electronic mail issue and the Postal Rate Commission activities, we offer the following comments. For your convenience, we have enclosed a copy of the bill which is keyed to our comments.

- (1) Purpose--The purpose clause could be clarified to more accurately reflect that the bill provides for the U.S. Postal Service's involvement in electronic mail services only by using the transmission services of privately owned telecommunications carriers.
- (2) Location--Section 2(a)--The proposed new section could be located under Title 39, U.S. Code Part V - Transportation of Mail by establishing a new chapter since the Postal Service views electronic mail as a subclass of mail that is transported electronically.
- (3) Renumbering--If point two above is adopted, the section would have to be renumbered.
- (4) Separate entity--Section 3686(a)(2)--In the administration's July 1979 endorsement of the Postal Service's involvement in electronic mail systems, certain conditions were set forth to which the Postmaster General agreed. One condition indicated that "the Service's electronic service should be established as a separate entity for accounting and ratemaking

[Comments on H.R. 2813]

017461

purposes to ensure that it is operated in a competitive fashion and to avoid the cross-subsidization of electronic service by regular services." If the intent of H.R. 2813 is also to clearly prevent cross-subsidization, which is implied in subsection 3686(b), and to implement the Postmaster General's agreement, then subsection 3686(a)(2) could be more reflective of these conditions. Additionally, in creating this separate entity, the Postal Service should establish an accounting and costing system which assures proper cost assignments and prevents cross-subsidization.

- (5) Funding--Sections 3686(b)(2) and (3)--Under certain circumstances, these sections may fail to provide for initial start-up costs for electronic mail services, although subparagraph (b)(2)(B) appears to permit amortization of start-up costs. No revenue from electronic mail services could be received until a service is started, and a service cannot be started until start-up costs are incurred. Yet subparagraph (b)(2)(A) prohibits use of funds appropriated to the Postal Service pursuant to 39 U.S.C. 2401(a) for electronic mail services in excess of revenues received from electronic mail service. In addition, subparagraph (b)(3) prohibits use of other appropriated funds for electronic mail services. Although subparagraph (b)(2)(B) authorizes investment of Postal Service funds in electronic mail services, in accordance with 39 U.S.C. 2003(c), these monies are only available for investment if in "excess of current needs." Therefore, if the Postal Service fails to determine that monies in the Postal Service Fund are in "excess of current needs," electronic mail service start-up costs may lack funding.
- (6) Contracting Authority--Section 3686(d)(2)--As written, this section appears to permit the Postal Service to enter into a sole-source contract for transmission services. The Postal Rate Commission objected to the sole-source contract that the Postal Service had entered into for one electronic mail service proposal and the FCC strongly encourages competition in the telecommunications field. Therefore, this section could be clarified to reflect the competitive aspect that the Postal Service agrees is necessary.

- (7) Jurisdictional Conflicts--We note that the bill does not address the jurisdictional conflicts which have arisen in the past between the Federal Communications Commission and the Postal Service incident to electronic mail service. We believe it would be prudent for the Congress to resolve potential jurisdictional issues in legislation rather than risking the possibility of protracted litigation that could possibly delay implementation of electronic mail services.

If you need additional information on the electronic mail issue, please call Willis Elmore or Linda Harmon on 245-5397.

Sincerely yours,

MILTON J. SOCOLAR

Acting Comptroller General
of the United States

Enclosure

97TH CONGRESS
1ST SESSION

H. R. 2813

To amend title 39 of the United States Code to provide for postal services utilizing transmission through privately owned telecommunications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 1981

Mr. CLAY introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

(1) To amend title 39 of the United States Code to provide for postal services utilizing transmission through privately owned telecommunications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Postal Electronic Mail
4 Act of 1981".

(2) SEC. 2. (a) Subchapter V of chapter 36 of title 39,
6 United States Code, is amended by adding at the end thereof
7 the following new section:

- (3) 1 "§ 3686. Electronic mail service .
2 "(a)(1) The Postal Service may provide electronic mail
3 service only in accordance with the provisions of this section.
- (4) 4 "(2) Not later than 60 days after the date of the enact-
5 ment of this section, the Postal Service shall establish by
6 regulation a separate organizational unit within the Postal
7 Service to provide for the management of all electronic mail
8 service of the Postal Service.
9 "(b)(1) The Postal Service shall establish rates and fees
10 for electronic mail service under sections 407, 3621, or 3641
11 of this title in such manner that the revenues from the provi-
12 sion of such service shall be sufficient to cover the costs of
13 providing such service.
- (5) 14 "(2)(A) Except as provided in subparagraph (B) of this
15 paragraph, funds appropriated to the Postal Service under
16 section 2401(a) of this title shall be available to the Postal
17 Service for providing electronic mail service only to the
18 extent that those funds do not exceed the revenues received
19 by the Postal Service in providing those services.
- (5) 20 "(B) From funds which are available for investment
21 under section 2003(c) of this title, the Postal Service may
22 make funds available for the separate organizational unit es-
23 tablished under subsection (a) of this section. The amount of
24 funds made available under this subparagraph (together with
25 any incidental expenses incurred by such unit as a condition
26 of the receipt of those funds) shall be included under para-

1 graph (1) of this subsection as a cost of providing electronic
2 mail service, except that in taking such cost into account for
3 the purpose of establishing rates and fees under that para-
4 graph, the Postal Service may structure rates and fees in
5 such manner that those costs are recovered over a reasonable
6 period of time.

7 “(3) The operations of the Postal Service in providing
8 for electronic mail service shall not be subsidized in any
9 manner by the Government. No funds authorized to be ap-
10 propriated to the Postal Service by this title (other than those
11 appropriated by section 2401(a) of this title and made availa-
12 ble under this section) shall be available for the purpose of
13 providing electronic mail service.

14 “(c) The transmission by any person of information
15 through telecommunications shall not in any case be consid-
16 ered a private carriage in violation of chapter 6 of this title or
17 chapter 83 of title 18.

18 “(d)(1) The Postal Service may not own cable, radio, or
19 equivalent telecommunications media for the purpose of pro-
20 viding electronic mail service.

(6) 21 “(2) The Postal Service may enter into contracts with
22 any person, in such manner and under such terms and condi-
23 tions as it considers appropriate, for telecommunications
24 services for the provision of electronic mail service.

1 “(e) Nothing in this title or in any other provision of law
2 shall be construed to authorize the Postal Service to provide
3 the type of telecommunications service which transmits
4 messages originating from computers from their point of
5 origin to their point of destination solely by means of
6 telecommunications.

7 “(f) For the purpose of this section:

8 “(1) The term ‘electronic mail service’ means a
9 postal service which transmits a message by telecom-
10 munications and provides for the delivery of the mes-
11 sage in the mails.

12 “(2) The term ‘telecommunications’ means any
13 transmission of meaning by signals, signs, or symbols
14 between persons or stations at a distance through
15 cable, radio, telegraph, telephone, television, or an
16 equivalent medium of communication.”.

17 (b) The table of sections for chapter 36 of title 39,
18 United States Code, is amended by adding after the item
19 relating to section 3685 the following new item:

“3686. Electronic mail service.”.