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General Government Division

B-279692

April 7, 1998

The Honorable John M. McHugh  
Chairman, Subcommittee on the Postal Service  
Committee on Government Reform and Oversight  
House of Representatives

Subject: Postal Service Reform: Observations on Proposed Revisions to H.R. 22

Dear Mr. Chairman:

This letter responds to your February 27, 1998, request for comments on proposed revisions to H.R. 22, the Postal Reform Act of 1997,<sup>1</sup> which would change current laws to give the U.S. Postal Service greater commercial freedom while establishing rules intended to ensure fair competition. Specifically, you requested written comments on the proposed revisions that were distributed to us last December. On the basis of our past and ongoing work, we offer comments on principles and trade-offs relevant to congressional consideration of the proposed revisions; and we make observations on selected features of the proposed revisions that relate to our reviews of postal issues. Our comments refer to H.R. 22 as it would be amended by the proposed revisions.

BACKGROUND

The Postal Reorganization Act of 1970<sup>2</sup> established the U.S. Postal Service as an independent establishment of the executive branch whose primary mission is to provide universal postal service to communities throughout the nation while remaining largely self-supporting from businesslike operations. The House committee reporting on the bill to reorganize the former Post Office Department in 1970 stated: "The Postal Service is—first, last and always—a public service."<sup>3</sup> At the same time, the legislative history of the 1970 act shows that Congress also was concerned about balancing the Postal Service's public service mission

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<sup>1</sup>H.R. 22, 105th Cong. (1997).

<sup>2</sup>The Postal Reorganization Act of 1970 (P.L. 91-375) reorganized the U.S. Post Office Department into the U.S. Postal Service.

<sup>3</sup>H.R. Rep. No. 1104, 91st Cong., 2d Sess. 19 (1970).

160215

with the expectation that postal managers would maintain and operate an efficient service. The Postal Service has an 11-member Board of Governors, who the law specifies are to be chosen to represent the public interest.<sup>4</sup> The Service operates with a statutory monopoly that restricts the private delivery of letters to enable the postal system to fulfill its mandates to provide fair and reasonable rates; uniform rates for at least one class of letter mail; ready access to postal retail services; and delivery of letter mail to patrons in all areas, however remote. The 1970 act requires the Service to break even from its operations.<sup>5</sup> The Service currently receives little federal assistance to meet its public service obligations.<sup>6</sup>

As with H.R. 22,<sup>7</sup> the proposed revisions<sup>8</sup> attempt to address concerns that have been raised since the Postal Service was created and at the same time balance the needs of multiple stakeholders. The Service faced little direct competition when the Postal Reorganization Act of 1970 was enacted; however, it currently faces growing competition from private carriers and electronic alternatives.<sup>9</sup> The Postmaster General has asked for legislation to give the Service increased flexibility to compete. At the same time, some private competitors have said that current laws do not ensure fair competition, and they have called for the same laws to be applied to them and the Service. Further, customers, including major mailers and the public, are concerned about obtaining quality service at reasonable prices. Postal unions are also important stakeholders who are concerned about the potential effect of legislative changes upon the Service and its employees. Finally, Congress and the public continue to expect the Service to fulfill its primary mission of providing universal postal service at reasonable rates while remaining self-supporting, which would minimize potential risk to the taxpayer.

In the past, the Service has said that it was hampered by lack of flexibility to set prices, a lengthy postal ratemaking process, and lack of control over its financing decisions. The proposed revisions would give the Service greater flexibility to set prices for competitive

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<sup>4</sup>U.S. Postal Service: Issues Related to Governance of the Postal Service (GAO/GGD-97-141, Aug. 14, 1997).

<sup>5</sup>39 U.S.C. 3621.

<sup>6</sup>The Postal Service does not depend on appropriations for its basic operations but receives some funds for, among other things, free and reduced rate mail, such as mail for the blind. In fiscal year 1997, the Service reported \$58.1 billion in operating revenues, of which about \$83 million was reported as appropriations for free and reduced rate mail.

<sup>7</sup>The Chairman, House Subcommittee on the Postal Service, introduced legislation (H.R. 3717, 104th Cong. (1996)) in the 104th Congress to reform the Postal Service which was not reported out of the Subcommittee. In the 105th Congress, the Chairman introduced a similar bill (H.R. 22, 105th Cong. (1997)).

<sup>8</sup>Our comments refer to H.R. 22 as it would be amended by the proposed revisions.

<sup>9</sup>U.S. Postal Service: Continued Challenges to Maintaining Improved Performance (GAO/T-GGD-97-88, Apr. 24, 1997).

products and services, generally shorten the ratemaking process in most years, and provide the Service with greater freedom to manage its finances. A particularly important feature of the proposed revisions would be to differentiate between postal products and services that are "competitive" and those that are "noncompetitive," with price cap regulation applying to four separate "baskets" of noncompetitive products and services. The Service would gain additional flexibility to set prices for individual competitive products and services. The proposal would create a "Competitive Products Fund" to support the Service's competitive operations and would specify that the fund's obligations would not be guaranteed by the federal government. Under the proposed revisions, the Service would retain its status as an independent establishment of the executive branch with a governing board. The Service also would be authorized to establish a private for-profit corporation owned by the Service as a vehicle to offer postal or nonpostal products and services, or to engage in strategic alliances with private companies, such as joint ventures.

The proposed revisions are based on the premise that the Postal Service's participation in competitive markets should be, to the maximum extent possible, on the same terms and conditions as those faced by its private sector competitors. The proposed revisions would make the Service subject to federal prohibitions against fraudulent business practices, such as trademark infringements, and would subject Service activities outside the postal monopoly to federal antitrust laws and unfair competition prohibitions. Moreover, the proposed revisions would strengthen oversight and legal remedies related to fair competition and would seek to ensure that the Service's products and services are not unfairly subsidized. The proposed revisions would rename the Postal Rate Commission the Postal Regulatory Commission, give the Commission subpoena power, strengthen the complaint process for product rates, enable the Commission to impose fines on the Service for deliberate misconduct in a complaint case, give the Commission oversight over single-piece international mail, and provide the Commission with the authority to order the adjustment of unlawful rates or to require the Service to withdraw competitive products and services if they persistently generate losses or do not contribute to overhead costs.

The proposed revisions would establish a process for defining and quantifying the concept of "universal service" in the postal sector for the first time. Under the proposed revisions, the Postal Regulatory Commission would conduct a proceeding and submit its recommendation for congressional review and approval, which would include postal services to be designated as "universal services" and minimum service standards for these services. The Commission would annually estimate the cost of public service requirements, such as universal postal service, requirements for free and reduced rate services, and postal law enforcement activities. The proposed revisions would also require the Service to establish performance measures for, and report annually, on the quality of delivery service for all classes of mail.

The proposed revisions would somewhat narrow the postal monopoly—which helps ensure that the Service has sufficient revenues to provide universal service—by imposing a \$2 limit on the delivery price for items covered by the monopoly. The Service has used a minimum dollar threshold called the "double postage rule" to exempt extremely urgent letters from the postal monopoly. The rule allows for the private delivery of a letter under the presumption that if a customer is willing to pay twice the applicable First-Class rate, including Priority Mail, or \$3, whichever is greater, the letter must be extremely urgent.<sup>10</sup>

In analyzing the proposed revisions, we relied on past work we have done on the Service, on government-sponsored enterprises, and on the Government Performance and Results Act of 1993 (the Results Act), as well as ongoing work related to international mail.

### RESULTS IN BRIEF

Because the proposed revisions contain many complex provisions that we have not considered in our past or ongoing reviews, we are generally not in a position to comment on the implications of the specific revisions being proposed. Therefore, we do not take a position on whether or not the proposed specific revisions to H.R. 22 should be adopted. However, we do have some observations regarding several of the proposed revisions that relate to concerns we and others, including the Postal Service itself, private competitors, and customers, have raised regarding the role and legal status of the Postal Service.

First, our previous work indicated that the Service could benefit from defining the concept of universal service. The proposed revisions would mandate that the concept of universal postal service be defined. Second, we reported that the purpose of the postal monopoly is to protect the Service's revenue and thereby ensure it can fulfill its public service obligations, including providing universal service. We said that available data indicated that a \$2 limit on the delivery price of items covered by the postal monopoly—the limit proposed by the revisions—would have little short-range impact on the Service's ability to provide universal service. Third, the Service is required under the Results Act to describe how the performance goals in its annual performance plan are related to the general goals and objectives in its strategic plan, which must cover all of its major functions and operations. In our view, requiring the Service to report on the quality of its delivery service would be consistent with the underlying purpose of the Results Act. Fourth, we have reported that the Service needs more flexibility in setting postal rates. The proposed revisions would give the Service additional flexibility to set prices for its competitive products and services. However, in congressional review of proposals to give the Service greater freedom to borrow and manage its finances, three considerations

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<sup>10</sup>Postal Service Reform: Issues Relevant to Changing Restrictions on Private Letter Delivery (GAO/GGD-96-129A/B, Sept. 12, 1996).

seem appropriate: Credit markets could perceive implied federal financial backing of Service obligations even if they are explicitly not guaranteed, which may raise concerns about potential funding advantages; There may be a potential risk to the taxpayer if the Service incurred losses and the government chose to repay these obligations; And effective oversight could reduce the potential risk to the taxpayer related to any losses from investments made by the Competitive Products Fund.

The proposed revisions would give the Service additional flexibility to set prices for its competitive products and services and would subject the Service's activities to many of the same U.S. laws as the private sector. In our view, as long as the Service remains a federal entity protected by the postal monopoly, it is appropriate that the Service's ability to compete with the private sector be balanced with oversight and legal safeguards to ensure fair competition between the Service and private competitors. Further, the proposed revisions are designed to ensure fair competition for international mail. In this regard, our past and ongoing work on international mail has identified several complex issues and policy questions involving competition in that market. For example, questions relevant to requiring the same customs laws for postal and privately shipped packages include whether and how customs laws should be equalized.

We recognize that the proposed revisions are intended to address difficult policy issues that have potentially far-reaching effects on stakeholders. As Congress considers the proposed revisions, it will be important to consider the balance among the Service's needs for additional flexibility to meet the challenge of growing competition in a constantly changing communications market, private competitors' needs for fair competition, postal unions' concerns about the Service and its employees, customers' needs for service quality and for choices among products and services, and the public's needs for accountability and oversight to ensure that the Service meets its public service obligations and minimizes potential risk to the taxpayer.

THE PROPOSED REVISIONS CONTAIN PROVISIONS REGARDING UNIVERSAL SERVICE, THE POSTAL MONOPOLY, ACCOUNTABILITY, AND OVERSIGHT

The proposed revisions are designed to address some fundamental questions regarding the Postal Service, including:

- (1) What is the nature of the "universal postal service" that the Service is obligated to provide to all communities, and what is the associated cost?
- (2) What should be the scope of the postal monopoly, and is that scope sufficient to protect the Service's revenue base so that the Service can provide universal service at reasonable rates?

- (3) What accountability and oversight are appropriate for the Service, given that it would remain a federal entity with monopoly protection, public service obligations, the need to remain self-supporting, and the ability to offer competitive products and services?

On the basis of our past work, we make observations on features of the proposed revisions that relate to defining universal service, limiting the postal monopoly, requiring performance reporting, and altering the Service's ability to manage its finances.

### The Proposed Revisions Would Establish Processes to Better Define Universal Postal Service

We support the objective of the proposed revisions to better define the "universal service" that the Postal Service is required to provide, quantify the cost, and establish performance measures that would help stakeholders monitor the fulfillment of universal service obligations. The Results Act requires the Service to define its major objectives and set measurable goals for their achievement. Because providing universal service is the Service's primary mission, in July 1997 we suggested that the Service define universal service more clearly in the strategic plan it was preparing under the Results Act.<sup>11</sup> In the preliminary performance plan it published earlier this year to comply with the Results Act, the Service said it intends to undertake a major multiyear effort to define universal service.<sup>12</sup> Although these efforts meet the intent of our recommendation, the proposed revisions would require that the Postal Regulatory Commission rather than the Postal Service develop a definition of universal service. The proposed revisions also provide for congressional approval of the definition of universal service. We are not taking a position on which entity should develop the definition. We note that the concept of legislatively requiring an agency to develop a definition of universal service is consistent with action Congress took in 1996 through enactment of the Telecommunications Act of 1996, which required the Federal Communications Commission to define universal telecommunications service for the first time and measure the cost of this service.

In addition, our 1996 report found that in the eight countries we reviewed, the definition of universal mail service varied somewhat from country to country.<sup>13</sup> We have reported that the European Commission published in 1992 a "Green Paper" expressing the view that universal postal service required throughout the Community needed to be defined.

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<sup>11</sup>The Results Act: Observations on the Postal Service's June 1997 Draft Strategic Plan (GAO/GGD-97-163R, July 31, 1997).

<sup>12</sup>United States Postal Service: 1997 Comprehensive Statement on Postal Operations.

<sup>13</sup>GAO/GGD-96-129A/B.

Further, in our 1997 report on postal reform in Canada we described various issues with respect to universal service that have been raised in the past.<sup>14</sup>

The Proposed \$2 Monopoly Limit Likely to Have Little Short-Term Impact on The Service's Ability to Provide Universal Service

In 1996, we reported that the purpose of the postal monopoly has long been to ensure adequate revenue to permit the government to meet its public service mission, including universal mail service to all communities at reasonable rates.<sup>15</sup> Other public service objectives mandated by the 1970 act include requiring uniform rates for at least one class of mail; providing access to the U.S. mail system through post offices and other means; specifying how costs are to be allocated and how postage rates are to be set; and providing free or reduced rates to certain categories of mailers, such as the blind. The proposed revisions would somewhat narrow the scope of the Service's monopoly by allowing private delivery of letters for which the delivery price exceeds \$2.<sup>16</sup>

A key question related to consideration of the proposed \$2 limit on the postal monopoly is whether it would affect the Service's revenues and thereby affect its ability to fulfill its public service obligations. In response to questions for the record for hearings held by the House Subcommittee on the Postal Service in April 1997,<sup>17</sup> we said that on the basis of available data, it appeared that the short-range impact of reducing the scope of the letter mail monopoly to \$2 would not significantly affect the Postal Service's ability to provide affordable universal service, because little of the First-Class mail volumes that are currently protected by the postal monopoly would become subject to competition. In our 1996 report,<sup>18</sup> we said that although First-Class mail volume is critical to the Service's overall revenue and its ability to cover operating costs, available data indicated that less than 3 percent of the First-Class mail revenues were derived from First-Class mail that fell outside the proposed reduced limit of \$2. In addition, we said a variety of other factors, such as a reduction in First-Class mail volume due to increased use of electronic

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<sup>14</sup>Postal Reform in Canada: Canada Post Corporation's Universal Service and Ratemaking (GAO/GGD-97-45BR, March 5, 1997).

<sup>15</sup>GAO/GGD-96-129A/B.

<sup>16</sup>The Service has used a minimum dollar threshold called the "double postage rule" to exempt extremely urgent letters from the postal monopoly. The rule allows for the private delivery of a letter under the presumption that if a customer is willing to pay twice the applicable First-Class rate, including Priority Mail, or \$3, whichever is greater, the letter must be extremely urgent.

<sup>17</sup>General Oversight of the U.S. Postal Service, Hearing before the Subcommittee on the Postal Service of the Committee on Government Reform and Oversight, House of Representatives, 105th Cong., 47-48 (1997).

<sup>18</sup>GAO/GGD-96-129A/B.

media, along with costs, inflation, and service quality, could in the long run, in combination with any change in the scope of the postal monopoly, have an impact on the Postal Service's ability to provide affordable universal service.

In our 1996 report, we said that there had been a general pattern among the other countries we reviewed of continuing to require universal service but also allowing greater competition for letter mail delivery.<sup>19</sup> We said that although the greater size of the U.S. Postal Service makes comparisons difficult, postal reform efforts in other countries are relevant to consideration of postal reform in the United States. A common practice among the eight countries we reviewed and reported on was to define the scope of the postal monopoly according to price, weight, urgency, or a combination of these factors. This was in contrast to the definition of a letter protected by the monopoly in this country, where these measurable characteristics are not used except with regard to extremely urgent letters, for which the Service has suspended its monopoly.

#### The Proposed Revisions Would Require Performance Reporting for All Classes of Mail

The proposed revisions would require that the Postal Service submit information on an annual basis to the Postal Regulatory Commission that would include the performance plan and program reports required under the Results Act, as well as information on measures of speed and reliability of postal services in "all classes of mail" and measures of customer satisfaction. These proposals are more detailed than requirements in the Results Act, which requires the Service to prepare an annual performance plan covering each program activity set forth in the Service's budget statement. The plan is to include, in part,

- (1) performance goals to define the level of performance to be achieved by a program activity, which are to be expressed in an objective, quantifiable, and measurable form unless an alternative form is used; and
- (2) performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity.

The proposed revisions should address the concerns of some mailers and consumers that although the Service currently reports on the speed of First-Class mail delivery, it does not make corresponding reports for other classes of mail. We believe that requiring the Service to report on the quality of its delivery service would be consistent with the underlying purpose of the Results Act. The Act requires the Service to describe how the performance goals contained in its annual performance plan are related to the general goals and objectives in its strategic plan, which must cover all of its major functions and

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<sup>19</sup>GAO/GGD-96-129A/B.



operations.<sup>20</sup> The Service already measures on-time performance of First-Class mail; in its preliminary performance plan, the Service said it plans to develop additional performance indicators for some other classes of mail, for the consistency of business delivery service, and for the accuracy of delivery service.<sup>21</sup> Mandating that the Service report on the speed and reliability of mail service would ensure the provision of relevant information to stakeholders as they monitor the Service's fulfillment of its statutory obligation to provide universal postal service to all communities. Under the proposed revisions, in its recommendation to Congress on universal service, the Postal Regulatory Commission would be required to identify classes of mail defined as "universal services" in order for the Postal Service to fulfill its universal service requirement. These universal service definitions would be required to include minimum standards of service to be met.

**THE PROPOSED REVISIONS WOULD GIVE THE SERVICE ADDITIONAL FLEXIBILITY TO MEET THE CHALLENGE OF GROWING COMPETITION**

The proposed revisions address concerns we have expressed in previous reports about the flexibility and length of the ratemaking process. In 1992 and 1995, we reported that to better compete in the current market, the Postal Service needed more flexibility in setting postal rates.<sup>22</sup> Since the 1970 act was enacted, many studies, including four by us, have proposed changes to the postal ratemaking process.<sup>23</sup> Because our previous reviews have not examined issues regarding price cap regulation in the postal sector or the many complex and interrelated provisions of the proposed revisions, we do not take a position on the specific proposed changes to the ratemaking process. We used our past work on postal ratemaking as a basis for the following observations on some of the key ratemaking proposals.

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<sup>20</sup>Managing for Results: Agencies' Annual Performance Plans Can Help Address Strategic Planning Challenges (GAO/GGD-98-44, Jan. 30, 1998).

<sup>21</sup>U.S. Postal Service: 1997 Comprehensive Statement on Postal Operations. This comprehensive statement includes the Service's preliminary performance plan for fiscal year 1999, which said that the Service will develop new indicators for First-Class remittance mail between selected cities, for Priority Mail, and for advertising mail. The preliminary plan also said the Service will develop a new indicator for "accurate service" and for the consistency of service based on percent of business deliveries before noon.

<sup>22</sup>See U.S. Postal Service: Pricing Postal Services in a Competitive Environment (GAO/GGD-92-49, March 25, 1992); and U.S. Postal Service: Postal Ratemaking In Need of Change (GAO/GGD-96-8, Nov. 15, 1995).

<sup>23</sup>In addition to our 1992 pricing report, see The Role of the Postal Rate Commission Should Be Clarified (GAO/GGD-77-20, Apr. 1977); A Case Study of Why Some Postal Rate Commission Decisions Took As Long As They Did (GAO/GGD-81-96, Sept. 1981); and Opportunities to Improve the Postal Ratemaking Process (GAO/GGD-84-10, Apr. 1984).

### The Proposed Revisions Would Give the Service Greater Flexibility to Change Rates

First, we have reported that if the Service is to be more competitive, it will need greater pricing flexibility in markets exposed to direct and growing competition, including its second-day market as well as its overnight and parcel post markets.<sup>24</sup> The proposed revisions appear consistent with these principles by giving the Service greater flexibility to set rates for its competitive products and services, including Priority Mail, Expedited Mail, and parcel post.

Further, we have recommended that Congress reexamine the 1970 act to (1) determine if volume discounting by the Postal Service would be considered a discriminatory pricing policy and (2) clarify to what extent demand pricing should be considered in postal ratemaking.<sup>25</sup> The proposed revisions clarify policies on demand pricing by allowing the Service to use volume discounting for competitive products and services. We have also testified that the Service is constrained now by both the criteria in the 1970 act specifying how the Service must allocate costs and set postage rates and by the length of the ratemaking process, which is typically 10 months.<sup>26</sup> The proposed revisions retain the ratemaking criteria in the 1970 act but relax some pricing constraints by allowing the Service to determine rates for its competitive postal products and services, provided that they meet certain minimum requirements. The Service would also be authorized to introduce new unregulated nonpostal products and services if they were produced by a private for-profit corporation owned by the Service. In addition, the proposed revisions would allow the Service to modify postal rates for noncompetitive products and services in most years without going through the full-scale ratemaking process.

### The Proposed Revisions Would Give the Service Additional Freedom to Borrow and Manage its Finances

The proposed revisions would give the Service greater freedom to borrow and manage finances associated with the Competitive Products Fund, which would be created within the Department of the Treasury for the Service's revenues and expenditures associated with its competitive products and services. The Postal Service would be able to use its discretion to operate this fund, but the fund would not be able to obtain loans from Treasury. The Service would be authorized to borrow money and issue and sell obligations to support its competitive activities with the amounts deposited in the Competitive Products Fund, provided that the aggregate amount of any such obligations

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<sup>24</sup>GAO/GGD-96-8.

<sup>25</sup>GAO/GGD-96-8, GAO/GGD-92-49.

<sup>26</sup>U.S. Postal Service: Challenges in Improving Performance and Meeting Competition (GAO/T-GGD-96-90, March 13, 1996).

outstanding at any one time did not exceed a dollar threshold set by the Treasury Department.<sup>27</sup> Under the proposed revisions, obligations issued by the Postal Service for the Competitive Products Fund would not be obligations of, nor would payment of its principal and interest be guaranteed by, the federal government.

Although we take no position on the numerous specific proposals in the proposed revisions, our past work suggests the credit markets could perceive implied federal financial backing of financial obligations issued by a federal entity even though they are explicitly not guaranteed. This may create a potential risk that the federal government could choose to repay these obligations if the Postal Service incurred financial losses. Also, competitors of the Service may be concerned about potential funding advantages that the Service could obtain if the financial market perceives Service obligations as having implied federal financial backing and therefore lower financial risk than obligations of private firms. At the same time, consistent with our past work on government-sponsored enterprises,<sup>28</sup> potential risks may remain for the taxpayer even though proposed obligations of the Service's Competitive Products Fund would explicitly not be guaranteed. Although the proposed revisions include steps intended to minimize potential taxpayer risk,<sup>29</sup> we believe that it is important to consider the potential risk to the taxpayer in the event that the Service incurred financial losses and the federal government decided to repay these obligations rather than having the Postal Service take other actions, such as increasing postal rates.

The proposed revisions would remove requirements that the Secretary of the Treasury give prior approval before the Service could deposit its revenues outside of accounts within the U.S. Treasury or within Federal Reserve banks or depositories. Under the proposed revisions, the Service would gain flexibility so it could choose to deposit or invest monies of the Competitive Products Fund provided that they are not invested in equities or obligations of individual corporations.<sup>30</sup> With respect to these proposed

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<sup>27</sup>In addition, obligations of the Competitive Products Fund (1) could not be purchased by the Secretary of the Treasury; (2) would not be exempt both as to principal and interest from all state and local taxes, except estate, inheritance, and gift taxes; and (3) would not be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

<sup>28</sup>See Government-Sponsored Enterprises: Federal Oversight Needed for Nonmortgage Investments (GAO/GGD-98-48, Mar. 11, 1998).

<sup>29</sup>For example, under the proposed revisions, "if a postal product persistently fails to cover attributable costs, or persistently fails to contribute to institutional costs, the proposed revisions permit the [Postal Regulatory Commission] to order such product's withdrawal, after taking into account all relevant circumstances and offering affected parties an opportunity to be heard."

<sup>30</sup>The proposed revisions provide an exception that would allow money of the Competitive Products Fund to be invested in a private for-profit corporation that would be owned by the Service. The Service could establish the

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revisions, we suggest that consideration be given to ensuring that effective oversight over such investments is retained in order to minimize potential risk to the taxpayer that losses could result from these activities.

THE PURPOSE OF THE PROPOSED REVISIONS IS TO PROTECT FAIR COMPETITION BETWEEN THE POSTAL SERVICE AND ITS COMPETITORS IN THE PRIVATE SECTOR

We believe the proposed revisions that would give the Service additional flexibility to set prices for its competitive products and services raise serious questions about the need for safeguards to ensure fair competition. As we reported in 1996, the Service's role as a public provider of universal postal service potentially conflicts with its role as a competitor with the private sector.<sup>31</sup> Providing the Service with flexibility to compete has the potential to affect fair competition. Therefore, we offer the following observations regarding proposed changes that relate to fair competition for domestic and international mail.

Equal Application of Laws to the Service and the Private Sector

In our view, as long as the Service remains a federal entity protected by the postal monopoly, it is appropriate to balance the Service's commercial freedoms with oversight and legal safeguards to ensure fair competition among the Service and private competitors. The proposed revisions recognize this principle by being designed to strengthen oversight and the legal safeguards to balance the Service's greater commercial freedom. A key question for Congress is whether the proposed revisions are appropriately balanced between these two objectives. The proposed revisions would make the Service subject to federal prohibitions against fraudulent business practices, would subject Service activities outside the postal monopoly to federal antitrust laws and unfair competition prohibitions, would strengthen oversight and legal remedies related to fair competition, and would seek to ensure that the Service's products and services are not unfairly subsidized. Because we have not reviewed these specific features of the proposed revisions, we take no position on these specific proposals.

The Proposed Revisions Are Designed to Ensure Fair Competition for International Mail

In our past and ongoing work, we have identified a number of complex issues and policy questions regarding competition for international mail that are relevant to congressional

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<sup>30</sup>(...continued)

corporation to offer postal or nonpostal products and services or to engage in strategic alliances with private companies.

<sup>31</sup>GAO/GGD-96-129A/B.

consideration of the proposed revisions. Our 1996 report on international mail<sup>32</sup> noted that private competitors contend that the Service has a competitive advantage because of its unique role in setting international mail rates with limited independent review, serving as a government agent in conducting negotiations, and making agreements with other postal administrations.<sup>33</sup> We also reported that the Service is attempting to overcome what it considers to be statutory and regulatory barriers that limit its ability to compete for international business. Our 1996 report concluded that the competition between the Service and private firms for international mail has raised policy issues that could not have been anticipated in 1970. Specifically, we concluded that the 1970 act and its legislative history provide little guidance to resolve issues that have been raised involving (1) the appropriateness of the Service's rates for international mail services, (2) the Service's participation with the Universal Postal Union<sup>34</sup> and with governments of postal administrations of other countries in matters affecting the Service's commercial interests, and (3) the Service's required use of American flag carriers. We said these are policy issues that require reexamination of many complex and interrelated provisions of the 1970 act. Moreover, we said that issues surrounding the Service's role in the international market are very similar to issues that we have reported on regarding the Service's role in domestic mail markets.

The proposed revisions are designed to ensure fair competition for international mail by (1) making ratesetting for outbound international single-piece letters, cards, and parcels subject to review by the Postal Regulatory Commission; (2) subjecting the Postal Service's competitive international products to the same customs laws that apply to private companies; (3) changing the designation of the U.S. representative in the Universal Postal Union from the Postal Service to the Office of the United States Trade Representative (USTR); (4) enjoining USTR from concluding agreements that give preference to the Postal Service in the provision of competitive products; (5) prohibiting the Postal Service from entering into agreements with foreign governments or foreign post offices that would give special preference to the Postal Service in the provision of competitive products; and (6) removing the requirement that the Service use American flag carriers for international mail. We are currently reviewing customs requirements for international postal and privately shipped parcels and have recently begun a review of the role of the

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<sup>32</sup>U.S. Postal Service: Unresolved Issues in the International Mail Market (GAO/GGD-96-51, March 11, 1996).

<sup>33</sup>International mail to and from the United States is regulated by both U.S. postal laws and international agreements. The 1970 act authorizes the Postal Service, with the consent of the president, to negotiate and conclude postal treaties or conventions and to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries [39 U.S.C. 407(a)].

<sup>34</sup>The Universal Postal Union (UPU) is a specialized agency of the United Nations that governs international postal service. A UPU international agreement sets the basic principles and guidelines for the exchange of letter post mail, and to a lesser extent, for express mail. Other UPU agreements and guidelines apply to parcel post and financial services.

Postal Service in the Universal Postal Union. Therefore, we take no position on the specific provisions of the proposed revisions that address international issues. On the basis of our ongoing reviews, we offer the following observations for your consideration.

Our ongoing work on international mail has identified several complex issues involving competition in that market. For example, questions relevant to requiring the same customs laws for postal and privately shipped parcels include:

- (1) Should international postal parcels and parcels delivered by private carriers be subject to the same requirements and customs laws?
- (2) If so, what requirements would be most appropriate?
- (3) How could those requirements be established or imposed, as most importing requirements have been imposed by foreign governments?

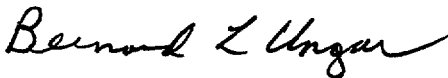
We plan to issue a report soon on the results of our review comparing the customs requirements for postal and privately shipped parcels.

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We are distributing copies of this letter to the Ranking Minority Member of your Subcommittee; the Chairman and Ranking Minority Member of the Subcommittee on International Security, Proliferation and Federal Services, Senate Committee on Governmental Affairs; the Postmaster General; and other interested parties. Copies will also be made available to others upon request.

Major contributors to this letter are listed in the enclosure. If you have any questions about this letter, please call me on (202) 512-8387.

Sincerely yours,



Bernard L. Ungar  
Director, Government Business  
Operations Issues

Enclosure

ENCLOSURE

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