BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Removing Bound Printed Matter from the Market-Dominant Product List	Docket No. MC2025-948
Raising Marketing Mail Weight Limits	Docket No. MC2025-958

REPLY COMMENTS OF THE ASSOCIATION FOR POSTAL COMMERCE, ALLIANCE OF NONPROFIT MAILERS, AND AMERICAN COMMERCE MARKETING ASSOCIATION

April 11, 2025

Pursuant to Order No. 8753, the Association for Postal Commerce ("PostCom"), Alliance of Nonprofit Mailers ("ANM"), and American Commerce Marketing Association ("ACMA") (together, "Joint Commenters") submit these Reply Comments on the Postal Service's request to remove Bound Printed Matter ("BPM") from the list of Market Dominant products.

The Postal Service has not provided adequate justification for its request, and the Postal Services' Reply Comments filed on March 17, 2025 ("USPS Reply Comments") do not resolve the inadequacies in the Postal Service's request. For the reasons explained below, the Commission should reject the Postal Service's request.

I. EXPANDING ELIGIBILITY FOR MARKETING MAIL DOES NOT RESOLVE THE PROBLEMS STEMMING FROM ELIMINATION OF BPM PRODUCTS

The Postal Service claims that "[c]ommenters make little or no mention of raising the maximum weights in Marketing Mail."[1] But as the Postal Service recognized in its Reply Comments, increasing these limits is "by itself an uncontroversial proposition."[2] The question

1 USPS Reply Comments at 4.
2 *Id.*

remains as to whether expanding Marketing Mail eligibility will sufficiently ameliorate the impact the elimination of BPM products will have on the users of those products. It will not.

The creation of a new product for non-fulfillment pieces, which will be offered at a higher price, does not address the question of whether the Postal Service is abusing its market power through its proposed deletion of BPM products. First, it provides no alternative for fulfillment pieces, most of which will be forced into competitive products.[3] Even for non-fulfillment pieces that are eligible for Marketing Mail, the new category will not provide an acceptable substitute. Large catalogs currently mailed as BPM Flats may not be eligible for Marketing Mail Flats—BPM Flats accepts flat-shaped mail up to 15 pounds, while Marketing Mail Flats would be limited to flat-shaped mail up to 20 or 24 ounces.[4] Mailers sending large catalogs as BPM Flats will be forced into the new category of Heavy Printed Matter, which will be available for flat-shaped mail weighing more than 20 or 24 ounces, depending on sortation level and preparation, and presumably at an even higher price point.[5]

In any case, Marketing Mail will represent a significant price increase for mailers currently using BPM. The Postal Service has already acknowledged that this change "would create a price increase for the BPM mail pieces that would be sent as Marketing Mail."[6] In its price change filing in Docket No. R2025-1, the Postal Service proposes an increase in Marketing Mail Flats prices of 9.605% and an increase in Marketing Mail Parcels prices of 12.202% in its primary case, where

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3 Comments of the Association for Postal Commerce, Alliance of Nonprofit Mailers, and American Commerce Marketing Association at 10 (citing USPS Response to ChIR No. 2, Questions 10.a. and 10.b. & USPS Response to ChIR No. 2, Question 10.c.) ("PostCom/ANM/ACMA Comments").

4 *See* USPS Request at 8.

5 *See id.*

6 USPS Response to ChIR No. 2, Question 2.a.

BPM prices remain in place.[7] In its alternative case, in which it removes BPM prices, the Postal Services proposes to raise Marketing Mail Flats prices by 9.614% and Marketing Mail Parcels prices by *17.996%*.[8] While the precise impact of the changes will depend on individual mailer profiles, the Heavy Printed Matter prices in Attachment C to the price change include significant increases for origin-entered Heavy Printed Matter versus current BPM Parcels prices and for nonpresorted volumes.[9]

The additional price increases imposed on Marketing Mail Parcels enabled by the elimination of BPM products indicates that the Postal Service is utilizing its market dominant position over heavy non-fulfillment pieces to increase prices. This increase would come despite the fact that the BPM Flats product is already profitable for the Postal Service, with BPM Flats covering 126.97% of its attributable costs in FY 2024.[10] Notably, the Postal Service has proposed average increases of 12.4 percent for BPM parcels and a whopping, and punitive, 30.8 percent for BPM flats[11] in the event the Commission rejects the Postal Service's attempt to eliminate BPM products. The Postal Service plainly believes that any volume losses induced by these price increases will be offset by additional profits, indicating abuse of its market dominant position.

The Postal Service's primary argument for eliminating BPM Flats is that it is duplicative and removing it will "simplify the processing of market-dominant flats."[12] However, that "duplication" has always existed within the BPM products. When the Postal Rate Commission

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7 Docket No. R2025-1, United States Postal Service Notice of Market Dominant Price Change at 16 (Table 10) (April 9, 2025) ("April 2025 Notice").

8 *Id.* at 53 (Table 20).

9 *Compare* Mail Classification Schedule § 1420.6 (current BPM Parcels prices) *with* April 2025 Notice at Attachment C, proposed MCS § 1230.6 (alternative prices for Heavy Printed Matter).

10 Docket No. ACR2024, Fiscal Year Annual Compliance Report at 25 (Dec. 30, 2024).

11 April 2025 Notice at 30.

12 Postal Service's Reply Comments at 4.

approved the creation of what is now known as Bound Printed Matter in Docket No. MC73-1, allowing "[b]ound printed matter (other than books) containing some text and some advertising"[13] to be mailed at lower fourth-class catalog rates previously reserved for matter consisting entirely of advertising, it noted that such material was also eligible for third-class (*i.e.*, Marketing Mail) catalog rates.[14] The third-class rates were available for catalogs weighing less than one pound, while the fourth class rates were available for catalogs weighing one pound or more.[15]

The Postal Rate Commission found that "the reclassification of bound printed matter in this manner . . . has the potential of attracting customers due to lower competitive rates."[16] It further explained the change made BPM products "a desirable classification from the point of view of the user and of the Postal Service."[17] This same submarket identified by the Postal Rate Commission in Docket No. MC73-1 still exists today, as evidenced by the 175 million pieces of BPM that were catalogs, directories, and other advertising or promotional material sent in fiscal year 2024.[18] The Postal Service has presented no evidence of shippers requesting a simplified product like Heavy Printed Matter and has provided no explanation for why this duplication, which has not caused problems for the last fifty years, must be altered now.

II. THE POSTAL SERVICE'S OBJECTION THAT MAILERS ARE SIMPLY TRYING TO AVOID HIGHER PRICES DEMONSTRATES THAT THE POSTAL SERVICE MISUNDERSTANDS THE PROBLEM

The Postal Services argues that the initial comments are "incomplete, and therefore misleading" because they emphasize record evidence of "the higher prices that will result from

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13 Docket No. MC73-1, Postal Rate Commission Op. & Rec. Decision at 59 (Apr. 15, 1976) ("MC73-1 Op. & Rec. Decision").
14 *Id*.
15 *Id.* at n. 1.
16 *Id.* at 62.
17 *Id.*
18 USPS Request at 6-7.

removing two BPM products."[19] Yet, 39 U.S.C. § 3642(b)(3)(B) directs the Commission to consider "the views of those who use the product involved" when evaluating whether to approve a request from the Postal Service to remove a market dominant product. It directly follows that product users, and especially those who have built businesses around utilizing BPM, will be concerned with changes that increase the costs to their businesses. There is nothing in 39 U.S.C. § 3642(b)(3)(B) that suggests that the Commission should give any less weight to user views regarding the financial impact of a product deletion rather than it gives to views on other aspects of a product deletion.

Furthermore, the Postal Service's ability to profitability raise prices on a product is a key market power metric. The Commission cannot ignore the price increases that shippers would experience and still fulfill its duty to protect against abuses of market power. The Postal Service attempts to avoid this reality by arguing that the D.C. Circuit's directive to the Commission to consider market power abuse when making an evaluation under 39 U.S.C. § 3642 is merely "dicta."[20] However, the ability to address market power issues related to pricing in a classification docket was key to the Court's decision that those issues should not be addressed in the price change docket. The DC Circuit declared that "Commission review under Section 3642 assimilates the concerns about abuse of monopoly power that the Commission contends justified its resort to Section 3622."[21] Without that review, there is no protection against such abuses.

Ultimately, the D.C. Circuit held that the Commission could not treat a product deletion as a price change and required the Postal Service to recalculate its cap compliance after deleting a

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19 USPS Reply Comments at 4.

20 *See id.* at 2; *United States Postal Serv. v. Postal Regulatory Comm'n*., 886 F.3d 1261,1269 (D.C. Cir. 2018) ("*USPS v. PRC*").

21 *USPS v. PRC*, 886 F.3d at 1269.

product.[22] The court also directed the Commission to examine whether the deletion itself was an abuse of market power in the classification docket.[23] The Commission conducted this analysis on remand.[24] The Postal Service's argument that "[t]he Commission should . . . leave any determination about the proper magnitude of price increases . . . [to] a subsequent price case"[25] would represent a departure from precedent and leave mailers without any venue in which to bring arguments that the Postal Service is abusing its market power by eliminating the BPM products—a different question than whether price increases on other products comply with the price cap.

III. USPS DEFENDS ITS MOTIVES, NOT ITS RESULTS

The Postal Service likewise misses the mark with its spirited defense of the transparency with which it has pursued its changes.[26] Commenters did not object that the Postal Service was disguising the fact that the elimination of BPM Parcels would have the same practical impact as transferring BPM Parcels to the competitive product list. In fact, Joint Commenters argued that "The Postal Service's Request is a Transparent Attempt to Nullify the Commission's Earlier Findings on BPM."[27] In response to information requests, the Postal Service was perfectly transparent that 87% of BPM fulfillment volumes will be excluded from price cap calculation because they will shift to competitive products, and those pieces will experience a rate increase of 189%.[28] These impacts are practically indistinguishable from the impacts of transferring BPM Parcels to the Competitive Products List. Even in that case, the Postal Service suggested some

22 *Id.* at 1268-69.
23 *Id.* at 1269.
24 *See* Order No. 5408, Docket No. MC2015-8 (Jan. 16, 2020).
25 USPS Reply Comments at 8.
26 *Id.* at 2-3.
27 PostCom/ANM/ACMA Comments at 9.
28 *See id.* at 10 (USPS Response to ChIR No. 2, Questions 10.a. and 10.b.& USPS Response to ChIR No. 2, Question 10.c.).

pieces would move to market dominant Media Mail as a result of the transfer,[29] just as it expects here.

The Postal Service does not rebut these figures in its reply comments. Rather, it suggests the Commission should ignore this functional equivalence and evaluate its request under a different standard because it is not formally transferring any product to the competitive products list.[30] But doing so would elevate form over function in a way that deprives mailers of any protections against an abuse of market power. The Postal Service's argument that mailers still receive protection because "the rate cap applies"[31] obviously does not apply to the 87% of volumes that will be forced into competitive products.

IV. THE POSTAL SERVICE IGNORES SERVICE DEGREDATION

Joint Commenters explained that because Media Mail does not offer dropship prices, the elimination of BPM products will degrade service for mailers pushed into that category by the elimination of BPM.[32] The Postal Service does not respond to this argument at all. Rather, it continues to insist that BPM is "duplicative" of other products even though it serves a different market and has different price and service characteristics. The Commission must recognize the impacts to service when evaluating the Postal Service's request.

V. THE POSTAL SERVICE IGNORES SMALL BUSINESS CONCERNS

The statute specifically directs the Commission to consider the impact of any product change on small business concerns.[33] Our initial comments detailed the Postal Service's failure to

29 United States Postal Service Request to Transfer Bound Printer Matter Parcels to the Competitive Product List at 15, Docket No. MC2021-78 (Mar. 26, 2021).
30 *See* USPS Reply Comments at 5-6.
31 *Id.* at 6.
32 PostCom/ANM/ACMA Comments at 6.
33 *See* 39 U.S.C. §3642 (b)(3)(C).

present evidence on this score,[34] and the Postal Service does not remedy this deficiency in its reply comments. Rather, it lumps the concerns of small businesses in with those of larger businesses, dismissing all their objections as "the familiar refrain that it will hurt the commenters and their customers in various ways if the Postal Service raises prices so much."[35] As explained above, this "familiar refrain" reflects the heart of the inquiry. The Postal Service's disdain for the impact its actions will have on its customers—whether the customer is "a billion dollar goliath or a much smaller operation"—is not only unbecoming an entity with a statutory mandate to serve the public, but it highlights the Postal Service's utter failure to address a key statutory consideration governing its request. Accordingly, the Commission should reject the request.

Respectfully submitted,

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34 PostCom/ANM/ACMA Comments at 13.
35 USPS Reply Comments at 6.

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