

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

May 13, 2015

Ms. Megan J. Brennan
Postmaster General
United States Postal Service
475 L'Enfant Plaza SW
Washington, D.C. 20260

Dear Postmaster General Brennan:

Since fiscal year 2008, competitive products volume has grown from 1.574 billion pieces in fiscal year 2008 to 3.448 billion pieces in fiscal year 2014. Market-dominant mail volume has declined dramatically over the same period, from 201 billion pieces to just 152 billion pieces. As a result, the Postal Service now relies on competitive products for 22.5 percent of its total revenue, more than double the percentage in 2008.

While the Postal Service's recent package related revenue growth has provided a much-needed financial bright spot, the Postal Service must abide by the necessarily complicated legal framework to ensure compliance with the statutory prohibition on cross-subsidization of competitive products by market-dominant products and revenue.¹

Under this regulatory scheme—established as a result of the Postal Accountability and Enhancement Act of 2006 (PAEA)—the Postal Service is required to account for the costs attributable to market-dominant and competitive products separately. Competitive products are then required to cover all attributable costs, plus a share of the “institutional costs,” at a rate determined by the Postal Regulatory Commission. Additionally, the Postal Service is required to pay a portion of competitive products revenue to the market-dominant side of its ledger to approximate any federal taxes owed on what would be considered competitive-side profits if the Postal Service were a private-sector company.

The growth in competitive products revenue makes the PAEA's related provisions far more important than expected at the time of enactment. Opportunities for unlawful cross-subsidization exist in a number of areas. In fact, some of the Postal Service's actions and public statements have heightened the Committee's concerns about cross-subsidization. For example, a

¹ 39 U.S.C. 3633, 39 C.F.R. 3015.7

“Frequently Asked Questions” document the Postal Service produced regarding its Phase 2 Network Rationalization plan stated:

[C]ost savings realized through this and other initiatives should better position the Postal Service to make the needed investment in package processing and other automation equipment, and in our delivery fleet, which will help us to grow our package business.²

Given that Postal Service “package delivery” products are almost solely competitive in nature, it is important to ensure the bright line separation between market-dominant and competitive products is maintained.

To help the Committee better understand the state of the Postal Service’s competitive products operations, we are requesting information regarding competitive products’ assets, revenue, service performance, and other materials. Specifically, please provide the following documents and information no later than 5:00 p.m. on May 26, 2015:

1. Service performance comparisons for each competitive product for fiscal year 2008 through fiscal year 2014.
2. A list of all capital assets over \$10 million purchased since October 1, 2007, and a depreciation schedule outlining how each purchase was subsequently expensed to market-dominant and competitive products.
3. A detailed explanation of the planned cost attribution to market-dominant and competitive products for the Next Generation Delivery Vehicle Acquisition Program.
4. A detailed explanation of why cost attribution, as a percentage of total costs, has declined since the passage of PAEA.
5. Pro forma financial statements in an Income Statement format proscribed by Generally Acceptable Accounting Principles for the following products: First-Class Mail, Standard Mail, each Competitive Product, and other for fiscal year 2008 through fiscal year 2014.
6. The Postal Service’s methodology used to attribute costs for packages delivered on Sundays, including how USPS determines which costs are attributable and institutional and how USPS allocates attributable costs to market-dominant and competitive products.
7. The Competitive Products Enterprise Statement of Allocated Assets and Liabilities required by 39 CFR §3060.14 for fiscal year 2008 through fiscal year 2014.

² <https://about.usps.com/news/electronic-press-kits/our-future-network/ofn-phase-2-faqs.htm>

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8. The Income Report, the Financial Status Report, the Identified Property and Equipment Assets Report, and the Competitive Products Report that were required to be filed with the Postal Regulatory Commission pursuant to 39 CFR 3060.20 for fiscal year 2008 through fiscal year 2014.

The Committee on Oversight and Government Reform is the principal investigative oversight committee of the U.S. House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Thank you for your prompt attention to this important matter. Please contact Jeffrey Post or Alexa Armstrong of the majority staff at (202) 225-5074 with any questions about this request.

Sincerely,



Jason Chaffetz
Chairman



Mark Meadows
Chairman
Subcommittee on
Government Operations

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Gerry Connolly, Ranking Member
Subcommittee on Government Operations

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.