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

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APRIL 17, 1979

The Honorable Thomas F. Eagleton
United States Senate

Dear Senator Eagleton: *[Estimates of Postal Revenue Losses]*

On October 2, 1978, you requested that we estimate the potential impact on postal revenues if time-sensitive business letters were exempted from the Private Express Statutes. *in your request* The exemption was proposed in Section 12 of the Postal Service Amendments Act of 1978 (H.R. 7700, 95th Congress) as reported by the Senate Committee on Governmental Affairs.

As discussed with your office on January 19, 1979, developing such an estimate is quite difficult, primarily because of uncertainties relating to the

- volume of mail the Postal Service now handles that may be considered time-sensitive,
- competition the Service may face *and* in providing time-sensitive services, and
- problems the Service may encounter in enforcing provisions of the proposed legislation.

Because of these uncertainties, any estimates of revenue losses must be based on assumptions. Different assumptions will result in different lost revenue estimates, which may account for the variance in estimates previously provided to the Senate Committee on Governmental Affairs. *SEN 06600*

In your letter dated January 29, 1979, you asked that to help limit the effect of these uncertainties, we *consider* certain qualifying assumptions in arriving at an estimate of possible revenue losses. Considering these qualifications, we believe that *the* loss of postal revenues would most likely come from the diversion of Express Mail letters. If

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Restricted letter report

all business letters the Service estimates to be in Express Mail were diverted and if these estimates were applied to the Service's fiscal year 1978 Express Mail revenues, postal revenue losses could have been between \$44 million and \$79 million. Again, arriving at a reliable estimate is difficult because of insufficient data on business letter volume carried in Express Mail and the uncertainty of the competition with which the Service may be faced.

In your January 29 letter, you asked us to assume that the exemption would be modified to exclude business letters previously carried by first- and third-class mail. Even with such an exclusion, the time-sensitive exemption could still have an impact on first-class mail because of the potential difficulty in detecting diversions in the mail stream and the possible exclusion of "new" mail that might otherwise be carried via first-class.

The Postal Service may have difficulty enforcing provisions of the proposed legislation because of vague wording. The vague wording could also result in costly litigation.

Our assumptions are discussed in detail in the following sections. Our work included reviewing testimonies before the Senate Committee on Governmental Affairs and Postal Rate Commission and Postal Service studies of the mail stream. We also discussed the subject with the Postal Service, the Postal Rate Commission, and Mr. Arthur Eden, who represents a group of private carriers.

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PROPOSED TIME-SENSITIVE LEGISLATION

The proposed Postal Service Amendments Act of 1978 (H.R. 7700, 95th Congress) would have exempted time-sensitive letters from the Private Express Statutes, ~~which grant the Postal Service a monopoly, subject to certain exceptions, on the carriage of letters. However, the legislation was not enacted.~~ The proposed legislation defined a letter as time-sensitive if

--it is sent on a regular basis in the ordinary course of business,

--it must be delivered within 12 hours or by noon of the next business day, and

--the sender's needs cannot be satisfied by a comparable service of the Postal Service.

Comparable postal service was generally defined as timely, dependable, and broadly available as private carrier service and no more costly.

The proposed legislation provided that under this exemption any letter carried "outside the mails" would be subject to inspection or opening by the Postal Service to determine if the letter was time-sensitive. The Postal Service would be authorized to assess civil penalties for violations of the legislation.

In your letter of January 29, 1979, you stated that, for purposes of our analysis, we should assume:

- Modification of the proposed Postal Service Act amendment to provide that no business letters which had previously been carried by first- or third-class mail would be eligible for the exemption with the burden of proof on the sender.
- Provisions of the modified amendment are at least as enforceable as the unamended Private Express Statutes.

REVENUE LOSSES MOST LIKELY FROM EXPRESS MAIL

If the proposed modified legislation is enacted, Postal Service revenue losses will most likely come from Express Mail. Accurately projecting mail volume diversions and resultant revenue losses is difficult since:

- Little data is available to accurately determine the volume of business origination letters in the Express Mail classification.
- The term "comparable" postal service can be interpreted differently, thus the competition the Service may be faced with is uncertain.

If the exemption is enacted, some Express Mail would probably be diverted because Express Mail is a class of service that is specifically designed to provide time-sensitive mail service. In addition, some companies provide courier services that are more timely, more broadly

available, and less costly than comparable postal services. Thus, letters that are carried by Express Mail could probably meet the time-sensitive provision of the proposed legislation.

Determining the volume of business letters that might be diverted from Express Mail is difficult because of the lack of specific data on the Express Mail composition, i.e., whether the mail contains letters and the sender is a business. Postal officials estimate that almost all Express Mail is business originated because the price is too high for the general public to use regularly. The officials also estimate that at least 50 percent, and possibly 90 percent, of Express Mail contains letters or letter material. This volume then could be exempted from the Private Express Statutes under the time-sensitive legislation.

If all business letters the Service estimates to be in Express Mail were diverted and if these estimates were applied to the Service's fiscal year 1978 Express Mail revenues, from \$44 million to \$79 million in postal revenues could have been lost. Although it is unlikely that all business letters in Express Mail would be diverted to private carriers, each 10 percent of mail that does divert could result in lost revenues of at least \$8.8 million based on fiscal year 1978 revenues of \$88 million. Potential losses could be greater since estimated revenues for fiscal year 1979 and 1980 are \$130 million and \$180 million, respectively.

To estimate the possible diversion of Express Mail to private carriers and the resultant loss in postal revenues, we must also consider the competitive position of the Postal Service and private carriers in the time-sensitive mail market. Currently, some private carriers appear to provide more timely and broadly available services at a lower cost than the Postal Service. For example, one private company charges \$13.00 to pick up a 2-pound or less item on request and deliver it "almost anywhere in the USA" the next morning. Under Express Mail Custom Designed Service, the Postal Service will pick up and deliver only on a prearranged basis and charges between \$23.45 and \$24.20 for up to a 2-pound item. However, the pickup and delivery will be on a set schedule which can be at unusual hours, i.e., 2 a.m. Sunday if necessary and available. The private carrier offers service to 80 major cities and 20,000 surrounding communities. Custom Designed Service is offered nationwide only between points where the Postal Service can meet the service standards agreed to with the shipper.

Some Express Mail services cost less than the Custom Designed Service, but the quality, quantity, and timeliness of services generally decrease as the cost decreases. For example, a next day service is available with a prearranged pickup and delivery by 3 p.m. at a cost between \$13.14 and \$13.90 for up to 2 pounds. However, this service is offered only at about 1,100 post offices with about 1,500 postal facilities. The pickup option has not been emphasized by the Postal Service, accordingly, only about 1,800 pickups per month were made last year. The least expensive next day Express Mail service for up to 2 pounds costs between \$5.80 and \$6.55 if the sender leaves the item at the post office by 5 p.m. and the addressee picks it up at the receiving post office.

Since Express Mail is subject to competition, it is possible that some of this mail is already being carried by private carriers under an exception to the Private Express Statutes. The Statutes allow letters to be carried outside the mails if the sender affixes and cancels the postage that would be required if the Postal Service carried the letter. For first-class postage this could be as little as 15 cents. Considering that some private carrier costs are less than those of the Postal Service, it seems the cost of postage to qualify for the private express exception and to legitimize the carriage of letters outside the mails would be a minor added cost for the privilege of using private carriers for time-sensitive letters. However, determining the volume of mail already carried by private carriers is difficult since the Postal Service has no data on the number of voluntary compliances.

Diversion estimates should also consider the Postal Service's efforts to provide additional services. In December 1978, the Service proposed Express Mail Metro Service to provide same-day delivery or delivery by 10 a.m. the next day in a limited area--usually a city and its suburbs. The market research for this service indicated that eventually as much as one-third of its volume would come from mail diversions carried by private carriers. We do not know if the Service would make additional changes in its Express Mail Service to make it more competitive if the time-sensitive exemption is passed. However, the Postal Service is less flexible than private carriers since all additional changes would be subject to review by the Postal Rate Commission.

Other competitive factors, such as private carrier marketing efforts and product design, should also be considered in estimating potential postal revenue losses under the time-sensitive exemption. However, too little objective information is available on these factors to accurately estimate the potential revenue losses.

SOME BUSINESS-TO-BUSINESS
FIRST-CLASS MAIL MAY BE DIVERTED

↳ Although ~~you have~~^{it was} indicated that the proposed time-sensitive provisions could be modified to exclude letters previously carried by first- and third-class mail, there are several indicators which, when considered collectively, ~~lead us to believe~~ the modified exemption could still have an impact on first-class mail. / These indicators derive from

--the portion of business-to-business mail receiving some degree of time-sensitive service, and

--the possibility of private carriers competing with the Postal Service for local delivery of business-to-business mail.

Also, the Service may have difficulty in detecting mail changed from first-class to private carrier service and determining whether mail is new and has not been previously sent by first class.

Sixty percent of all first class mail remains in the Postal Service's overnight delivery areas. Within these areas the Service has a goal of delivering mail deposited by 5 p.m. on the next business day 95 percent of the time. To receive mail early in the day, customers can pick up their mail at post offices. As of October 1978, the Service had 9.2 million lockbox rentals 1/ and 75,000 firm caller and 92,000 firm holdout agreements. 2/ Most mail is normally ready for lockbox, firm caller, and holdout pickup by 9 a.m. These factors indicate that some first-class business mail deposited by 5 p.m. can be received before noon of the next business day.

1/Includes an unknown number of rentals by private citizens.

2/Mail is placed in trays, pouches, bundles, or sacks for pickup at a window.

A study performed for the Service when it was evaluating the need for the proposed Express Mail Metro Service also indicated that time-sensitive mail may be in first class. The study showed that 79 percent of the mail that will be diverted to the metro service from other postal services will come from first class. 1/

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Private carriers may be able to compete with the Postal Service in limited geographical areas, such as city business districts. In 1977, the courts enjoined a private carrier from providing what was claimed to be a faster, more reliable, and less costly service than first-class mail. The company was handling 3,000 pieces of mail a day when it was forced to close down in July 1978. We do not know, however, how willing private carriers would be to compete for this type of service.

Although the proposed modification would exclude from the exemption business letters previously carried in first-class mail, with burden of proof on the sender, the Postal Service may have difficulty in detecting changes from first class to private carriers. The Postal Inspection Service spent about 9 staff years in fiscal year 1978 to enforce the Private Express Statutes. Considering the numerous sources of business-to-business letters, major time investments may be required to identify mailers that change from first-class mail to private carriers. When mailers using private carriers instead of first-class mail are identified, the Service may also have difficulty in determining whether the letters are new or had previously been sent by first class.

The uncertainties relating to the willingness of private carriers to compete with the Postal Service for local delivery of time-sensitive letters and the difficulty to detect changes in the mail stream make it impossible to project the impact of the time-sensitive exemption on first-class business-to-business mail. However, based on a 1977 volume of 17.3 billion pieces, each 1 percent of the mail diverted to private carriers would result in a \$15.5 million revenue loss.

1/The Service projects that eventually as much as one-third of the Express Mail Metro Service will come from other postal services.

While the potential impact of mail diversions and related revenue losses may be small initially, the potential long-range impact may be significant. Since postal costs would not decrease in the same proportion as volume losses, remaining volumes would have to share the costs, thus increasing the rates. As rates increase, the potential for competition and further volume losses increases, which would continue to contribute to the increasing rates and decreasing volume spiral.

ENFORCEMENT OF EXEMPTION PROVISIONS MAY
BE DIFFICULT

The Postal Service may have difficulty in enforcing the proposed provisions to prevent abuse of the exemption. Potential problems stem from the provisions' vague wording that could result in litigation over interpretations. Such litigation could be costly, both in terms of the costs to handle the litigation as well as the revenue lost while the Service's enforcement authority is tested.

Wording in Section 12 of the proposed bill that may cause the greatest interpretation and enforcement problems are

--" * * * must be delivered before noon of the next business day of the addressee of such letter or within 12 hours, whichever is later * * *" in subsection (b)(2) and

--" * * * cannot be satisfied by a comparable service of the Postal Service" in subsection (b)(3).

To determine whether letters must be delivered on a time-sensitive basis may require questioning the sender and/or receiver as well as opening and reading the letters. In the past, opening mail led to adverse public opinion and litigation.

We previously gave an example of a private carrier that provided what appeared to be a more timely, more broadly available, and less costly time-sensitive service than the Postal Service. The debatable question is whether the private carrier's service is better than or comparable to the Postal Service's. The private sector has also argued that the Service's interest in enforcing its monopoly tends

to expand with its operations, resulting in unfair competition since the Service can approach mailers with " * * * a badge in one hand and a sales brochure in the other * * * ."

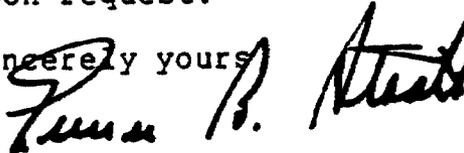
Service officials also believe considerable litigation could occur over the interpretation of the delivery and comparable service provisions as well as what is an " * * * infrequent, irregular basis" in subsection (b)(1).

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The Postal Service reviewed our draft report but does not approve or concur with our estimates because of the assumptions on which they are based. In our opinion, this further emphasizes the difficulty in accurately determining the revenue losses that could result from the proposed exemption.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 14 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours



Comptroller General
of the United States