

The U.S. Postal Service War on Private Mailboxes and Privacy Rights

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On March 25, 1999, neatly concealed in an obscure and seemingly minor "Procedure Revision," the U.S. Postal Service announced its intent to execute Postal Bulletin 21994. In an alleged attempt to combat mail fraud, the Postal Service required that by June 24, 1999, all commercial mail-receiving agencies (CMRAs) that offer rental of private mailboxes should have collected from their customers confidential information that the Postal Service itself is not allowed to collect. Furthermore, starting as early as October 24, 1999, the USPS will deliver mail only to the private boxes addressed in a particular format that will be unfamiliar to many senders.

Those new requirements violate the privacy regulations that cover the Postal Service. The USPS plans to make available to the public confidential information about any private box hold-

er who uses the box for business with the public. However, access to such information could actually facilitate criminal activity. Moreover, the Postal Service also plans to apply these new regulations to executive suites.

In addition, because it is impossible for box holders to know everyone who might have their private box address on file, many otherwise deliverable pieces of mail will be returned to the sender, marked "address unknown." Finally, the new regulations will foist enormous costs on some 1.5 million to 2.5 million private mailbox holders, which include many of the country's smallest businesses. CMRAs will also incur expenses, not only of compliance with and notification to box holders of the new regulations but also of lost business. A conservative estimate of the direct costs alone of the new regulations could approach \$1 billion.

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The Rise of Private Mailboxes

Before the advent of private mailboxes, individuals and entrepreneurs had essentially three choices of where to receive their mail. They could receive it at home, at an office or the physical address of their business, or from a rented box at a U.S. post office. But those options leave much to be desired for many individuals, especially small-business owners.

First, post offices have limited hours during which customers may pick up mail. Second, U.S. post offices will not accept for their P.O. boxes delivery of packages from private carriers such as Federal Express and United Parcel Service. Third, proprietors of many small and start-up businesses, and certainly businesses operating out of the home, face problems with using their home addresses for deliveries. Those entrepreneurs frequently have very limited human and financial resources and often spend much of their time out of the office servicing customers. Such businesses cannot afford an office suite with a full-time person to answer the phone and receive packages, especially packages requiring a signature for delivery.

Market need thus led to the emergence of commercial mail-receiving agencies (CMRAs). Small-business owners in particular choose CMRAs because they have more convenient business hours, will accept deliveries from private carriers as well as from the U.S. Postal Service, and offer a stable address for enterprises that might change locations. In addition, CMRAs offer other services such as packaging and shipping. Also, small-business owners renting a CMRA box often can list their address as a number or suite, for example, "123 Main St., #401," which gives an enterprise a professional appearance. Furthermore, a CMRA box provides small-business entrepreneurs personal separation and privacy from their business dealings.

There are approximately 10,000 CMRA outlets, with a total number of box holders

estimated at between 1.5 million and 2.5 million. The best known is Mail Boxes Etc., which has approximately 3,300 franchises and about 800,000 box holders. Other CMRAs include Pak Mail Centers, Postal Annex, Post Net Postal and Business Centers, and Parcel Space Plus. Many of the outlets are small, mom-and-pop-type operations.

Why Revised Procedures?

On March 25, 1999, the Postal Service issued new regulations in the *Federal Register* for CMRAs and their box holders. In that posting, the USPS offered justifications for imposing those regulations.¹ First, the Postal Service must take special care when delivering mail to a third party, the CMRA, that then passes the mail along to the ultimate recipient, the box holder. Second, the USPS is trying to prevent mail fraud—that is, the use by box holders of their private boxes for nefarious activities (such as bilking customers for purchases of misrepresented or nonexistent products and services). Third, the Postal Service claimed that "current use of APT [apartment], STE [suite] and other address designations by CMRA customers is misleading and does not identify the true location of the mailpiece delivery."

The USPS also claimed that the new regulations would bring the CMRAs in line with the regulations that govern U.S. Postal Service boxes. On October 8, 1998, in its Bulletin 21982, the USPS presented revised requirements for P.O. box holders. For example, new and renewal applicants for P.O. boxes will have to provide two forms of identification. Furthermore, mail going to P.O. boxes will be delivered only to individuals who are registered to receive mail at specific box numbers and for whom the Postal Service has a home address on file. Thus, if a particular box is registered only in the name of a husband, mail going to that box addressed to his wife might not be delivered by the Postal Service.

The New Regulations

The new regulations, printed in the March 25 *Federal Register*, informed CMRA operators that by June 24, 1999, they must instruct all their box renters to fill out, sign, and have notarized a new Form 1583. The box renters then must submit the form with “two items of valid identification; one item must contain a photograph of the addressee.” The identification must show “the applicant’s signature and a serial number or similar information that is traceable to the bearer.”²

Corporate and business box renters must disclose not only the address and date of formation of the enterprise but also the names and home addresses of the enterprise’s officers. Those box holders must also indicate whether the box address will be used for doing business with the “public.” The Postal Service offers no definition of “public.” For example, if the box renter is doing business only with other businesses, does that constitute doing business with the “public”?

In the past, most CMRAs were required to hold the box renter’s Form 1583 in the event that postal inspectors might need it for a criminal investigation. The new rules require duplicate forms, which include private information about the renter, to be sent to the Postal Service. That will allow the USPS to maintain a nationwide database of all CMRA box-renting customers, along with identifying numbers, home addresses, and home phone numbers of those using boxes for business.

The new regulations also give the CMRA operators the authority to collect and maintain photocopies of the identification forms provided by the box renter, an authority not granted to the Postal Service itself under its own privacy rules for P.O. box renters.

The March 25 rules require CMRA box renters to contact every person or entity that has sent them mail in the past and that might send them mail in the future and advise them that the acronym “PMB” (Private Mail Box) must precede the renter’s box number on a separate line in the address on

all future mail. Thus, an address would have to appear as

John Doe Enterprises
PMB 401
123 Main St.
Everytown, Home state ZIP code

According to the regulations, after a probable October 24, 1999, deadline, all mail addressed to a box renter that does not have the required PMB in the correct place will not be delivered and will be returned to the sender. (The new postal regulations are ambiguous, suggesting several possible dates on which the regulations will take effect.)

Opposition to Regulations

The U.S. Postal Service cannot argue that the new regulations were drafted in response to the demands of CMRAs or their customers. The USPS opened its initial mandatory 30-day comment period on August 26, 1997, and opened an additional 30-day period on November 24, 1997.

Interestingly, the timing of that final comment period coincided with the dramatically disproportionate seasonal demand for the services of the affected CMRA operators. Many of those operators generate up to one-third of their annual revenues during the one-month period preceding Christmas. During this time, the resources of those operators are overwhelmed in meeting the needs of their customers.

Despite such extremely poor timing, the Postal Service reported in its March 25 *Federal Register* posting that 727 CMRA operators and 7,365 of their customers found time to lodge their opposition to the regulatory revisions.³ Four CMRA franchisers and trade associations, as well as a member of Congress, lodged additional opposition. Conversely, a total of 10 comments was received in support of those revisions. Proponents of the revisions included large companies, financial institutions, trade associations of mailers (direct

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marketing groups), consumers, and law enforcement officials.

Thus, 8,097 of the total 8,107 comments received by the Postal Service opposed the regulatory revisions. At a ratio of more than 800 to 1, one wonders exactly what kind of groundswell of public opinion it would take to deter the USPS from enacting whatever regulations it chooses.

The largest CMRA franchiser, Mail Boxes Etc., is in a delicate position with respect to the new regulations. It has expressed concerns about the new information-gathering requirements. However, it is also in partnership with the Postal Service. Specifically, the USPS allowed Mail Boxes Etc. to offer its services in a number of USPS locations nationally where the quality of Postal Service had been low. Mail Boxes Etc. has done an excellent job of improving service. That enterprise now has an incentive not to be too critical of the Postal Service lest that criticism destroy the possibility of a future expansion of the current arrangement.

Questionable Excuses

The Postal Service's arguments in favor of the new regulations are suspect. A first argument is that the USPS offers neither evidence that mail fraud using private boxes has increased nor insight into the possible magnitude of the problem. Those issues are especially important in light of the Government Performance and Results Act of 1993, which requires that government agencies define explicitly what their goals are, what strategies they use to reach those goals, and what evidence they have that their approach is working. The Postal Service and most government agencies will have to submit their first full reports for fiscal year 2000 to Congress for evaluation. The spirit, if not the letter, of this law requires agencies to justify in some detail why they are taking certain actions.

Although mail fraud is indeed a problem, any USPS actions to prevent it must be weighed against the monetary costs and the

costs to freedom. A November 1998 inspector general's report found that between October 1997 and September 1998 there were 9,642 convictions for mail-related crimes.⁴ Of those convictions, the largest number, 3,874, or 40.2 percent, was for mail theft by non-Postal Service employees of a business—for example, theft from home mailboxes. The next-largest number, 1,672, or 17.3 percent, was for sending illegal substances, mainly drugs, through the mail. Some 1,533 cases, or 15.9 percent, involved mail fraud. The inspector general did not report how many of those cases involved the use of private CMRA boxes as opposed to home and office boxes or P.O. boxes. It would be useful for the Postal Service to specify how many of those fraud cases involved private boxes. The costs of new regulations could then be weighed against any expected benefits.

A second argument used by the Postal Service to justify its new regulations is that they bring the CMRAs in line with the regulations governing P.O. boxes. However, the October 1998 registration requirements are only for "new and renewed" P.O. box holders. It seems the Postal Service is grandfathering all current P.O. box holders, who have not been required to turn over additional personal information. Moreover, local postmasters have been using up the old registration forms before giving even new applicants the changed forms that request additional information. There could also be a problem of selective enforcement, with different post offices handling new applicants in dissimilar manners.

In addition, although stricter than before, the new regulations governing P.O. box applicants are still not as onerous as the new regulations governing private box holders. Thus, it is private box holders who are subject to stricter information requirements, not holders of government P.O. boxes. That practice appears to fly in the face of Title 39 of the *U.S. Code*, which states that the USPS shall not "make any undue or unreasonable discrimination among users of the mails, nor

shall it grant any undue or unreasonable preferences to any such user.”⁵

These facts suggest that the Postal Service might have an ulterior motive for the new regulations. Because the USPS has lost box holders to the private sector and has regulatory powers over that sector, it would be sad but hardly surprising to conclude that the USPS is using those powers to strangle the competition.

Evidence of another motive comes from the Postal Service’s interest in providing Internet services. In May 1998 the USPS proposed to have the exclusive right to assign the underused Internet domain extension .us, which at that time was managed by the Internet Assigning Numbers Authority. And in a May 17, 1999, speech in Austin, Texas, Postmaster General William Henderson asked,

What if every physical address in the United States had an Internet address? We would own the physical address, and we would maintain it. . . . That would mean that all that information that you our customers have developed around a physical address could now migrate through Internet and be a part of commerce. . . . If you had an Internet address attached to a physical address you could reach someone by way of the Internet.⁶

Ultimately, the Postal Service wants to map postal addresses onto cyberspace addresses to have an Internet address for every physical address. Matching those addresses to private mailboxes may be part of an attempt to create a national database to keep track of every citizen.

This suggests that the Postal Service is making a fundamental change in its approach to delivering the mail. The USPS has been carrying mail to specific places or addresses. Although mail is usually meant for a particular individual, getting that mail to an address has been the Postal Service’s

priority. The new CMRA regulations and the proposal to match Internet with physical addresses suggest a new goal of the Postal Service—mail delivery to a person, not an address.

The type of problems such a change will entail is evident in a recent case concerning a P.O. box renter. A homeless man, Frank Gomon, in Tarzana, California, had rented a P.O. box, but to keep it the Postal Service required him to register his home address. Gomon listed the address of a homeless shelter, but the USPS refused to accept the shelter as a valid address. Gomon filed a complaint; however, on April 8, 1999, an administrative law judge ruled in the Postal Service’s favor.⁷ Gomon might still have the option of having his mail sent to “general delivery” at a post office, but that would tip off anyone mailing to him that he probably is homeless. The case also suggests that under the new CMRA regulations, no homeless individual would be able to rent a private mailbox as a means of establishing an address and perhaps a better life. There would be no way for the homeless to meet the identification requirements, and CMRAs do not have a “general delivery” option.

The Postal Service’s interest in mapping Internet and physical addresses appears to be a step toward its goal of leveraging its way into a more competitive position with private companies. In his May 17, 1999, speech Henderson stated that the Postal Service wants to be the “residential deliverer of choice for purchases made on the Internet.” He also stated that “we do see bill payments in the future being made electronically. . . . We think the Postal Service has a role in E-payments.” The USPS places itself in a stronger competitive position by using its regulatory and monopoly powers to enhance its database.⁸

Federal law bars the Postal Service from selling its database to mass mailers and the like. However, the USPS gets around that restriction in part by licensing its change-of-address database to certain companies that then profit by updating mailing lists for pri-

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vate companies. Adding e-mail and private boxes to the database certainly would make it a more valuable commodity.

Violating the Right to Privacy

The Fourth Amendment to the U.S. Constitution states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

The new CMRA regulations seem to play fast and loose with the privacy and protection rules that govern the Postal Service. Title 39 of the *Code of Federal Regulations* lays out USPS privacy rules. Section 266.4, concerning the “collection and disclosure of personal information,” states that the Postal Service will

(i) collect, solicit and maintain only such information about an individual as is relevant and necessary to accomplish a purpose required by statute or Executive Order.⁹

The Postal Service’s “Privacy Act Statement,” which accompanies the new Form 1583, says only, “Collection of this information is authorized by 39 U.S. Code 403 and 404.” Subsection 403 of that title of the *U.S. Code* grants, among other things, the Postal Service authority “to maintain an efficient system of collection, sorting, and delivery of the mail nationwide.” However, the Postal Service has not made clear why collecting more personal information is necessary to ensure mail delivery to CMRAs. Furthermore, the USPS has not shown that refusing to deliver to a known address because PMB and the box number are not included on a separate line helps “delivery of the mail.”

Subsection 404 of Title 39 of the *U.S. Code* grants the Postal Service authority “to inves-

tigate postal offenses and civil matters relating to the Postal Service.” It is by this mandate that the USPS seems to justify the new regulations to counteract mail fraud. But those regulations must conform to other provisions governing the Postal Service. The USPS is also required by the privacy rules in Title 39 of the *Code of Federal Regulations* to

(ii) collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual’s rights, benefits or privileges.¹⁰

The Postal Service itself is not collecting that information but instead is forcing CMRA operators to carry out the task. The gathering and dissemination of personal information in conjunction with forced use of PMB on all mail most certainly adversely affects a majority of CMRA box renters.

Most CMRA box renters will comply with the new identification requirements by supplying their driver’s license and either their passport or Social Security number. The Postal Service was, however, very careful in wording the regulation to avoid any specific reference to a renter’s Social Security number. Title 39 of the *Code of Federal Regulations* states the privacy rules this way:

(4) The Postal Service will not require individuals to furnish their Social Security account number or deny a right, privilege or benefit because of an individual’s refusal to furnish the number unless it must be provided by Federal law.¹¹

Although the USPS avoids any reference to an individual’s Social Security number in the new regulations, it does not discourage CMRA operators from accepting a Social Security number as one of the two required forms of “traceable” identification. Furthermore, it states that record and “computer match” driver’s license numbers with Social

Security numbers, any use of a driver's license by a box renter would mean revealing that individual's Social Security number.

The privacy rules state that

(b)(1) The Postal Service will not disseminate information about an individual . . . unless:

(i) The individual to whom the record pertains has requested in writing that the information be disseminated, or

(ii) It has obtained the prior written consent of the individual to whom the record pertains.¹²

As noted earlier, private box holders are asked on Form 1583 if they plan to use the boxes for doing business with the "public." The Postal Service has informed CMRA operators that "information required to complete this form may be available to the public if 'Yes' in block 5, Form 1583 is checked." Although there is some ambiguity about which organization, the CMRA or the Postal Service, will furnish such information to the public, it is clear that personal information about box holders will be publicly available.

Such a practice violates the Postal Service's own privacy regulations. On June 9, 1999, in the *Federal Register*, the USPS posted its intention to change Title 39, *U.S. Code*, Part 265, the prohibition "against disclosure of information in PS Form 1583." The *Federal Register* entry reads:

Under the rule change, the recorded business name, address, and telephone number of the addressee using a . . . CMRA private mail box . . . for purposes of soliciting business with the public will be furnished to any person upon request without charge.¹³

The Postal Service seems to acknowledge that it has no authority to release such private information. Thus, the proposed rule change raises a question of the legality of the

statement on the new Form 1583 informing CMRA box holders that information may be made available to the public.

That situation became even more confusing on June 25, 1999, when, in response to public pressure and a letter of concern from several members of Congress, Postal Service authorities announced that "a notice for public comment will be published in the *Federal Register* regarding the proposed update policy which will prohibit release, except for law enforcement purposes, of address information."¹⁴ So now there could be two USPS postings in the *Federal Register* for public comment, one to allow release of information and one to restrict release. That confusion suggests just what a poor job the Postal Service will do in its implementation of those regulations and argues for their repeal.

The release of personal information is one of the most serious problems with the new private box regulations. Business box holders could find their personal information acquired by "identity thieves," criminals who use such data to obtain credit card numbers and other personal facts that would allow them to charge bills to others or steal from bank accounts. In such cases, what are the liability exposures of the Postal Service and the CMRA operator? The new regulations do not address those problems.

In some instances, access to confidential information could be tragic. For example, women who use private boxes for business purposes might find stalkers or other dangerous people acquiring home addresses courtesy of the new regulations. On June 15, 1999, The National Coalition Against Domestic Violence, a group that helps women who face such threats, issued an "Action Alert" on those postal regulations. It stated that "the impact for domestic violence victims is potentially fatal." The alert added that "these unnecessary regulations make it more difficult for a battered woman to effectively use a commercial postal box to keep her location confidential."

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a minor's mail by listing the name(s) and age(s) . . . of the minor(s).¹⁵ Thus, if a parent were to use a box for business purposes, a stalker would be able to obtain information about potential victims.

The prospective privacy problems of new CMRA rules must also be seen in light of the Postal Service's plans to map Internet addresses with physical addresses and, presumably, private and P.O. box addresses. Internet privacy is a major concern of millions of Americans, as well as members of Congress and various federal regulatory agencies. Individuals who are online often want to remain anonymous. They want to shield themselves and their children from those who might seek them out in their homes. There are now online enterprises that specialize in allowing individuals to surf the Net without revealing personal information.

Recently Congress learned just how seriously Americans take their privacy rights. The Federal Deposit Insurance Corporation proposed rules that would have required bank tellers to ask customers why they were making unusually large deposits or withdrawals and where the money came from. The banks would have been required to report "suspicious" activities to regulators. The stated purpose of this "Know Your Customer" regulation was to thwart money laundering and other criminal activities. But the overwhelming outpouring of opposition from the public and threats of action by Congress forced regulators to withdraw the rule. The Postal Service's comparable new regulations to allegedly thwart criminal activities are being called "Son of Know Your Customer" on Capitol Hill and prompting a similar reaction. Perhaps that is why Postal Service officials on June 25 indicated a willingness to change the rules.

Expanding Powers

Many of the country's small businesses rent private CMRA boxes because they cannot afford to rent a suite in an office building or an

executive suite. The latter usually provides tenants with an operator to take telephone calls, a location for delivery of mail and packages, and perhaps a small office with access to office equipment. Where mail delivery is concerned, the only difference between an executive suite and a private mailbox is the size of the rented space and the cost of the rent. Although there are no good figures on how many individuals rent such services, the Executive Suite Association, which makes no claim to represent all similar enterprises, has approximately 1,000 members with about 50 tenants each, or a total of 50,000 tenants.

Until now, such offices have not been subjected to the same regulations as CMRAs. But that is about to change. In an April 29, 1999, memo to USPS vice presidents and operations district managers, Patricia M. Gilbert, the USPS vice president for retail, notes the existence of

a number of non-traditional businesses that accept delivery of mail from the Postal Service for others, hold it for pickup, or remail it to another address. . . . Examples of these businesses are 1) Corporate Executive Centers that also offer their customers a small suite, office or other workspace, as well as shared office services such as mail receipt and remailing, message centers, FAX and computer systems, conference rooms, and secretarial services; 2) Storage businesses that offer their customer's [sic] storage space and private mailbox services; and 3) Businesses that offer mail forwarding and message services to clients that live and travel in recreational vehicles.¹⁶

According to that memo, the Postal Service intends to subject those enterprises, which in the past were not treated like CMRAs, to the new private mailbox regulations. That is a significant expansion of USPS power.

Furthermore, few if any of those businesses have been contacted by the Postal Service,

and thus, most of their tenants have not been asked to submit to the new regulations. At some point those tenants might find that their mail is not being delivered because of their failure to comply with regulations of which they were unaware. In addition, because the USPS decided only in late April 1999 that executive suites and similar companies would be subject to those regulations, the businesses and their tenants did not have an opportunity to register their opinions during the 1997 comment period. The move to include executive suites and similar organizations under the new regulations also cuts off a sanctuary of privacy previously offered to small businesses by those organizations.

Undelivered Mail

The new regulations seem to violate a fundamental operating principle of the Postal Service—namely, that the USPS make every reasonable attempt to deliver the mail. Under the new rules the Postal Service will make no effort to deliver mail to a CMRA box holder. The friendly carriers who for years have been delivering to individuals in care of their CMRAs, who know exactly where those boxes are, after October 24, 1999, will be required to withhold mail without the PMB address on a separate line. (In the June 25 press release, USPS officials suggested that they might move that date back to April 26, 2000, but this simply delays the problem instead of eliminating it.) The situation also raises the question of whether the new regulations violate international treaties that require the Postal Service to attempt to deliver international mail.

Refusal to deliver mail without the PMB address is contrary to past USPS practice. When ZIP codes were introduced, the Postal Service did not have the authority to refuse delivery of mail without those codes after a certain day. Even today, although it may take longer, the USPS will deliver mail without a ZIP code.

The new regulations also make it impossible for box holders to know who has informa-

tion about them filed under the pre-PMB address. Many businesses have in circulation promotional literature, books, and CD-ROMs with the pre-PMB addresses that cannot be changed. And many CMRA renters will simply not think to send notices to individuals or establishments that send mail to them infrequently or irregularly. Most individuals, for example, might not think to send their automobile manufacturer a change-of-address form, or know where to send it. Under the new rules, the Postal Service would refuse to deliver a recall notice without the PMB address, thus possibly subjecting the car owner to serious danger. Others that might not receive change-of-address notices could include customers that have not done business with an enterprise for some time, alumni associations, and hospitals.

Moreover, the new address regulations assume that individuals who mail to CMRA boxes will be as meticulous in observing the new strict rules as is the Postal Service. Many people might continue to put a box number on the same line as the street address—for example, “123 Main St., PMB 4.” It will be difficult for many individuals, who assume that mail carriers have the common sense to figure out small variations in address formatting, to learn that obedience to burdensome regulations, not delivery of the mail, is the Postal Service’s priority.

The forwarding of CMRA mail creates another problem. People can have mail forwarded to a new address for six months. Usually the CMRA will collect a week’s or two weeks’ worth of mail and send it via the Postal Service to a new CMRA or a regular mailbox of the box renter’s choice. That former box renter must pay the CMRA for the postage.

Under the new CMRA regulations, the Postal Service will not deliver mail addressed to any individual in care of a CMRA without a new Form 1583 and the two forms of identification that must be shown in person at the CMRA. That includes former box renters who were having their mail forwarded before the new regulations took effect and who still

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have some time during which their mail is supposed to be forwarded. Thus, a former box renter who has moved from Miami to Seattle would have to fly back to Miami to fill out the new form and show proper identification.

The new PMB rule promises to create serious disruptions of mail service. The new regulations, of course, do not address any liability exposure of the Postal Service if returned mail results in economic loss for the CMRA box holder. For example, a CMRA box holder might incur monetary loss if an automobile title or license renewal, mortgage escrow statement, or IRS notice are returned to sender as undeliverable.

The Direct Costs of Regulations

The new regulations on private mailboxes will place an extreme cost burden on the individuals and enterprises that rent them (Table 1). There are between 1.5 million and 2.5 million private box holders. The costs of mailing each change-of-address notice, including stamp, envelope, and postage, will be about 48 cents. Those box holders will likely have to contact at least 40 individuals or entities (a very conservative estimate) that mail regularly to their boxes. That means the hard costs of notification will be between \$56.5 million and \$94.2 million.

In addition, labor costs of preparing and sending out notices and looking up addresses must be taken into account. At an average of 17 minutes to prepare a change-of-address notice, times 40 notices, at a labor cost of \$16.84 per hour (based on an annual salary of \$35,000), each box holder will incur \$190.80 in labor costs. That means the total for all box holders for those expenses will be between \$286.3 million and \$477.1 million. Second notices required for 10 percent of addressees bring those figures to between \$377 million and \$628.4 million.

Furthermore, each small-business box holder will need to order new business cards

and stationery with the new address. That will add another \$307 of expenses per box holder for another sum of between \$460.5 million and \$767.5 million. Thus, the total direct costs of the new regulations for private box holders would be between \$837.5 million and \$1.39 billion.

However, all private box holders are not businesses. No doubt individuals who do not use their boxes for business will also incur costs for change-of-address notices and the like. Yet, if the costs for the individuals who do not use their boxes for business are excluded to make the calculations conservative (and it is assumed that about 70 percent of box holders are entrepreneurs), the total direct costs for such box holders will still be between \$586.3 million and \$977.2 million. In addition, the total of those costs to individual box holders will be \$558 each.

The CMRAs will also incur processing costs, as well as the costs of lost business. Those expenses can be estimated at between \$53.6 million and \$89.3 million. Thus, the total direct costs of the new regulations could reach between \$639.9 million and \$1.07 billion.

There will likely be other direct costs that are hard to measure. For example, the costs to recipients of entering approximately 100 million changes of address in files and databases. That will waste hundreds of millions of dollars.

Indirect costs will be incurred as well. Private delivery companies such as Federal Express and United Parcel Service save money by being able to deliver to a lot of box holders at CMRA locations instead of having to go to individual homes or physical business addresses. If CMRAs lose significant numbers of box holders, the private carriers will encounter higher costs that, eventually, would be passed along to customers.

Reining In the Postal Service

The U.S. Postal Service is exempt from most of the checks imposed on other government agencies, which explains why it can

Table 1
Costs of New Postal Service CMRA Regulations

| Description | Qty. | Hourly | Each | Minimum | Probable |
|---|-----------|----------------|-----------------|---------------------|----------------------|
| Assumptions | | | | | |
| Estimated number of CMRAs | | | | 10,600 | |
| Estimated number of box renters | | | | 1,500,000 | 2,500,000 |
| Address-change notifications required per box renter | | | | | |
| Customers | | | 10 | | |
| Prospects | | | 10 | | |
| Vendors | | | 10 | | |
| Official or support contacts (IRS, state, accountant, bank, lawyer, etc.) | | | <u>10</u> | | |
| Total number of notifications required | | | 40 | 60,000,000 | 100,000,000 |
| Initial direct costs to box renters | | | | | |
| Hard costs for address-change notifications | | | | | |
| Letterhead | | | \$0.31 | 18,720,000 | 31,200,000 |
| Envelope | | | \$0.28 | 16,800,000 | 28,000,000 |
| Ink/toner | | | \$0.02 | 1,200,000 | 2,000,000 |
| Postage | | | <u>\$0.33</u> | <u>19,800,000</u> | <u>33,000,000</u> |
| Subtotal for hard costs | | | \$0.94 | 56,520,000 | 94,200,000 |
| Labor costs for address-change notifications | | | | | |
| Find name, address, acct. #, etc. | 5 | \$16.84 | \$1.40 | 84,200,000 | 140,333,333 |
| Write/print notification | 4 | \$16.84 | \$1.12 | 67,360,000 | 112,266,667 |
| Address envelope | 2 | \$16.84 | \$0.56 | 33,680,000 | 56,133,333 |
| Insert notice and apply postage | 1 | \$16.84 | \$0.28 | 16,840,000 | 28,066,667 |
| Mail | 1 | \$16.84 | \$0.28 | 16,840,000 | 28,066,667 |
| Track if notice resulted in proper change | <u>4</u> | <u>\$16.84</u> | <u>\$1.12</u> | <u>67,360,000</u> | <u>112,266,667</u> |
| Subtotal for labor costs | 17 | | \$4.77 | 286,280,000 | 477,133,333 |
| Percentage requiring second notification | 10% | | <u>\$5.71</u> | <u>34,280,000</u> | <u>57,133,333</u> |
| Subtotal for combined notification costs | | | \$6.28 | 377,080,000 | 628,466,667 |
| Costs for new office supplies | | | | | |
| Business cards per person | 500 | | \$28.00 | 42,000,000 | 70,000,000 |
| Stationery | 250 | | \$78.00 | 117,000,000 | 195,000,000 |
| Envelopes | 250 | | \$70.00 | 105,000,000 | 175,000,000 |
| Invoices | 250 | | \$70.00 | 105,000,000 | 175,000,000 |
| Bank checks | 250 | | \$45.00 | 67,500,000 | 112,500,000 |
| Rubber stamp | 1 | | <u>\$16.00</u> | <u>24,000,000</u> | <u>40,000,000</u> |
| Subtotal for new office supplies | | | \$307.00 | 460,500,000 | 767,500,000 |
| Subtotal for combined costs to box renters | | | \$558.39 | 837,580,000 | 1,395,966,667 |
| Deduct for boxes not used for business | 30% | | | <u>-251,274,000</u> | <u>-418,790,000</u> |
| Total initial direct costs to box renters | | | | 586,306,000 | 977,176,667 |
| Initial direct costs to CMRAs | | | | | |
| Photocopy forms (pages) | 5 | | \$0.03 | 225,000 | 375,000 |
| Distribute forms to each box (minutes) | 1 | \$10.00 | \$0.17 | 250,000 | 416,667 |
| Explain to/argue with customers (minutes) | 5 | \$16.84 | \$1.40 | 2,105,000 | 3,508,333 |
| Follow up, collect, and file forms (minutes) | 10 | \$16.84 | \$2.81 | 4,210,000 | 7,016,667 |
| Prepare reports and transmit forms (minutes) | 5 | \$16.84 | \$1.40 | 2,105,000 | 3,508,333 |
| Annualized loss of box-rental revenue | 15% | | \$180.00 | 40,500,000 | 67,500,000 |
| Annualized additional reporting burden (minutes) | 10 | \$16.84 | \$2.81 | <u>4,210,000</u> | <u>7,016,667</u> |
| Total initial direct costs to CMRAs | | | | 53,605,000 | 89,341,667 |
| Average cost per CMRA | | | | 5,057 | 8,428 |
| Total initial direct costs to CMRAs and their customers | | | | 639,911,000 | 1,066,518,333 |

Sources: The number of CMRAs (10,600) and the figure of approximately 1.5 million renters are from Rodney Ho, "Post-Office's Rule Incenses Renters of Private Boxes," *Wall Street Journal*, May 4, 1999. The 2.5 million figure for the number of box holders is based on the requirement of Mail Boxes Etc., the largest franchiser, that new franchises have a minimum of 250 boxes, multiplied by the 10,600 total for CMRAs, which rounds off to about 2.5 million. The amounts of time needed by CMRA box holders to process address changes are the author's estimates. The labor costs are based on an annual salary of \$35,000. The costs of new stationery, business cards, and the like are based on the lowest costs and minimum quantities from Kinko's price list. For the CMRAs, it is assumed that labor costs will be \$10 per hour for distribution of forms, done by a CMRA employee. Other CMRA labor costs will involve the CMRA manager's time, which is assumed to be \$16.84 per hour; the same cost is assumed for a small-business owner's time. These are only direct costs to CMRAs and their box holders.

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engage in such questionable policies. For example, the USPS is not subject to Title 5, chapter 7 of the *U.S. Code*, which grants citizens an appeal process for actions that are "arbitrary and capricious."

In addition, the Postal Service does not have to observe the Paperwork Reduction Act, which was enacted in 1995 as a means to cut unnecessary government red tape. Under that act the new USPS private mailbox regulations would have been subject to review by the Office of Management and Budget.

There are means by which the new regulations might be blocked. For instance, in 1996 Congress passed the Congressional Review Act, which created an expedited procedure for members to use to block questionable rules. If a member objects to a new rule, he or she can have it sent straight to the appropriate committee for consideration without amendments. That process also allows for a 60-day moratorium on implementing the rule.

H.J.R. 55, the Mailbox Privacy Protection Act, introduced in the House of Representatives by Rep. Ron Paul (R-Tex.) is much more direct. It states simply that

Congress disapproves the rule submitted by the United States Postal Service relating to delivery of mail to a commercial mail receiving agency (as published in the Federal Register on March 25, 1999), and such rule shall have no force or effect.

Paul noted, "It is ironic that this regulation comes at a time when the Post Office is getting into an ever increasing number of enterprises not directly related to mail delivery. So, while the Postal Service uses its monopoly on first-class mail to compete with the private sector, it works to make life more difficult for its competitors in the field of mail delivery."¹⁷ Representative Paul is considering having that proposal introduced under the Congressional Review Act.

H.R. 22, the Postal Modernization Act of 1999, introduced by Rep. John McHugh (R-N.Y.), would make the Postal Service subject to most of the regulations that other pri-

vate companies already observe. That proposed legislation would allow citizens who believe postal regulations are unfair to take complaints to a reconstituted Postal Rate Commission, which could issue binding rulings. In the case of private mailboxes, the commission might rule that the Postal Service must subject its own P.O. boxes to the same regulations as private companies or that the regulations are not valid and should not take effect.

Conclusion

The new regulations on CMRAs and private box holders constitute an unwarranted invasion of privacy and an expansion of the Postal Service's powers. The result will be a financial burden to box holders, especially small businesses, and at least \$1 billion in direct costs. Worse, if the USPS refuses to deliver mail without the PMB address, there will be serious disruption of delivery. Furthermore, the Postal Service will set the precedent of refusing to deliver mail unless specific conditions are met. (That is ironic, since the Postal Service has traditionally been proud of its commitment to guaranteed universal service.)

The U.S. Postal Service, which has a legal monopoly on the delivery of first- and third-class mail, and which is exempt from federal, state, and local sales taxes and most government regulations, has come under fire in recent years for competing unfairly with the private sector by offering goods and services outside its core functions and for using its regulatory authority against competitors. The new restrictions on privacy contained in the Postal Service's regulations of CMRAs and private box holders demonstrate why an effective communications and delivery system in this country, as well as protection of privacy, can come only from the private sector.

Notes

1. *Federal Register* 64, no. 57 (March 25, 1999): 14,385.

2. Ibid., p. 14, 390.
3. Ibid., p. 14, 385.
4. Office of the Inspector General, U.S. Postal Service, *Semiannual Report to Congress*, November 1998, Appendix F, pp. 100–101, www.uspsoig.gov/novcor.pdf.
5. 39 U.S.C. § 403 (1998).
6. William Henderson, “Remarks,” Opening Session, National Postal Forum, San Antonio, Texas, May 17, 1999.
7. On April 8, 1999, Chief Administrative Law Judge Bruce R. Houston ruled that a shelter did not constitute an address and that the Postal Service need not rent a P.O. box to Mr. Gomon. Postal Service docket no. POB 98-505.
8. For a more detailed discussion of unfair competition by the Postal Service, see Frederick W. Smith, “Competing with the Postal Service,” *Cato Policy Report*, March–April 1999. See also Edward L. Hudgins, ed., *The Last Monopoly* (Washington: Cato Institute, 1996).
9. 39 C.F.R. § 266.4 (1998) at 129.
10. Ibid.
11. Ibid., at 130.
12. Ibid.
13. *Federal Register* 64, no. 110 (June 9, 1999): 30,929.
14. U.S. Postal Service, “Postal Service Proposes Revisions to Private Mailbox Regulations,” Release no. 52, June 25, 1999.
15. *Federal Register* of March 25, 1999, p. 14,390.
16. U.S. Postal Service, “Commercial Mail Receiving Agency,” Memo from Patricia M. Gilbert, USPS vice president for retail, to vice presidents and area operations district managers, April 29, 1999.
17. Ron Paul, Extension of Remarks, *Congressional Record*, May 25, 1999, p. E1079.

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