JCPenney

April 9, 1998

The Honorable John McHugh
Congress of the United States
House of Representatives
416 Canon House Office Building
Washington, DC 205153224

Dear Congressman McHugh:

Thank you for asking JCPenney to comment on the proposed provisions to H.R. 22. We appreciate the efforts you and your staff have put into researching the issues and attempting to improve on the original legislation. While JCPenney continues to support the general principles of postal reform legislation, we do have several concerns.

First, we feel strongly that the Postal Service should be allowed to offer volume discounts and negotiated service agreements for both competitive and non-competitive mail as long as such deals result in cost reductions or revenue growth that offset the impact of the lower rates. Also, such discounts or agreements must be made available to all mailers capable of offering similar volumes or work-sharing opportunities. The annual post audit provided for in the bill would be the mechanism for ensuring pricing compliance.

Second, we believe that the regulations regarding classification should be changed to allow the Postal Service to create and classify new products. This would allow them to quickly react to marketplace needs, without making customers wait for a protracted PRC ruling. The annual audits ensuring compliance with cost coverage rules would be applied to these new products. The PRC could still have authority to rule whether a service is postal or non-postal, competitive or non-competitive. This provision was not included in either the original legislation or the proposed revisions. However, we have felt from the beginning that it is necessary in order for the Postal Service to operate efficiently in the future.

A third issue involves international mail. Some of the Postal Service's competitors have created the perception that the USPS has stolen business from them through unfair trade practices. In fact, the Postal Service's Global Package Link product is a good example of what we had hoped to achieve through postal reform. They identified a need in the marketplace and built an innovative program to fill a gap-not steal existing business from a competitor. We feel that putting the U. S. Trade Representative in the middle of this process will not serve either the Postal Service or its customers well, nor will it provide any real additional protection for the Postal Service's competitors. Adequate protections could be obtained through periodic audits by the Inspector General's office or the Government Accounting Office.

Fourth, we are concerned that the various provisions covering competitive products will be so burdensome as to inhibit the Postal Service's ability to compete. We understand the need for protection against cross-subsidization by the monopoly mail. However, we do not feel it is necessary to create essentially an entire separate business for competitive products. This includes identifying vehicles used for competitive products and making them subject to

parking and vehicular regulations above what is enforced today. We feel the original language requiring coverage of attributable costs with a reasonable contribution to institutional costs is sufficient. We would also support subjecting competitive product pricing to anti-trust laws. This and the annual audit process should be adequate for preventing pricing abuse on competitive products.

Finally, we feel the proposed revisions provide the Postal Rate Commission with too much authority. We understand the continued need for the PRC or other oversight body. However, we had hoped the USPS would be allowed to more fully and efficiently manage its business. The revisions appear to lean toward more control by the PRC. We cannot support that direction.

In addition to the above main concerns, I have enclosed comments pertaining to particular sections of the proposed revisions. Again, thank you for allowing us the opportunity to provide comments. We look forward to continued progress on this important issue.

Sincerely,

Robert A. Steffensmeier
Postal Relations and Package Carrier Manager

Enclosure

JCPenney Comments on Proposed Revisions to H.R. 22

As proposed by

U.S. House of Representatives

Committee on Government Reform and Oversight

Subcommittee on the Postal Service

Rep. John McHugh, Chairman

Title I-Organization

Section 102—Redesignations Relating to the Postmaster General and the Deputy Postmaster General
We do not support the provisions granting greater authority to the Postal Rate Commission. One objective for reform is to allow the Postal Service to more efficiently manage its business. This provision would not allow achievement of that goal. We support the additional provisions concerning the Inspector General.

Title II-General Authority

Section 202 Date of Postmark to be Treated as Date of Appeal in Connection with the Closing or Consolidation of Post Offices
We do not support designating the U.S. Trade Representative to lead the USPS in dealing with inter-governmental organizations. We feel this is counterproductive to the goals of reform, and would hinder the Postal Service's efforts to expand international business. We agree the Postal Service should not be granted preferential treatment on international shipments. However, this should not be so strict as to stifle innovative efforts that may benefit the Postal Service, its customers, and in the long term, its competitors.

Title III-Presidential Postal Employee-Management Commission

Section 301—Presidential Postal Employee-Management Commission
Since the independent study to be undertaken by the National Academy of Public Administration will be mandated by legislation, will funds be appropriated for the study from the general budget?

Title IV-Finance

Section 402-Postal Service Investments
Section 403-Exclusions from Federal Financing Bank
We feel these provisions should apply for all postal products, not just competitive products.

Section 405—Elimination of Postal Service "Put" on Treasury
We feel the creation of separate funds and accounting streams for Competitive and Non-competitive products is overly burdensome. Further, the equipment, facilities, and personnel used in these services are so intertwined that assignment of capital and expenses would result in as much disagreement as exists today on class contribution to institutional costs. We feel the original provisions that each product meet its attributable costs and make a reasonable contribution to institutional costs should be maintained. The proposed annual audits by the PRC should be sufficient for determining compliance with these pricing rules.

As long as the pricing rules are met, the Postal Service should be allowed to use excess funds from all mail classes as they see fit. In the event of a monetary judgement against the Postal Service arising from a competitive product, that amount could be made an attributable cost for that product, and included in the rate structure. Failure to properly manage that business could result in the PRC moving the business from the Competitive to the Non-competitive category.

Title V-Budget and Appropriations Process

Section 503—Repeal of Authorizations of Appropriations for Public Service Costs Revenue Forgone, and Certain Compensatory Appropriations
We support dropping the repeal of these authorizations.

Title VI-Miscellaneous Provisions Relating to Postal Rates, Classes, and Services

Section 603-Powers of the Postal Rate Commission
We support these proposed revisions.

Section 604-Volume Discounts
We do not support the proposed elimination of volume discounts for non-competitive mail. Competition for advertising exists between mail and other media. Volume discounts that are made available to all mailers that meet specified requirements would give the Postal Service a better chance to compete for advertising dollars. If contribution to institutional costs is a concern, perhaps it could be required that the combination of a discounted rate and the required volume must make up in aggregate the contribution made by the combination of the higher rate and normal volumes.

For Competitive products, we feel the requirement to cover all attributable costs and make a reasonable contribution to institutional costs is sufficient.

We support the provisions applying the price cap uniformly to each subclass, then allowing averaging with a maximum 2 percent swing for any product within the subclass. We also support banking of unused portions of an allowable increase, subject to the maximum 2 percent banding requirement.

Title VII-Provisions Relating to the Transportation, Carriage, or Delivery of Mail

Section 702-Expanded Contracting Authority
We agree with the proposed revisions in this section.

Section 704-Mailbox Demonstration Project
We support dropping this section from the legislation.

Title VIII-Direct Appeal of Decisions of the Merit Systems Protection Board

Section 801—Direct Appeal of Decisions of the Merit Systems Protection Board
We remain neutral on this subject.

Title IX-Law Enforcement

Section 901—Make Federal Assault Statutes Applicable to Postal Contract Employees
Section 902-Sexually Oriented Advertising
Section 903—Allow Postal Service to Retain Asset Forfeiture Recoveries
Section 904-Hazardous Matter
Section 911—Stalking Federal Officers and Employees
Section 912—Non-mailability of Controlled Substances
Section 913-Enhanced Penalties
Section 914-Postal Burglary Provisions
Section 915—Mail, Money, or Other Property of the United States
We remain supportive of these provisions,

Title X-New System Relating to Postal Rates, Classes, and Services

Section 1 OOI-Establishment

Chapter 37-New System For Establishing Postal Rates, Classes, and Services

Subchapter I-Baseline Rates and Fees
We support the proposed revision allowing the PRC to take factors covered in this legislation into account if a rate case is already pending. We support not including a contingency amount in the baseline case.

Subchapter II-Rates and Fees for Products in the Non-competitive Category of Mail
We agree with the use of CPI as the price index, with an adjustment factor subtracted to account for productivity. We support the productivity factor being in place for a five year period at a value no greater than zero. If additional revenue is needed for the reasons listed in the revisions, the PRC should conduct a separate "exigent circumstances" rate case to generate the necessary revenue. Such cases could be conducted at the subclass level. The same adjustment factor should be applied to all non-competitive baskets. We support the banking of unused increases, constrained by the aforementioned banding provision.

Subchapter Ill-Rates and Fees for Products in the Competitive Mail Category
We support the provision eliminating exemption for judicial or administrative review of competitive product rates. We do not support the cost coverage requirements as defined. We support the original language requiring coverage of all attributable costs plus a reasonable contribution to institutional costs. We support giving the PRC the authority to determine the non-competitive or competitive status of a product, based on the criteria listed in the provision. We support making the USPS subject to anti-trust laws and the Lanham Act on competitive products. We also support formalizing compliance with local zoning and land use laws. We do not support subjecting the USPS to parking and vehicular regulations for competitive products. We feel this would be overly burdensome to both comply with and enforce.

Subchapter IV-Market Tests of Experimental Products
We support the concept of market tests as proposed, except that Competitive Products should not be exempt from covering attributable costs. Since we do not advocate separate accounting streams for Competitive and Non-competitive products, it is important that costs are met as nearly as possible on any market tests. We would also support allowing Postal Service management to determine classification of such market tests, with ultimate approval by the PRC.

Subchapter V-Reporting Requirements and Related Provisions
We continue to believe the annual audit should be performed by the Inspector General of the Postal Service. We support the provision for the PRC to handle the proposed rate complaint procedures. Consequences for non-compliant rates should be to force any necessary rate adjustments and to hold management responsible for deliberate misconduct personally accountable. The provision for fining the USPS, with payment coming from a Competitive Products fund, is too burdensome. We also support the requirement for the Postal Service to develop measures for and report on service. We support the provision that allows for changes in attribution of costs and revenues when necessary. We support payments exceeding the salary cap if 1) the USPS makes a profit, 2) all rates are in compliance with the statutes, and 3) service objectives are met.

Section 1002—Termination of Rate Making Authority Under Chapter 36 and Related Matters
We propose allowing the Postal Service to establish and modify mail classification as necessary, with the requirement that they prove to the PRC that changes or new classifications are appropriate via the annual audit procedure. We support allowing the Postal Service to provide only Postal Products, and requiring a separate company for non-postal products. However, we feel the definition of postal and non-postal products should not be too strict. As new technologies develop, our definition of what constitutes a postal product may also change. We would propose continuing to allow review by the PRC in response to challenges from the private sector when determining whether a service is a postal product. At the very least we would propose not limiting the allowable weight for packages.

We support the provisions proposing review of the universal service requirement.