



AMERICAN TRUCKING ASSOCIATIONS

950 N. Glebe Road ★ Suite 210 ★ Arlington, VA ★ 22203-4181
www.truckline.com



Richard D. Holcomb
General Counsel and Senior Vice President
for Law and Regulatory Affairs

June 2, 2009

Mr. Daniel G. Blair
Chairman
Postal Regulatory Commission
901 New York Avenue, NW
Washington, D.C. 20268-0001

Re: Docket No. MT2009-1 (Collaborative Logistics Market Test)

Dear Chairman Blair:

I write on behalf of American Trucking Associations, Inc. (ATA)¹ to formally note the concerns of many of our less-than-truckload (LTL) trucking company members with the Collaborative Logistics Market Test. Based on those concerns, I ask that the Commission either reconsider its authorization of the Test or engage in strict oversight of the Test to ensure that it does not in practice violate the statutory requirements of 39 U.S.C. § 3641(b) (2) that prohibit the United States Postal Service (USPS) from engaging in a private business activity in which it has an unfair competitive advantage. We further ask, regardless the Commission's short term action on this matter, that the Commission prior to any longer-term approval of the proposal, engage in a more measured review process that would provide interested parties significant time to consider and comment upon the program's competitive impact.

By Order issued May 7, 2009, the Postal Regulatory Commission approved a market test of an experimental competitive product by the USPS referred to as Collaborative Logistics. The approval process was unusually expeditious, with a proposal noticed on April 14, 2009 (74 Fed. Reg. 17235) that provided only 13 days for interested parties to comment (and only 7 days after the USPS was to provide further information). While we cannot legitimately claim surprise, the expedited process gave little time for an in-depth consideration of the proposal.

The Collaborative Logistics proposal itself is relatively straightforward. USPS proposed that it use its truck transportation network associated with mail delivery (which it described as "one of the most complex transportation networks in the world") to enter the competitive LTL (less-than-truckload) business. The Service will transport freight weighing up to 2,200 pounds (usually palletized) in excess space ("excess capacity") on otherwise postal transportation runs. The Public Representative in his comments appropriately characterized the program as primarily involving "back haul" transportation, which as explained below often commands rates far below usual levels.

¹ ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Its membership includes more than 2,000 trucking companies and industry suppliers of equipment and services. Directly and indirectly through its affiliated organizations, ATA encompasses over 34,000 companies and every type and class of motor carrier operation.

Good stuff.



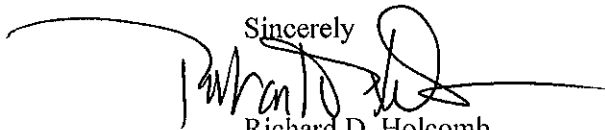
Consequently, the USPS implicitly recognizes that its entry into the competitive LTL transportation market will involve certain inherent advantages. First, it will be able to rely on an existing mail transportation network that is already in place and funded by its monopolistic mail business. Second, its rates will be set against only the incremental costs of deviating from its standard route to pick-up and/or deliver the additional freight. In the trucking industry, it is well recognized that back haul rates are often significantly lower than front haul rates. Empty miles are the bane of the industry and any transportation revenue is better than none. Therefore, back haul rates are set against incremental costs as discussed above and not the true transportation cost (moving a truck 50 miles to a back haul shipment and then 450 miles to its original destination, only involves an incremental cost of 10% of the true total transportation cost and rates can reflect that reality). Moreover, private LTL carriers must often price front haul rates to reflect the likelihood that back haul movements will either be empty or at significantly reduced rates. The USPS faces no such concern since its mail trucking operations will be in place and separately funded in any event. Finally, as the Service notes, it may be immune from burdensome state and local laws ("state laws do not apply by reason of federal sovereign immunity") that otherwise impact (financially and operationally) private carriers.

Despite these clear advantages, the USPS responded to the Commission's question number 6 that it was "unaware of any inappropriate competitive advantage that it would have over [] established [LTL transportation] providers in providing the market test." The comments of the Public Representative take a more realistic view, noting USPS infrastructure will allow it to "provide lower cost options" for certain shippers. The Representative also notes that the LTL industry "continues to grapple with significant overcapacity" and cautions that the Commission should "take precautions so as not to cause disproportionate and potentially fatal harm to competitors in the local LTL marketplace."

ATA echoes the Public Representative's concerns. The LTL industry has been under significant competitive pressure for decades (*see* Congressional Research Service, Report for Congress, *Trucking: Structure of the Less-than-Truckload (LTL) Industry and Legislative Issues*, RL 32257 (Mar. 5, 2004) (explaining the impact of 1980 deregulation on the LTL market; the enhanced competition it faced; and the significant decline in the number of LTL carriers that took place). Of course, those competitive pressures have recently been compounded by the economic downturn our nation is currently going through. Many LTL businesses are therefore, especially vulnerable at this point and even losses of small amounts of business to the USPS because of its competitive advantages could prove fatal.

ATA therefore reiterates its concerns with the Collaborative Logistics Market Test and suggests that in practice it will likely prove to be disruptive of the current LTL market because of the unfair and otherwise inappropriate competitive advantages the USPS will have in conducting such a business activity. Accordingly, the market test will likely prove to be in violation of the protections of Section 3641 (b) (2). We ask the Commission to either reopen its review of Market Test for a more in depth consideration of these points or commit to engaging in strict oversight of the Test to ensure that it does not have such a prohibited impact. Finally, we again ask that if the test goes forward, that any longer term approval of any such USPS private business operation, be subject to a much more measured review process that provides interested parties significant notice and opportunity for comment.

Sincerely



Richard D. Holcomb