

Statement of Murray Comarow
before the
President's Commission on the U. S. Postal Service
February 20, 2003

Thank you, Co-Chairmen Johnson and Pearce, and members of the Commission, for inviting me to express my views. These views are my own; I do not speak for the National Academy of Public Administration or any other organization.

Reform is Essential.

This Commission is engaged in a search, among imperfect alternatives, for an approach which best meets the needs--not of the Postal Service--but of the nation. You already know that

- The Postal Service plays an enormous role in our economy and in our culture.
- It is being weakened by technological inroads and aggressive competition.
- It has been placed in a "High Risk" category by the Comptroller General for reasons fully spelled out in his reports.

Organizing Principles.

In the three and a half decades of my associations with the Postal Service, I have seen wise men and women, experienced in their fields, consistently underestimate its operational, economic, and political complexity. Your task, which I honor you for undertaking, is truly daunting, made more so by limited staff resources and an inexplicably tight deadline. Later in this statement, I will ask the Commission to give primary consideration, not to such issues as the letter monopoly, pension liability, technology, and competitive impact--although they are critically important--but to the organizing principles, the lodestars, that should be your points of reference.

Privatization.

The overarching challenge, as I have suggested, is to define the kind of postal service that would best serve our society. Privatization proponents merit consideration, but they carry the burden of proof. Such a drastic change should be recommended only on the basis of careful study and projection of the probable effects on stakeholders, including the public.

The privatizers' arguments seem at this point to deserve the Scottish verdict of "not proven." It is true that some foreign countries have moved in that direction (with mixed results), but it is not a given that similar steps would benefit this nation. It is worth noting that some degree of government control persists in the "privatized" or "commercialized" foreign postal services.

Even less persuasive are those who have faith that a privately run postal service (or services) disciplined by market realities, would be superior, ipso facto, to a government postal service. A lifetime believer in our free enterprise system, I nevertheless find theological approaches to organization theory unconvincing.

Government Sponsored Enterprises (GSEs).

The Commission may decide to examine a particular type of privatization known as government sponsored enterprises. Fannie Mae, Freddie Mac, and Sallie Mae are examples. Contrary to a widespread public impression, these are not government entities; they are privately owned, profit-making institutions. Their federal charters exempt them from SEC regulations and from certain federal, state, and local taxes. The president appoints five of Fannie Mae's 18 directors, which may partly account for the public's misunderstanding, but all directors have a fiduciary responsibility to shareholders, not to the government.

Quasi-government institutions have a certain appeal because they are off-budget and are not bound by some procurement and personnel laws that apply to government agencies. They may raise serious constitutional questions, however. In the case of AMTRAK, its statutory charter defined it as a private corporation, but the Supreme Court held it to be a government agency, notwithstanding the statutory language. AMTRAK's status, said the court, was determined by its purpose, funding, and degree of government control. Putting it plainly, even Congress can't change a horse into a cow by painting "COW" on the horse.

The Tennessee Valley Authority Model.

A type of government corporation, TVA has three full-time directors who serve nine-year terms. They are nominated by the president and require Senate confirmation. The president selects the chairman. The directors hire a "President and COO" who serves under contract. (That is the practice; the statute does not specify any particular organizational form other than the three directors.)

There are few major rate increases--only one general rate increase in 14 years. The directors set rates after widespread consultation, but there are no due process hearings. Their customer base is miniscule compared to that of the Postal Service; 85 percent of their "load" goes to 158 "wholesalers," such as communities. and electric cooperatives. The rest consists of direct sales to 15 large industrial customers. This would not work for the Postal Service.

The "Stay in Government" Alternative.

If the Postal Service is to remain in the executive branch, there are two major options, with permutations.

- Return the Postal Service to political control as a Cabinet department.
- Retain the Postal Service within the executive branch but change its governing structure and regulatory constraints.

Return the Postal Service to Political Control.

Some say that postal reform has been a failure, pointing to its shaky status. Restoring the USPS to its former role as a cabinet department, the argument goes, would improve political accountability. With no board of governors or rate commission to get in the way, Congress would set rates, wages, and post office locations, as pre-1971. Congress would define universal service, set the limits of postal activities, and appropriate funds for the total operation, or to make up for deficits between revenue and expenses. The democratic process at work.

I believe that political management of the Postal Service would be a regressive disservice to mail users and taxpayers (the two groups are not identical). In the 160 years before postal reform, the Post Office Department lost money in 131 of those years. The average deficit ran about 18 percent, ultimately borne by taxpayers who thought that their stamp purchases had already paid for mail service. If the Postal Service depended on appropriations, it would compete, within overall budget limitations, with other departments, including Defense and Homeland Security. Before postal reform in 1971, the Post Office seldom prevailed in such competitions. Those who believe that a strong Postal Service is in the national interest are not likely to support a return to the pre-1971 Post Office.

Organizing Principles.

If the Commission believes that the Postal Service requires modernization, I suggest it be animated by these principles:

- The Postal Service should be self-supporting.
- Appointments and promotions should be made on the basis of merit.
- Postal managers should have a substantial but not unrestricted degree of freedom to manage.

The first two principles are embodied in existing law, and as a result, postal reform has been an astonishing success. The Postal Service is self-supporting. Taxpayers no longer unwittingly support major mail users. The Postal Service rewards merit. Good men and women have progressed to the highest levels without political influence or geographic restrictions. In fact, Section 1002, a remarkable provision of the Postal Reorganization Act, prohibits members of Congress and other officials from trying to influence appointments and promotions. Customer satisfaction is at historically high levels, and in real dollars, the 37 cent stamp costs little more than the six cent stamp in 1968. It is the third principle, that of management control, that must be applied if the Postal Service is to remain an integral element of our national strength.

What is the Postal Service?

Defined by statute as "an independent establishment of the executive branch," it is actually a wholly-owned government corporation, endowed with powers similar to other government corporations such as the Commodity Credit Corporation, the Federal Financing Corporation, and the St. Lawrence Seaway Development Corporation. It does not depend on appropriations; it has its own pay system; it is exempt from certain statutes; and so forth. The media often describe the Postal Service as "quasi-government." It is not. Conversely, postal officials and mailers often refer to the Postal Service as a "business." It is not. No organization with such minimal control over prices and wages can call itself a business.

While the legislative history of the 1970 Postal Reorganization Act sometimes uses the word "businesslike," the statute provides that the agency "shall be operated as a basic and fundamental service" to the American people. The law requires that service be "prompt, reliable, and efficient," but then erects insurmountable barriers to businesslike and efficient

management. Not only are wages and prices substantially controlled by external forces, even service changes must be approved; its ability to shut down money-losing operations must run a difficult statutory and political gauntlet; and business customers subsidize non-profit mail users.

How Should Postal Rates Be Set?

Since the Postal Rate Commission (PRC) has been around for over 30 years, many assume that's the way government works. In fact, the PRC is a unique anomaly without precedent in U.S. history. Its existence leads to this sequence: The Postal Service spends about six months preparing a rate case. This is usually followed by 10 months of hearings in which anywhere from 60 to 120 parties are represented by counsel, economists, accountants, and assorted experts. At least three more months are needed to set up procedures for the new rates. During that time, market conditions usually change, but the Postal Service cannot adjust. The PRC's five presidential appointees, with a permanent staff of about 60, are full-time second-guessers of nine presidentially-appointed part-time postal governors. The statute permits the governors to override the PRC only if they are unanimous. That's happened only a few times in 30 years.

There is a simpler and more efficient way to assure due process. Three retired judges or administrative law judges could be retained or borrowed from regulatory agencies to hear rate cases, with full due process procedures. Experienced judges, assisted by a few researchers, should be able to compress the 10-month process, which should be sharply reduced by statute. Their recommended decision should be reviewed by the postal governors, who should be authorized, based upon substantial evidence in the hearing record, to accept, reject, or modify it by a two-thirds vote, with appeal to the federal courts as at present. Restructuring the Board will be necessary to accommodate its more demanding role.

The Governing Structure.

The GAO's February 28, 2002 report posed a core question: "[W]hat type of governing board is appropriate for USPS, given the complex mission and role of this \$70 billion entity with its nearly 900,000 employees?" The Transformation Plan is silent on this issue, without explanation. There are alternatives. For example, the Board could consist of three full-time appointees plus six part-timers. The nine would hire the Postmaster General and perhaps one or two other top executives, who might also be added to the Board. The PRC would be abolished. Under this model, the governors would continue to direct the activities of the Postal Service, as the statute now provides, and would establish rates under

the procedures previously described. The Board's heavier responsibilities would justify, I believe, an outside panel to advise the president on prospective nominees, and the statute should require that they have the requisite high level experience in major institutions or corporations.

How Should Postal Wages Be Set?

Labor issues are at the heart of effective reform and create more tensions than any other. When Republicans gained control of the Congress in 1984, I heard loose talk about "smashing the unions." Democrats circled the wagons, the postal unions flexed their muscles, and Republicans became as leery of taking on labor issues as Democrats. On both sides of the aisle, true reform has foundered.

Binding arbitration has been a boon for postal unions and a burden for postal customers. Postal clerks average \$52,000 a year, including health and retirement benefits. Letter carriers average \$55,000. Studies have concluded that their wages and benefits are much higher than those that private sector employees receive for comparable work.

After billions of dollars that have been invested in research and automation, 79 percent of postal costs still goes to wages and benefits, of which 19 percent is benefits. In 1968, the figure was 83 percent, with eight percent representing benefits. Some claim that this is because postal work is "labor intensive." United Parcel Service and FedEx are also labor intensive, but their comparable labor percentages are much lower, partly because wages are not set by arbitrators, and partly because they employ a much higher percentage of part-time workers than the Postal Service. FedEx's labor costs are 42 percent of its total costs; the UPS figure is 56 percent. Public employees' wages should be set by accountable public officials under Congressional guidelines--not by outside arbitrators who have no management responsibilities.

Here is an example of an arbitrator's impact: The National Association of Letter Carriers (NALC) and the American Postal Workers Union (APWU) clerks had been at "Level 5" parity since 1907. On September 19, 2000, arbitrator George Fleischli fractured that pattern, promoting NALC carriers to Level 6. There was virtually no possibility of appeal; the 1970 Postal Reorganization Act provides that such awards are final. Arbitrators are not driven by the same values or the same dynamics that drive top managers. It may not be "fair," for example, to deny a wage increase, but a financial crunch and responsibilities to customers may demand it, as in the case of some airlines.

Within hours after the award, the president of the American Postal Workers Union announced: "APWU will accept nothing less than full equality. We will leave no stone unturned and no tactic overlooked--whether lawful or otherwise--to secure economic justice for our members."

Sure enough, APWU-USPS collective bargaining failed and the issues went to arbitration. Arbitrator Stephen B. Goldberg's January 11, 2002 award stated plainly what most arbitrators have avoided, that there is "powerful support" for the argument that "the Postal Service provides a wage and benefits package to APWU represented employees that is better than that available for comparable work in the private sector." Goldberg noted that "Postal Service jobs are highly sought after, and once obtained, are held onto. Applicant queues are long, and the quit rate is all but non-existent. Employees represented by APWU have total job security, an extraordinary benefit package, and wages that have fully kept up with inflation."

Goldberg's recognition of the postal wage premium, probably coupled with the Postal Service's difficult financial situation, led him to award more modest pay increases than the union demanded, to the relief of postal customers. The threat remains, of course, that a future arbitrator may decide to restore parity with the NALC.

Both the mailing community and the Postal Service itself have been famously diffident in confronting the binding arbitration issue. They defend by arguing that any proposed change would be "dead on arrival," in light of the political climate. I encourage this Commission to propose clear and bold changes, even if short-term prospects are bleak. That would, at a minimum, begin the debate. It should not be forgotten that some government reforms thought by pundits and insiders to be politically unrealistic came to pass. I am thinking, for example, of the creation of the Defense Department, the Environmental Protection Agency, and the Postal Reorganization Act itself.

The wage arbitration issue was finally placed before the President in a March 2, 2001 letter signed by all nine governors. The pertinent paragraph stated:

The [Postal Reorganization] Act established a system of collective bargaining followed by compulsory arbitration that mitigates against a negotiated settlement and which, moreover, has often placed some 80 percent of our total costs in the hands of a third-party arbitrator with neither understanding of nor responsibility for our role and mission.

No alternative was proposed, but on April 4, 2002, the USPS, at the behest of the Senate Governmental Affairs Committee and the General Accounting Office, produced a 450-page Transformation Plan, designed to shore up its viability. Signed by Board Chairman Robert F. Rider and PMG John E. Potter, the Plan, in Appendix V, recommended legislation to eliminate binding arbitration, and substitute mediation and the right to strike under the Railway Labor Act.

That recommendation was not supported by analysis. Nothing the in the Transformation Plan dealt with the economic/societal dysfunctions that would be generated by a nationwide strike, or even local strikes. Nor does the Plan deal with the precedent such legislation would set for other Federal employee unions. Federal workers have never had a "right" to strike. They give it up, presumably, because of the perceived advantages of Federal employment. The USPS proposal does not recognize that in the private sector, a strike is a test of economic strength between labor and management. Labor can withhold its work; management can close its plants or hire replacements. It is hard to imagine the Postal Service closing post offices to combat a strike. If there is a sound public policy argument for such a sea-change, it is missing from the Plan.

Labor reform is often framed as an "either-or" issue: binding arbitration or the right to strike. The model omitted from the Plan, however, is the one that exists for all other Federal employees, i.e., consultation and mediation are encouraged, but ultimately wages are set under Congressional guidelines. For 215 years, no Federal worker has had the right to strike, and--except for postal employees since 1971--has never had wages set by arbitrators. Another alternative would be to require mediation and collective bargaining and to refer any major impasse to the president, who could use any device he may choose to resolve the deadlock.

The Critical Issues.

I have devoted most of my statement to three major issues: price-setting, wage arbitration, and governing structure'. The following lists those issues as well as others which I have not addressed.

1. What should be the Postal Service's mission? (Should it be free to engage

'For my opinions on issues not discussed here, please see my essay "The Demise of the Postal Service?" October 2002, copies of which have been made available to the Commission.

in any postal-related activity? Who defines "postal-related"?)

2. Should the Postal Service be fully privatized, "commercialized" with some degree of public control, or remain part of government?
3. In view of its universal service mission, should the Postal Service, now supported by customer revenues, be partly supported by taxes?
4. Should Congress define universal service or should the Postal Service be authorized to do so within statutory guidelines?
5. Should the monopoly on letter mail be abolished or modified?
6. How should postal rates be set?
7. How should postal wages be determined? Should "comparable pay" be defined by law to refer to similar work in the private sector?
8. Should postal workers have the right to strike?
9. Should the Postal Service be free to close some of the 16,000 post offices which lose money, or are these small post offices justified for noneconomic reasons or to maintain universal service?
10. Should business mailers continue to subsidize non-profit mailers? (Non-profits such as Yale, Harvard, the AARP, and the Beer Drinkers of America pay only 60 percent of what businesses pay to send advertising mail.)
11. How should the Board of Governors be composed? Should all or some part-time governors be replaced by full-time governors? Should the statute guide the President's nominations by requiring pre-screening by an outside group to look for top management experience involving major institutions?
12. Should executive salaries in this \$70 billion organization continue to be held to levels that are a joke by private sector standards? (The Postmaster General's annual pay is \$166,700.)

In the course of urging the establishment of a Commission, I emphasized that it must

be properly designed and supported. I salute the President's decision, but I am concerned that a four-person staff and a July 31, 2003 deadline are severe handicaps. Nevertheless, the makeup of the Commission and its first hearing are encouraging. As I write these words, there is reason to hope, but I must close with a sobering reminder. Most commissions fail, as research back to the Brownlow and Hoover commissions during the Roosevelt and Truman years reveals. One especially relevant failure was the 1977 congressional commission on the Postal Service.

Those commissions that succeed, that generate a substantial and positive impact, follow up their reports with personal support. Commission reports, even excellent ones, are not self-executing, and must be brought to public attention if they are to result in change.

Thank you for this opportunity to express my views.

Murray Comarow, a lawyer, is a director and senior fellow of the National Academy of Public Administration. Among other positions, he was a Distinguished Adjunct Professor and Acting Dean of the College of Public and International Affairs at American University; executive director of President Johnson's Commission on Postal Organization in 1967-68; executive director of President Nixon's Advisory Council on Executive Organization in 1970-71; executive director of the Federal Power Commission; and Senior Assistant Postmaster General.