

112TH CONGRESS
1ST SESSION

H. R. 2967

To enhance the long-term profitability of the United States Postal Service through enhanced innovation, operational flexibility, workforce realignment, and regulatory relief.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2011

Mr. CUMMINGS (for himself and Mr. LYNCH) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To enhance the long-term profitability of the United States Postal Service through enhanced innovation, operational flexibility, workforce realignment, and regulatory relief.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-**
4 **ERENCES.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Innovate to Deliver Act of 2011”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents; references.

TITLE I—POSTAL SERVICE PROFITABILITY AND REVENUE-
GENERATING ENHANCEMENTS

- Sec. 101. Authority to offer nonpostal services.
- Sec. 102. USPS balanced budget minimum requirement.
- Sec. 103. Enhanced pricing flexibility.
- Sec. 104. Investment of competitive product moneys.
- Sec. 105. Requirement that market-dominant products cover attributable costs.
- Sec. 106. PRC to revisit CPI cap instituted under PAEA.
- Sec. 107. Enhanced product innovation.
- Sec. 108. Repeal of uniform rate for books, films, and other materials.
- Sec. 109. USPS innovation officer and accountability.

TITLE II—POSTAL SERVICE WORKFORCE REALIGNMENT AND
RIGHT-SIZING

- Sec. 201. Treatment of surplus contributions to Federal Employees' Retirement System.
- Sec. 202. Contributions to Thrift Savings Fund of voluntary separation incentive payments.
- Sec. 203. Modification of prepayment schedule relating to Postal Service Retiree Health Benefits Fund.
- Sec. 204. Study on USPS workforce realignment and right-sizing options.
- Sec. 205. Applicability of provisions relating to reductions in force.
- Sec. 206. Enhanced reporting on facility network initiatives.

TITLE III—POSTAL SERVICE IMPROVEMENTS AND REGULATORY
RELIEF

- Sec. 301. Permit appeal rights for closing of postal stations and branches.
- Sec. 302. Intra-agency cooperative agreements.
- Sec. 303. Grouping of negotiated service agreements.
- Sec. 304. Simplification of process for classification of competitive products.
- Sec. 305. Development of new market-dominant classes of mail.
- Sec. 306. Expedited consideration of service changes by PRC.

1 (c) REFERENCES.—Except as otherwise expressly
2 provided, whenever in this Act an amendment or repeal
3 is expressed in terms of an amendment to, or repeal of,
4 a section or other provision, the reference shall be consid-
5 ered to be made to a section or other provision of title
6 39, United States Code.

1 **TITLE I—POSTAL SERVICE**
2 **PROFITABILITY AND REV-**
3 **ENUE-GENERATING EN-**
4 **HANCEMENTS**

5 **SEC. 101. AUTHORITY TO OFFER NONPOSTAL SERVICES.**

6 (a) SPECIFIC POWER.—Section 404(a) is amended—

7 (1) in paragraph (7), by striking “and” at the
8 end;

9 (2) in paragraph (8), by striking the period and
10 inserting “; and”; and

11 (3) by adding at the end the following:

12 “(9) to provide nonpostal services in accordance
13 with subsection (e).”.

14 (b) NONPOSTAL SERVICES.—Section 404(e) is
15 amended to read as follows:

16 “(e)(1) The Postal Service may provide nonpostal
17 services that use the processing, transportation, delivery,
18 retail network, technology or other resources of the Postal
19 Service in a manner consistent with the public interest.

20 “(2) At least 90 days before offering new nonpostal
21 services, the Postal Service shall request an advisory opin-
22 ion from the Postal Regulatory Commission that evaluates
23 the extent to which the provision of such nonpostal serv-
24 ices—

1 “(A) would use the processing, transportation,
2 delivery, retail network, technology, or other re-
3 sources of the Postal Service; and

4 “(B) would be consistent with the public inter-
5 est.

6 “(3) Within 45 days after receiving the request under
7 paragraph (2), the Postal Regulatory Commission—

8 “(A) shall issue its advisory opinion to the
9 Postal Service; and

10 “(B) shall transmit a copy of such opinion, to-
11 gether with the original request, to—

12 “(i) the Committee on Oversight and Gov-
13 ernment Reform of the House of Representa-
14 tives; and

15 “(ii) the Committee on Homeland Security
16 and Governmental Affairs of the Senate.

17 “(4) For purposes of this title, the term ‘nonpostal
18 services’ means services and products other than postal
19 services as defined in section 102(5), including—

20 “(A) check-cashing services;

21 “(B) new technology and media services;

22 “(C) warehousing and logistics;

23 “(D) facility leasing; and

24 “(E) public internet access services.”.

1 **SEC. 102. USPS BALANCED BUDGET MINIMUM REQUIRE-**
2 **MENT.**

3 Subsection (b) of section 404 is amended—

4 (1) by striking “(b)” and inserting “(b)(1)”;

5 and

6 (2) by adding at the end the following:

7 “(2) Except as otherwise explicitly prohibited by this
8 title, within 180 days after the date of enactment of this
9 paragraph, the Governors shall ensure that the rates and
10 fees charged, and the level and quality of services pro-
11 vided, shall be adjusted so that the total revenues received
12 by the Postal Service from all sources are at least equal
13 to the total costs incurred in the provision of postal serv-
14 ices, except that the Governors shall continue to provide
15 all public services for which appropriations are made to
16 the Postal Service under section 2401.”.

17 **SEC. 103. ENHANCED PRICING FLEXIBILITY.**

18 The second sentence of section 404(c) is repealed.

19 **SEC. 104. INVESTMENT OF COMPETITIVE PRODUCT MON-**
20 **EYS.**

21 Section 2003 is amended—

22 (1) by redesignating subsections (d) through (h)
23 as subsections (e) through (i), respectively; and

24 (2) by inserting after subsection (c) the fol-
25 lowing:

1 (3) in subparagraph (B) (as so redesignated by
2 paragraph (1)) by inserting “, excluding changes re-
3 quired to satisfy subparagraph (A),” before “to be
4 set”.

5 **SEC. 106. PRC TO REVISIT CPI CAP INSTITUTED UNDER**
6 **PAEA.**

7 Section 3622 is amended—

8 (1) in subsection (c)—

9 (A) in paragraph (13), by striking “and”
10 at the end;

11 (B) by redesignating paragraph (14) as
12 paragraph (15); and

13 (C) by inserting after paragraph (13) the
14 following:

15 “(14) the value to the Postal Service of having
16 pricing flexibility that would apply a price cap across
17 all classes of market dominant products in compari-
18 son to a class-based price cap.”; and

19 (2) in subsection (d)(3), by striking “Ten” and
20 inserting “Five”.

21 **SEC. 107. ENHANCED PRODUCT INNOVATION.**

22 (a) DOLLAR-AMOUNT LIMITATION RELATING TO
23 MARKET TESTS OF EXPERIMENTAL PRODUCTS.—Section
24 3641(e)(1) is amended by striking “\$10,000,000” and in-
25 serting “\$50,000,000”.

1 (b) DOLLAR-AMOUNT LIMITATION RELATING TO EX-
2 EMPTION AUTHORITY.—Section 3641(e)(2) is amended by
3 striking “\$50,000,000” and inserting “\$100,000,000”.

4 **SEC. 108. REPEAL OF UNIFORM RATE FOR BOOKS, FILMS,**
5 **AND OTHER MATERIALS.**

6 (a) IN GENERAL.—Section 3683 is repealed.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 36 is amended by repealing
9 the item relating to section 3683.

10 **SEC. 109. USPS INNOVATION OFFICER AND ACCOUNT-**
11 **ABILITY.**

12 (a) IN GENERAL.—Chapter 2 is amended by adding
13 at the end the following:

14 **“SEC. 209. USPS INNOVATION OFFICER AND ACCOUNT-**
15 **ABILITY.**

16 “(a) IN GENERAL.—There shall be in the Postal
17 Service a Chief Innovation Officer selected by the Post-
18 master General who shall have proven expertise and a
19 record of success in 1 or more of the postal and shipping
20 industry, innovation product research and development,
21 marketing brand strategy, emerging communications tech-
22 nology, or business process management. The Chief Inno-
23 vation Officer shall manage the Postal Service’s develop-
24 ment and implementation of innovative postal and non-
25 postal products and services.

1 “(b) DUTIES.—The Chief Innovation Officer shall
2 have as primary duties—

3 “(1) leading the development of innovative non-
4 postal products and services that will maximize rev-
5 enue to the Postal Service;

6 “(2) developing innovative postal products and
7 services, particularly those that utilize emerging in-
8 formation technologies, to maximize revenue to the
9 Postal Service;

10 “(3) monitoring the performance of these prod-
11 ucts and services and revising them as needed to
12 meet changing market trends; and

13 “(4) taking into consideration comments or ad-
14 visory opinions, if applicable, issued by the Postal
15 Regulatory Committee prior to the initial sale of in-
16 novative postal or nonpostal products and services.

17 “(c) DESIGNATION.—

18 “(1) DEADLINE.—As soon as practicable after
19 the date of enactment of this section, but no later
20 than October 1, 2012, the Postmaster General shall
21 designate a Chief Innovation Officer.

22 “(2) CONDITION.—Nothing in this section shall
23 be construed to prohibit an individual who holds an-
24 other office or position in the Postal Service from
25 serving as the Chief Innovation Officer under this

1 chapter. However, the Chief Innovation Officer may
2 not, while serving in such office, concurrently hold
3 any other office or position in the Postal Service.

4 “(d) INNOVATION STRATEGY.—

5 “(1) IN GENERAL.—Not later than 24 months
6 after the date of enactment of this section, the Post-
7 master General shall submit to the Committee on
8 Homeland Security and Governmental Affairs of the
9 Senate and the Committee on Oversight and Govern-
10 ment Reform of the House of Representatives a
11 comprehensive strategy for maximizing revenues
12 through innovative postal and nonpostal products
13 and services.

14 “(2) MATTERS TO BE ADDRESSED.—At a min-
15 imum, the strategy required by this section shall ad-
16 dress—

17 “(A) the specific innovative postal and
18 nonpostal products and services to be developed
19 and offered by the Postal Service, including the
20 nature of the market to be filled by each prod-
21 uct and service and the likely date by which
22 each product and service will be introduced;

23 “(B) the cost of developing and offering
24 each product or service;

1 “(C) the anticipated sales volume of each
2 product and service;

3 “(D) the anticipated revenues and profits
4 expected to be generated by each product and
5 service;

6 “(E) the likelihood of success of each inno-
7 vative product and service as well as the risks
8 associated with the development and sale of
9 each innovative product and service;

10 “(F) the trends anticipated in market con-
11 ditions that may affect the success of each
12 product and service over the next 5 years; and

13 “(G) the metrics that will be utilized to as-
14 sess the effectiveness of the innovation strategy.

15 “(3) STRATEGY UPDATES.—The strategy re-
16 quired by this section shall be updated every 3 years
17 and submitted to the Committee on Homeland Secu-
18 rity and Governmental Affairs of the Senate, the
19 Committee on Oversight and Government Reform of
20 the House of Representatives, and the Postal Regu-
21 latory Commission with the President’s annual
22 budget request.

23 “(e) REPORT ON PERFORMANCE.—

24 “(1) IN GENERAL.—The Postmaster General
25 shall submit to the Committee on Homeland Secu-

1 rity and Governmental Affairs of the Senate, the
2 Committee on Oversight and Government Reform of
3 the House of Representatives, and the Postal Regu-
4 latory Commission with the President’s annual
5 budget request a report that details the Postal Serv-
6 ice’s progress in implementing the Innovation Strat-
7 egy.

8 “(2) MATTERS TO BE ADDRESSED.—At a min-
9 imum, the report required by this section shall ad-
10 dress—

11 “(A) the revenue generated by each prod-
12 uct and service developed through the Innova-
13 tion Strategy and the costs of developing and
14 offering each such product and service for the
15 preceding year;

16 “(B) the total sales volume and revenue
17 generated by each product and service on a
18 monthly basis for the preceding year;

19 “(C) trends in the markets filled by each
20 product and service;

21 “(D) products and services identified in
22 the Innovation Strategy that are to be discon-
23 tinued, the date on which the discontinuance
24 will occur, and the reasons for the discontinu-
25 ance;

1 “(E) alterations in products and services
2 identified in the Innovation Strategy that will
3 be made to meet changing market conditions,
4 and an explanation of how these alterations will
5 ensure the success of the products and services;
6 and

7 “(F) the performance of the Innovation
8 Strategy according to the metrics identified in
9 subsection (d)(2)(G).

10 “(f) COMPTROLLER GENERAL.—

11 “(1) IN GENERAL.—The Comptroller General
12 shall conduct a study on the implementation of the
13 innovation strategy not later than 4 years after the
14 date of enactment of this section.

15 “(2) CONTENTS.—At a minimum, the Comp-
16 troller General shall assess the effectiveness of the
17 Postal Service in identifying, developing, and selling
18 innovative postal and nonpostal products and serv-
19 ices. The study shall also include—

20 “(A) an audit of the costs of developing
21 each innovative postal and nonpostal product
22 and service developed or offered by the Postal
23 Service;

24 “(B) the sales volume of each such product
25 and service;

1 “(C) the revenues and profits generated by
2 each such product and service; and

3 “(D) the likelihood of continued success of
4 each such product and service.

5 “(3) SUBMISSION.—The results of the study re-
6 quired under this subsection shall be submitted to
7 the Committee on Homeland Security and Govern-
8 mental Affairs of the Senate and the Committee on
9 Oversight and Government Reform of the House of
10 Representatives.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of chapter 2 is amended by adding at
13 the end the following:

“209. USPS innovation officer and accountability.”.

14 **TITLE II—POSTAL SERVICE**
15 **WORKFORCE REALIGNMENT**
16 **AND RIGHT-SIZING**

17 **SEC. 201. TREATMENT OF SURPLUS CONTRIBUTIONS TO**
18 **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**

19 Section 8423(b) of title 5, United States Code, is
20 amended—

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) If, for any of fiscal years 2011 through
2 2016, the amount computed under paragraph (1)(B)
3 is less than zero (in this paragraph referred to as
4 ‘surplus postal contributions’), the amount of those
5 surplus postal contributions shall be used by the
6 United States Postal Service only for the purposes
7 of—

8 “(A) providing voluntary separation incen-
9 tive payments (as established under section
10 3523) for eligible employees; and

11 “(B) providing voluntary separation incen-
12 tive payments (as established under section
13 3523) in conjunction with voluntary early re-
14 tirement authority for eligible employees under
15 sections 8336(d)(2) or 8414(b)(1)(B).”.

16 **SEC. 202. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF**
17 **VOLUNTARY SEPARATION INCENTIVE PAY-**
18 **MENTS.**

19 (a) Section 8351(b)(2) of title 5, United States Code,
20 is amended—

21 (1) by striking the matter before subparagraph
22 (C) and inserting the following:

23 “(2)(A) An employee or Member may con-
24 tribute to the Thrift Savings Fund in any pay period

1 any amount of such employee’s or Member’s basic
2 pay for such pay period.

3 “(B) An employee may contribute (by direct
4 transfer to the Fund) any part of any voluntary sep-
5 aration incentive payment that the employee receives
6 under section 3523.”; and

7 (2) by adding at the end the following:

8 “(D) Notwithstanding section 2105(e), in this
9 paragraph, the term ‘employee’ includes an employee
10 of the United States Postal Service or the Postal
11 Regulatory Commission.”.

12 (b) Section 8432(a) of title 5, United States Code,
13 is amended—

14 (1) by redesignating paragraph (3) as (4);

15 (2) by striking the matter before paragraph (4)
16 (as so redesignated by paragraph (1)) and inserting
17 the following:

18 “(a)(1) An employee or Member may contribute to
19 the Thrift Savings Fund in any pay period, pursuant to
20 an election under subsection (b), any amount of such em-
21 ployee’s or Member’s basic pay for such pay period.

22 “(2) An employee may contribute (by direct transfer
23 to the Fund) any part of any voluntary separation incen-
24 tive payment that the employee receives under section
25 3523.

1 “(3) Contributions made under paragraph (1) pursu-
2 ant to an election under subsection (b) shall, with respect
3 to each pay period for which such election remains in ef-
4 fect, be made in accordance with a program of regular
5 contributions provided in regulations prescribed by the
6 Executive Director.”;

7 (3) adding at the end the following:

8 “(5) Notwithstanding section 2105(e), in this sub-
9 section the term ‘employee’ includes an employee of the
10 United States Postal Service or of the Postal Regulatory
11 Commission.”.

12 (c) REGULATIONS.—The Executive Director of the
13 Federal Retirement Thrift Investment Board shall pro-
14 mulgate regulations to carry out the amendments made
15 by this section.

16 **SEC. 203. MODIFICATION OF PREPAYMENT SCHEDULE RE-**
17 **LATING TO POSTAL SERVICE RETIREE**
18 **HEALTH BENEFITS FUND.**

19 (a) Section 8909a(d)(2)(B) of title 5, United States
20 Code, is amended—

21 (1) by striking “2017” and inserting “2012”;

22 (2) by striking “2056” and inserting “2051”.

23 (b) Section 8909a(d)(3)(A) is amended—

24 (1) in clause (iii), by inserting “and” at the
25 end;

1 (2) in clause (iv), by striking the semicolon and
2 inserting a period; and

3 (3) by striking clauses (v) through (x).

4 (c) Section 8909a(d)(3)(B) is amended by striking
5 “2017” and inserting “2012”.

6 **SEC. 204. STUDY ON USPS WORKFORCE REALIGNMENT AND**
7 **RIGHT-SIZING OPTIONS.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of enactment of this Act, the Comptroller General
10 shall submit to the Committee on Oversight and Govern-
11 ment Reform of the House of Representatives and the
12 Committee on Homeland Security and Governmental Af-
13 fairs of the Senate a report on workforce reduction or re-
14 alignment methods which could be used by the United
15 States Postal Service to align its workforce with its needs.

16 (b) CONTENTS OF THE REPORT.—The report re-
17 quired under subsection (a) shall include the following:

18 (1) The projected workforce needs of the Postal
19 Service, given the current mail volumes and the de-
20 mand for Postal services.

21 (2) Possible options for allowing Postal Service
22 employees who are eligible for voluntary early retire-
23 ment to deposit voluntary separation incentive pay-
24 ments to obtain service credit or to otherwise allow

1 such payments to be credited in the computation of
2 retirement annuity benefits.

3 (3) The workforce authorities available to the
4 Postal Service under existing law, including for re-
5 ductions in force and voluntary separation incentive
6 payments.

7 (4) Any training, retraining, or hiring that may
8 be required by the authority the Postal Service is
9 granted under this Act to develop and offer for sale
10 nonpostal products and services.

11 **SEC. 205. APPLICABILITY OF PROVISIONS RELATING TO RE-**
12 **DUCTIONS IN FORCE.**

13 Section 1005 is amended by adding at the end the
14 following:

15 “(g)(1) Except as otherwise provided by any collective
16 bargaining agreement entered into under chapter 12, the
17 provisions of subchapter I of chapter 35 of title 5 and the
18 regulations implementing such subchapter, shall apply to
19 employees of the Postal Service who hold positions that
20 are within bargaining units under section 1202.

21 “(2) Before using the authority provided in para-
22 graph (1), the Postal Service shall demonstrate to the Of-
23 fice of Personnel Management how it will comply with sec-
24 tion 3502(a)(4) of title 5.”

1 **SEC. 206. ENHANCED REPORTING ON FACILITY NETWORK**
2 **INITIATIVES.**

3 Section 404(d) is amended by adding at the end the
4 following:

5 “(7)(A) The Postmaster General shall submit to the
6 Committee on Homeland Security and Governmental Af-
7 fairs of the Senate and the Committee on Oversight and
8 Government Reform of the House of Representatives and
9 the Postal Regulatory Commission a report that details
10 plans to close or suspend a Postal Service retail or proc-
11 essing facility during the period to which such report per-
12 tains. The first such report shall be submitted not later
13 than 120 days after the date of enactment of this para-
14 graph. Reports shall be submitted semiannually there-
15 after.

16 “(B) Each report submitted by the Postal Service
17 under subparagraph (A) shall address, at a minimum—

18 “(i) the specific retail and processing facilities
19 the Postal Service plans to suspend or close;

20 “(ii) the anticipated date of suspension or clo-
21 sure of each such facility;

22 “(iii) the cost of continued operations at the fa-
23 cilities for which closure is planned;

24 “(iv) the purpose of each such suspension or
25 closure, as determined by paragraph (2)(A);

1 “(v) plans for the establishment of alternative
2 access points for retail facilities listed in clause (i),
3 including the date on which each such alternative ac-
4 cess point shall open for business and the planned
5 location of each such alternative access point;

6 “(vi) how each facility closure conforms with
7 previously filed actions for suspension or closure;

8 “(vii) the timeline for closure or suspension ac-
9 tivities described in paragraphs (1) and (3), and all
10 other formal closure or suspension activities planned
11 in connection with the retail facility closure;

12 “(viii) how work performed at mail processing
13 facilities recommended for closure or consolidation
14 will be transferred or absorbed by other facilities
15 within the network;

16 “(ix) cost savings expected or achieved from
17 consolidation of both retail and mail processing fa-
18 cilities;

19 “(x) the impact of each planned closure on
20 postal employees, including relocation or reassign-
21 ment plans; and

22 “(xi) the status of ongoing suspensions or clo-
23 sures identified in previous reports.”.

1 **TITLE III—POSTAL SERVICE IM-**
2 **PROVEMENTS AND REGU-**
3 **LATORY RELIEF**

4 **SEC. 301. PERMIT APPEAL RIGHTS FOR CLOSING OF POST-**
5 **AL STATIONS AND BRANCHES.**

6 Section 404(d) is amended by adding after paragraph
7 (7) (as added by section 206) the following:

8 “(8) The provisions of paragraphs (1) through (6)
9 shall apply to postal stations and branches in the same
10 manner as the provisions apply to post offices.”.

11 **SEC. 302. INTRA-AGENCY COOPERATIVE AGREEMENTS.**

12 (a) IN GENERAL.—Section 411 is amended—

13 (1) in the section heading, by inserting “; **AU-**
14 **THORITY FOR INTRA-SERVICE AGREEMENT**”
15 after “**AGENCIES**”; and

16 (2) adding at the end the following:

17 “(b) The Office of the Inspector General of the
18 United States Postal Service and other components of the
19 Postal Service may enter into intra-service agreements to
20 furnish to each other property, both real and personal, and
21 personal and nonpersonal services. The furnishing of prop-
22 erty and services under this section shall be under such
23 terms and conditions, including reimbursability, as the
24 head of the component concerned and the Inspector Gen-
25 eral shall deem necessary.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 4 is amended by striking the
 3 item relating to section 411 and inserting the following:

“411. Cooperation with other Government agencies; authority for intra-service
 agreement.”.

4 **SEC. 303. GROUPING OF NEGOTIATED SERVICE AGREE-**
 5 **MENTS.**

6 Section 3622(d)(1), as amended by section 105(b),
 7 is further amended—

8 (1) in subparagraph (E) (as so redesignated by
 9 section 105(b)), by striking “and” at the end;

10 (2) in subparagraph (F) (as so redesignated by
 11 section 105(b)), by striking the period and inserting
 12 “; and”; and

13 (3) by adding at the end the following:

14 “(G) treat similar or related agreements
 15 between the Postal Service and postal users col-
 16 lectively as a single product for purposes of this
 17 section to the extent the Commission deems
 18 such treatment to be consistent with policies of
 19 this title.”.

20 **SEC. 304. SIMPLIFICATION OF PROCESS FOR CLASSIFICA-**
 21 **TION OF COMPETITIVE PRODUCTS.**

22 Section 3642(b) is amended (in the matter before
 23 paragraph (1)) by striking “in accordance with” and in-
 24 serting the following: “as expeditiously as practicable. The

1 Commission shall promptly admit a product into the com-
2 petitive category if it meets”.

3 **SEC. 305. DEVELOPMENT OF NEW MARKET-DOMINANT**
4 **CLASSES OF MAIL.**

5 (a) Section 102 is amended—

6 (1) in paragraph (9), by striking “and” at the
7 end;

8 (2) in paragraph (10), by striking the period
9 and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(11) ‘class of mail’ means a grouping of simi-
12 lar products, subject to section 3622(d)(2)(A), as
13 further defined by the Postal Regulatory Commis-
14 sion.”.

15 (b) Section 3622(d)(2)(A) is amended by inserting
16 “or under section 3643” after “Act”.

17 (c)(1) Subchapter III of chapter 36 is amended by
18 adding at the end the following:

19 **“§ 3643. New classes of mail**

20 “(a) IN GENERAL.—Upon request of the Postal Serv-
21 ice or users of the mails, or upon its own initiative, the
22 Postal Regulatory Commission may change the classes of
23 mail to which the annual limitation under section
24 3622(d)(1) applies by adding new classes of mail. The
25 Postal Regulatory Commission shall, within 18 months

1 after the date of enactment of this section, promulgate
2 (and may from time to time thereafter revise) regulations
3 to carry out this section.

4 “(b) CRITERIA.—All determinations by the Postal
5 Regulatory Commission under subsection (a) shall be
6 made in accordance with the following criteria:

7 “(1) NEW MARKET.—Dominant classes of mail
8 shall consist of products in the sale of which the
9 Postal Service exercises sufficient market power that
10 it can effectively set the price of such product sub-
11 stantially above costs, raise prices significantly, de-
12 crease quality, or decrease output, without risk of
13 losing a significant level of business to other firms
14 offering similar products.

15 “(2) PRODUCTS COVERED BY POSTAL MONOP-
16 OLY.—Any new classes of mail containing any prod-
17 ucts covered by the postal monopoly shall be subject
18 to the requirements of section 3622(d)(1). For pur-
19 poses of the preceding sentence, the term ‘product
20 covered by the postal monopoly’ means any product
21 the conveyance or transmission of which is reserved
22 to the United States under section 1696 of title 18,
23 subject to the same exception as set forth in the last
24 sentence of section 409(e)(1).

1 “(3) ADDITIONAL CONSIDERATIONS.—In mak-
2 ing any decision under this section, due regard shall
3 be given to—

4 “(A) the availability and nature of enter-
5 prises in the private sector engaged in the deliv-
6 ery of the product involved;

7 “(B) the views of those who use the prod-
8 uct involved on the appropriateness of the pro-
9 posed action; and

10 “(C) the likely impact of the proposed ac-
11 tion on small business concerns (within the
12 meaning of section 3641(h)).

13 “(c) NOTIFICATION AND PUBLICATION REQUIRE-
14 MENTS.—

15 “(1) NOTIFICATION REQUIREMENT.—The Post-
16 al Service shall, whenever it requests to add a new
17 class of mail, file with the Postal Regulatory Com-
18 mission and publish in the Federal Register a notice
19 setting out the basis for its determination that the
20 product satisfies the criteria under subsection (b).
21 The provisions of section 504(g) shall be available
22 with respect to any information required to be filed.

23 “(2) PUBLICATION REQUIREMENT.—The Postal
24 Regulatory Commission shall, whenever it changes
25 the list of market-dominant classes of mail, prescribe

1 new lists of classes of mail. The revised lists shall
2 indicate how and when any previous lists are super-
3 seded, and shall be published in the Federal Reg-
4 ister.

5 “(d) PROHIBITION.—Except as provided in section
6 3641, a class of mail that involves the physical delivery
7 of letters, printed matter, or packages may be offered by
8 the Postal Service unless it has been assigned as a new
9 class of mail—

10 “(1) under this subchapter; or

11 “(2) by or under any other provision of law.”.

12 (2) The table of sections at the beginning of chapter
13 36 is amended by inserting after the item relating to sec-
14 tion 3642 the following:

“3643. New classes of mail.”.

15 **SEC. 306. EXPEDITED CONSIDERATION OF SERVICE**
16 **CHANGES BY PRC.**

17 Section 3661 is amended—

18 (1) by redesignating subsection (c) as sub-
19 section (d); and

20 (2) by inserting after subsection (b) the fol-
21 lowing:

22 “(c) If the Postal Service seeks expedited processing
23 for time-sensitive advisory opinions, it shall state such re-
24 quest in its proposal filed under subsection (b) and the
25 Commission, to the extent practical and in accordance

1 with subsection (d), shall comply with the request for ex-
2 pedited consideration.”.

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