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Post Office Smuggling

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I N T R O D U C T I O N

One of the many activities of the U.S. Postal Service (USPS) is international package delivery. Through this package business, the USPS carries many products imported into the U.S. and is also involved in the carriage of exports.

Private firms such as Federal Express (Fed Ex) and United Parcel Service (UPS) compete with USPS for this business. Since wholly private companies can and do provide this service, there is no reason why a government run **enterprise** like USPS should be in this business at all. In this case, the USPS operates as a form of outdated socialism, with the government effectively taking over part of the private economy through a state-owned enterprise (SOE).

At a minimum, if the USPS continues this activity at all, it should operate on the same terms as the private competitors on a level playing field. Otherwise, the government through the USPS will just socialize more and more of the international package delivery market, and ultimately take it over altogether.

But the USPS does not operate on the same terms as the private competitors. The packages carried by the Postal Service are not subject to the same degree of inspection as those carried by private carriers. In addition, the customs import fees and duties required under law are not imposed at anywhere near the same level as for private carriers. Customs also does not apply other regulatory burdens, reporting requirements, and costs on USPS that it applies to the private firms.

Naturally, this discriminatory application of the U.S. Customs laws, amounting to a sort of Post Office smuggling, is a huge disadvantage for the private competitors. Companies exporting into the U.S. will not have to pay the customs fees and duties and other costs applicable under the law if they use the USPS rather than the private competitors. As a result, over time, this business could gravitate more and more to the USPS, and the government could take over more and more of the market, if not ultimately all of it.

Wirthlin Worldwide, a private research firm, documented the almost complete absence of inspections and customs fees and duties on goods imported through the USPS in a recent study. This report will review that study in detail. It will then discuss all the reasons why this

discriminatory treatment is bad policy. Finally, it will recommend reforms to correct the problem.

THE FAILURE OF CUSTOMS

To test the compliance of the Postal Service with the U.S. Customs laws, Wirthlin Worldwide sent 180 packages into the U.S. from 10 different countries. Half of these packages were sent through the private United Parcel Service or Federal Express. An almost identical set were started through foreign post offices with almost two-thirds of these to be transferred to the USPS for delivery to the U.S. and about one-third to be transferred to independent contractors. The packages contained industrial and consumer products, such as ball bearings, silk textiles, and CD players. All of the products sent are subject to U.S. import fees and duties. The sample of packages sent was large enough to produce results at the 99% confidence level.

The results were staggering. Inspection and collection of the required fees and duties did not accrue on 94% of the packages sent through the USPS. By contrast, inspection and duty collection occurred on 90% of the packages sent by the private United Parcel Service or Federal Express. For the packages transferred from foreign post offices to independent contractors, Customs collected the fees and duties on over 70% of the packages.

As a result, the average duties and fees collected on the packages sent through the private delivery companies were almost 23 times as large as those collected on the packages sent through the USPS. The average fees and duties on the packages transferred from foreign post offices to independent contractors were almost 10 times as large as those collected on the packages transferred to the USPS.

Wirthlin Worldwide estimated that the failure of Customs to inspect and collect the required duties and fees on USPS packages results in a **possible** loss of federal revenue of \$1.2 billion to over \$1.5 billion each year.

In response to press inquiries, Customs did not dispute the results of the study. Rather, it explained the disparity by saying that the private companies utilize sophisticated computer systems that can track each package and its contents from its point of origin to its destination. As a result, the private carriers electronically relay to Customs in advance exactly what is coming and when, making it easy for Customs to assess the required fees and duties when the packages arrive.

The USPS, by contrast, does not have such a computerized tracking system and provides no documentation in advance for 95% of its shipments. As a result, Customs would have to inspect the contents of each package manually to know what fees or duties to collect. Customs contends it does not have the manpower for such costly manual inspections, so the fees and duties on USPS packages are generally uncollected.

Customs also revealed that the private companies are required to reimburse Customs for the cost of inspecting their inbound shipments. But USPS is exempt from paying such costs.

These results were consistent with a 1998 report from the Customs Service to Congress. That report concluded that the USPS was only required to comply with 2 customs regulations out of the 11 regulations that were applied to the private package delivery firms. It also reported that the USPS was exempt from providing manifest information regarding

package contents to Customs, keeping the extensive records Customs requires of private delivery firms, and reimbursing Customs for its inspection services.

A POLICY FIASCO

The lack of enforcement of the customs laws on goods carried by the Postal Service puts the USPS in the role of a facilitator of smuggling.

First, because Customs does not inspect more than a tiny fraction of USPS packages and does not require a USPS report as to their content, Customs cannot properly enforce the narcotics or money laundering laws in regard to USPS packages. Some special efforts are made to counter drug shipments, but these pale in comparison to a full blown inspection and reporting system as applies to the private carriers. Basically, drug dealers have a good chance of smuggling their wares into the U.S. just by using USPS package delivery.

Countering international shipments of cash for money laundering is even more difficult. There are no good mechanisms for discovering or deterring such activity outside of full-blown inspection and reporting.

Chilling testimony before the House Committee on Banking and Financial Services illustrates the problem.¹ The Jane Doe witness had worked in Colombia and New York City running a money-laundering front for the Colombian drug cartels. She testified that professional money launderers like herself use the U.S. mail because they know it is not subject to government inspections, like the private delivery firms. She testified that, “Colombian money brokers believe that other delivery services, namely DHL and FedEx, are searched by Government Agents, but feel safe with the U.S. mail.”²

Similarly, on the Internet, international pharmaceutical marketers openly sell prescription drugs in violation of U.S. prescription regulations. In doing so, they use USPS to deliver the drugs because they know the government fails to inspect USPS deliveries. For example, one website states, “Orders take 2 to 6 weeks to arrive in the United States by regular mail, and regular mail is the method preferred by most [offshore] pharmacies, because it is less closely scrutinized by customs.”

The Customs Service itself has openly testified before Congress regarding the problem of post office smuggling. Betsy Durant, Director of the Office of Trade Programs at Customs, testified before the Subcommittee on Oversight and Investigations of the House Committee on Commerce, on May 25, 2000, regarding the smuggling of prescription drugs. She explained,

“Customs is under continuing pressure to move shipments quickly, yet our ability to maintain control of these small parcels is vastly different between the [USPS] and [private carrier] environments. The [private carrier] industry, with its requirements to provide manifest information, present outbound shipments for examination, and to reimburse us for costs of service have enabled us to respond to this growth while

¹ Opening Statement of “Ms. Doe” Before the Subcommittee on General Oversight and Investigations, Committee on Banking and Financial Services, U.S. House of Representatives, October 22, 1997.

² Id., p. 5.

preserving our enforcement mission. However, the lack of this capability and authority in the [USPS] setting has hindered meeting our enforcement goals.³

Ms. Durant added,

“Customs does not encounter the same enforcement difficulties with the [private carrier industry]. In exchange for reimbursed expedited clearance during non-traditional business hours and at locations where we would not ordinarily provide service, the couriers agreed to regulations that require them to integrate to integrate sophisticated automation systems into their daily operations. Furthermore, advance manifest information is required for all [private carrier] shipments so that Customs may pre-screen these shipments before arrival. The availability of advance, automated manifest information allows Customs to both expedite the automatic release of lower risk shipments, and at the same time to maximize the effectiveness of our targeting of higher risk shipments. Specifically, the availability of such data allows Customs to capitalize on intelligence developed by our Office of Investigations and other members of the domestic and international law enforcement community, knowledge of past transgressors, and analyses of smuggling trends and patterns.

Conversely, over 95 percent of the USPS international mail parcels are not individually manifested. By law, [private carriers] are required to maintain extensive records for each shipment or transaction solely for Customs review, whereas [USPS] is under no such obligation to keep these records.⁴

Durant concluded,

“In summary, Customs believes that the manual nature in which [USPS] mail arrives and is entered into the United States, severely inhibits our ability to interdict prohibited pharmaceuticals. We believe that we need to work with the [USPS] to change the standards for processing [USPS] shipments. Doing so will decrease the vulnerability our Nation currently faces with respect to pharmaceutical smuggling, and the smuggling of other forms of contraband.⁵

In addition, the nation’s taxpayers lose out because Customs fails to collect the proper fees and duties from foreign exporters to the U.S. If an additional \$1.5 billion or more was collected from these foreign exporters each year as the law provides, then that much could be cut in taxes elsewhere, perhaps through lower gas taxes or telephone taxes.

But, finally, the failure of Customs to enforce the law is poor economic policy. Since customers using the USPS will not have to pay the taxes that apply to those using the private alternative firms, more and more customers over time will gravitate to the USPS solely because of this artificial government favoritism. Since the USPS is a government run

³ Betsy Durant, Director, Office of Trade, U.S. Customs, Testimony, U.S. House of Representatives, Committee on Commerce, Subcommittee on Oversight and Investigations Hearing, May 25, 2000, p. 3.

⁴ Id., pp. 6-7

⁵ Id., p. 10

operation, this means over time the government will be taking over more and more of the business from the private marketplace.

This is effectively another manifestation of post office socialism. The USPS is just a state operated enterprise (SOE), like other commercial or industrial firms around the world owned and operated by governments. The U.S. government quite rightly promotes a policy of privatization of SOEs among other countries across the globe. But here we have an example of the U.S. government doing the same thing at home.

Such government takeovers of private markets are bad for several reasons. First, they interfere with the freedom of private citizens to employ themselves serving those markets. They also restrict the freedom of consumers to choose the private alternatives. If a customer faces an arbitrary tax for choosing a private firm over a government enterprise, the customer is not fully free to choose the private firm.

Moreover, private competitive markets provide better economic performance than state run enterprises, which tend to run like government bureaucracies and monopolies. An operation that is protected from competition by law or by a discriminatory tax does not have the same incentives to reduce costs and improve the product or service as do private firms in a competitive market, which must perform to the highest level to survive. In addition, a private, for profit firm faces stronger incentives to perform well than a public nonprofit operation precisely because of the profit motive.

As a result, consumers generally get better products and services at lower costs through private competitive markets. The greater efficiency and productivity of those markets also means more economic growth, jobs and prosperity for workers overall.

All of these problems are present in the USPS **role in** package delivery into the U.S. Private firms are denied the proper freedom of private citizens to serve that market fully. Customers are denied the full freedom to choose those private firms. Over time, the USPS will tend to monopolize the business because of the government's artificial tax favoritism. The USPS as a public, non-profit bureaucracy will not perform as well as a competitive private market. So customers will receive poorer services at higher cost than they would through the market. The economy and workers overall would be better served in the long run by a competitive, private, international package delivery market.

RECOMMENDED REFORM

The government should not get involved in providing a product or service if the private market can do it, for all of the reasons discussed above. Since a number of private firms already provide international package delivery into the U.S., there is no reason for the government run USPS to do it. Consequently, Congress should just require the USPS to leave the business of international package delivery into the U.S. altogether.

There is no logical sense in which this would somehow be "unfair" to the USPS. The USPS is a nonprofit, government run public service agency. It should, therefore, be limited only to the activities that are needed to serve the public interest. If sound public policy indicates there is no reason for such a government operation to get into a line of business, then there is no reason for it to do so. Since the USPS is a government operation, there is no liberty interest in allowing it to pursue whatever business it wants, as in the case of a private

firm. Since the USPS is a nonprofit, publicly owned operation, such a limitation is not depriving private citizen stockholders of profits they should be allowed to earn if they can.

If this option is not attainable, then at a minimum Congress should require that the same rules be applied to the USPS in the international package delivery business as apply to the private firms. The USPS should have to bear all the same taxes, inspections, record keeping, and reporting requirements that the private firms do. Perhaps most importantly, just as the private firms must pay Customs for the cost of all inspections and reporting regarding their imported packages, this rule should apply to the USPS as well.

Customs should then be mandated to undertake the same full inspections and monitoring of the USPS shipments as it does for the private companies. Since USPS would have to pay the full cost of such inspection and monitoring, this would not be untenable for Customs. If the USPS does not develop the same computerized, electronic reporting system that private firms employ, then it will have to pay for full manual inspections of all its packages.

This simple and just equality of rules would solve the problems discussed above. The private firms would be free to compete and customers would be free to choose them, all on a level playing field. In this equalized environment, the private competitive firms would probably outperform the USPS, sharply limiting its role in the market. But if they don't, it would mean that the USPS has matched their fully competitive level of performance, and there would be no negative economic consequences.

Equally important, the public interest in full and fair enforcement of our customs laws would be largely redeemed, as the new policy would go a long way towards closing the Postal Service's "unprotected border".

C O N C L U S I O N

The U.S. Customs Service is unable to fully inspect and impose the import fees and duties required under law on goods imported through the USPS international package delivery service. Yet, it inspects and imposes those fees and duties in full on goods imported through private package delivery firms. Customs also fails to impose other regulatory and cost burdens on USPS that it imposes on private firms.

This malfeasance leaves Customs unable to enforce the narcotics and money laundering laws in regard to packages imported through the USPS. It deprives taxpayers of revenues that could be used to finance tax cuts. Finally, it produces post office socialism, as it leads the government through USPS to take over and monopolize international package delivery into the U.S., with negative consequences for economic freedom and prosperity.

Congress should require the USPS to leave the business of international package delivery into the U.S. to the private competitive market that has proven more than capable of handling the job. Barring that, at a minimum Congress should require that all the same taxes, inspections, record-keeping, reporting requirements and other burdens that Customs applies to the private firms must be applied to the USPS as well. This would protect our borders and eliminate all of the problems discussed above.