

*Public Goods*, 13 J. Law & Econ. 293, 303–04 (1970) (“There is no single price that can satisfy all equilibrium requirements . . . under the condition that differences in demand prices can be identified at relatively low cost. . . . [C]ompetitively produced public goods lend themselves to price discrimination.”); Paul Samuelson, *Aspects of Public Expenditure Theories*, 40 The Rev. of Econ. & Statistics, 332, 336 (1958) (when attempting to price additional copies of public goods with marginal costs approximating zero “the easy formulas of classical economics no longer light our way.”); see generally William Baumol, *Regulation Misled by Misread Theory* 6 (AEI-Brookings Joint Center Distinguished Lecture Award Monograph 2006) (“[U]nder common conditions, firms will adopt price discrimination as their optimal strategy for recoupment of common costs. . . . [U]nder competitive conditions, the firm will normally be *forced* to adopt discriminatory pricing wherever that is feasible. Put another way, uniform pricing is *not* to be taken as the normal characteristic of equilibrium of the competitive firm.”) (emphasis in the original).

The Judges invite the Participants to include in their proffered evidence, testimony, and/or arguments a consideration of the potential applicability or inapplicability of price discrimination *within* the commercial webcaster segment of the market as well.

*3. What are the potential disadvantages of establishing a statutory royalty rate not based on a per performance royalty rate?*

Although there are possible advantages to the establishment of a statutory royalty rate based upon a structure other than a per-performance method, there are potential disadvantages as well. Accordingly, the Judges invite the Participants to include, in their proffered evidence, testimony, and/or arguments, information regarding any potential disadvantages to modifying or departing from a per-performance royalty rate. In response to this question, the Judges invite the Participants to consider the following specific sub-issues.

*a. Is it prohibitively difficult to identify webcaster revenues for the purpose of calculating a percentage-of-revenue based royalty rate?*

In *Web II*, the Judges described the following three areas in which potential problems existed in the percentage-of-revenue rate proposals presented by the participants in that proceeding: (1)

Revenue measurement; (2) revenue definition; and (3) auditing and enforcement. 72 FR at 24089–90. The present Judges remain concerned with whether those potential problems would affect any potential use of a percentage-of-revenue based royalty rate.

Accordingly, the Judges invite the Participants to include, in their proffered evidence, testimony, and/or arguments, a discussion of such potential problems and any proposed means to resolve such problems.

*b. Is there an “intrinsic” value to a performance of a sound recording that is omitted if a percentage of revenue royalty rate were to be adopted?*

In *Web II*, the Judges expressed a concern that a percentage-of-revenue based royalty rate would fail to capture the “intrinsic” value of a performance of a sound recording. *Id.* The Judges in *Web IV* are interested in the Participants’ understanding of the “intrinsic” value, if any, of a performance of a sound recording.

Accordingly, the Judges invite the Participants to include, in their proffered evidence, testimony, and/or arguments, a discussion of their understanding of the “intrinsic” value, if any, of a performance of a sound recording, and how it might not be embodied in a royalty rate calculated as a percentage of webcaster revenue.

*c. Would a royalty rate calculated as a percentage of webcasters’ revenue be “disproportionate” to webcasters’ use of sound recordings?*

In *Web II*, the Judges also expressed concern regarding whether a disparity could arise between a royalty rate calculated as a percentage of webcaster royalty and webcaster use of sound recordings. *Id.* The present Judges share that concern.

Specifically, the Judges inquire whether “disproportionality” could arise if some webcasters declined to attempt to maximize profits, and instead attempted to *maximize market share*. Licensors then would suffer the “opportunity cost” of foregone revenues. Cf. William Baumol, *The Free Market Innovation Machine* 221 (2002) (licensors must consider not only the marginal dollar cost, but also the “opportunity cost” of granting a licensing to a given licensee). As noted by one of SoundExchange’s economic experts during the proceedings in *Web III*, Dr. Janusz Ordover, both of these reactions—profit maximization and market share maximization—would be possible outcomes. Ordover WRT at ¶¶ 25–26.

The Judges also seek evidence, testimony and argument on whether this risk could be mitigated by combining a percentage-of-revenue based royalty rate with a significant minimum fee. See H.R. Rep. No. 105–796, at 85–86 (1998) (Conf. Rep.) (“A minimum fee should ensure that copyright owners are fairly compensated in the event that other methodologies for setting rates might deny copyright owners an adequate royalty. For example . . . a minimum fee [should be set] that guarantees that a reasonable royalty rate is not diminished by different types of marketing practices or contractual relationships. . . . [I]f the base royalty for a service were a percentage of revenues, the minimum fee might be a flat rate per year (or a flat rate per subscription per year for a new subscription service”) (emphasis added).

Accordingly, the Judges invite the Participants to include, in their proffered evidence, testimony, and/or arguments, a discussion of the problem of “disproportionality” between a royalty rate based upon a percentage of webcaster revenue and the use by webcasters of sound recordings, including the details identified *supra*.

#### Petitions To Participate

Parties with a significant interest must file Petitions to Participate (PTP) in accordance with 37 CFR 351.1(b)(1). PTPs must be accompanied by the \$150 filing fee in the form of check or money order payable to “Copyright Royalty Board;” cash will not be accepted.

The Judges will address scheduling and further procedural matters after receiving PTPs.

Dated: December 20, 2013.

**Suzanne M. Barnett,**  
*Chief Copyright Royalty Judge.*

[FR Doc. 2013–30917 Filed 1–2–14; 8:45 am]

**BILLING CODE 1410–72–P**

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#### POSTAL REGULATORY COMMISSION

**[Docket No. CP2014–21; Order No. 1929]**

#### New Postal Product

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning a contract with Hongkong Post for the delivery of inbound Air CP. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** Comments are due: January 3, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

On December 26, 2013, the Postal Service filed Notice, pursuant to 39 CFR 3015.5, that it has entered into a successor negotiated service agreement (Agreement) with Hong Kong's foreign postal operator, Hongkong Post.<sup>1</sup>

The Postal Service seeks to have the inbound portion of the Agreement, which concerns delivery of inbound Air CP in the United States, included within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-34) product on the competitive product list. Notice at 1, 3.

**II. Contents of Filing**

The Postal Service's filing consists of the Notice, financial workpapers, and four attachments.<sup>2</sup> Attachment 1 is a copy of the Agreement. Attachment 2 is the certified statement required by 39 CFR 3015.5(c)(2). Attachment 3 is a copy of Governors' Decision No. 10-3. Attachment 4 is an application for non-public treatment of materials filed under seal.

The Agreement's intended effective date is March 1, 2014. *Id.* at 3. The Agreement is set to expire one year after the effective date, subject to termination pursuant to contractual terms. *Id.*

The Postal Service states that the Agreement is the successor to the 2013-2014 Hongkong Post Agreement approved in Order No. 1580.<sup>3</sup> It also identifies the 2013-2014 Hongkong Post

<sup>1</sup> Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator, December 26, 2013 (Notice).

<sup>2</sup> The financial workpapers and Attachments 1 and 3 were filed in redacted and unredacted versions.

<sup>3</sup> Notice at 2; Docket No. CP2013-22, Order Approving an Additional Inbound Competitive Multi-Service Agreement With Foreign Operators Negotiated Service Agreement (with Hongkong Post), December 17, 2012 (Order No. 1580).

Agreement as the baseline agreement for purposes of determining functional equivalence.<sup>4</sup> Notice at 2. It asserts that the Agreement fits within applicable Mail Classification Schedule language included in Governors' Decision No. 10-3. See *id.* at 3, Attachment 3. The Postal Service identifies differences between the Agreement and the 2013-2014 Hongkong Post Agreement, such as revisions to existing articles and Annex 1, but asserts that these differences do not detract from a finding of functional equivalency.<sup>5</sup> *Id.* at 4-5. In addition, it states that both agreements incorporate the same cost attributes and methodology, thereby making the relevant cost and market characteristics the same. *Id.* at 5.

**III. Commission Action**

*Notice of establishment of docket.* The Commission establishes Docket No. CP2014-21 for consideration of matters raised by the Notice. The Commission appoints Cassie D'Souza to serve as Public Representative in this docket.

Interested persons may submit comments on whether the Postal Service's filing in the above-captioned docket is consistent with the policies of 39 U.S.C. 3632, 3633, and 3642 and the requirements of 39 CFR parts 3015 and 3020. Comments are due no later than January 3, 2014. The public portions of this filing can be accessed via the Commission's Web site (<http://www.prc.gov>). Information on obtaining access to sealed material appears in 39 CFR part 3007.

**IV. Ordering Paragraphs**

It is ordered:

1. The Commission establishes Docket No. CP2014-21 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission (Public Representative) to represent the

<sup>4</sup> The Postal Services notes that using the predecessor Hongkong Post Agreement as the baseline for comparison of agreements for the purpose of determining functional equivalence is consistent with the Postal Service's proposal that was submitted in its Motion for Partial Reconsideration of Order No. 1864 in Docket No. R2013-9. Notice at 2. See also Docket No. R2013-9, Order No. 1864, Order Approving an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement (with Korea Post), October 30, 2013, at 7-8; Docket No. R2013-9, Motion for Partial Reconsideration of Order No. 1864, November 6, 2013.

<sup>5</sup> See, e.g., in Article 13, revisions to procedures related to filings in the regulatory process; in Article 15, the Postal Service's contact information; and in Article 22, the Agreement's effective date. Notice, Attachment 1 at 4, 5, 6.

interests of the general public in this proceeding.

3. Comments are due no later than January 3, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**  
*Secretary.*

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**BILLING CODE 7710-FW-P**

**RAILROAD RETIREMENT BOARD**

**Proposed Collection; Comment Request**

*Summary:* In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. *Title and purpose of information collection:* Application and Claim for Unemployment Benefits and Employment Service; OMB 3220-0022.

Section 2 of the Railroad Unemployment Insurance Act (RUIA), provides unemployment benefits for qualified railroad employees. These benefits are generally payable for each day of unemployment in excess of four during a registration period (normally a period of 14 days).

Section 12 of the RUIA provides that the RRB establish, maintain and operate free employment facilities directed toward the reemployment of railroad employees. The procedures for applying for the unemployment benefits and employment service and for registering and claiming the benefits are prescribed in 20 CFR 325.

The RRB utilizes the following forms to collect the information necessary to pay unemployment benefits. Form UI-1 (or its Internet equivalent, Form UI-1 (Internet)), *Application for*