

EXTENSIONS OF REMARKS

SUPPORT THE POSTAL SERVICE
CORE BUSINESS ACT OF 1997,
H.R. 198

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. HUNTER. Mr. Speaker, today I rise to reintroduce the Postal Service Core Business Act of 1997. Last year, I introduced this same bill as H.R. 3690. This is an important bill framing a debate on an important subject: Where is the line between U.S. Government competition with the private sector, particularly small business?

My bill will establish a clear line of demarcation between the U.S. Postal Service, a Federal agency, and small private businesses across America. For the past 20 years, a vibrant private sector business has been evolving. In fact, the industry was born within a region I represent, San Diego, CA.

This business sector is known as the CMRA, or Commercial Mail Receiving Agents, industry. These businesses establish a special relationship with the Postal Service and become agents for receiving mail for individuals and small businesses. These small businessmen and women open a store, usually in a shopping mall, or a downtown business district, and rent private mailboxes to customers. Altogether, an industry of nearly 10,000 privately owned stores in all 50 States and virtually every congressional district has grown.

These CMRA stores are either franchise stores of nationally recognized groups like MailBoxes Etc, Postal Annex, PostalNet, Parcel Plus, or independently owned stores affiliated with the associated mail and parcel centers. Often, these small business owners use their life savings to establish their store. No matter what their origin, all of the stores are owner-operated by individual entrepreneurs who work long hours and thrive on fair and healthy competition. They do not look for government subsidies, nor do they shrink from competing with each other or any other private business which seeks to compete with them. What these small businesses did not count on was having to compete with the U.S. Government, in the form of the U.S. Postal Service, which has been known to describe itself as the 12th largest business in the Fortune 500.

The problem is that the Postal Service has decided to go into the business of packaging parcels, a service born and bred by these 10,000 small businesses, and there is clearly more on the horizon. In fact, the Postal Service announced its intention to spend billions to enter into retail competition with private business.

Stated simply, the Postal Service is not General Motors, AT&T, or Phillip Morris. It is an agency of the U.S. Federal Government. Its employees are Federal employees, its lawyers are from the Department of Justice, its benefits are Federal employee benefits. Further, it enjoys unique advantages as a Federal

agency which none of its top 10 Fortune 500 compatriots have. For example:

1. USPS has a legal monopoly on first class mail—This generates the lion's share of its \$50+ billion revenue. This gives it great opportunity to cross-subsidize from its stamp revenue to money losing operations such as their Pack & Send's.

2. USPS has no profit incentive—Since the Postal Service is a Government agency, it is not necessary for it to make a profit. That means it can run unprofitable business lines with impunity.

3. USPS can cross-subsidize these unprofitable businesses—There is no guarantee that the Postal Service will not use its monopoly revenue to cross-subsidize unprofitable activities like Pack & Send. In fact, it can, and does, even discount coupons on these nonstamp products.

4. USPS does not charge sales tax—That is a 4- to 8-percent advantage in most States.

5. USPS pays no property tax on its own facilities—It is not fair that the USPS can enter into direct competition against private sector businesses while being exempt from property tax.

6. USPS is self-insured—As an agency of the U.S. Government, the Postal Service does not need to buy insurance. All these small businesses must, or risk losing their business in litigation.

7. USPS borrows money from the Federal Reserve—Federal law permits the Postal Service to borrow money directly from the Federal Reserve at preferred rates. CMRA's must borrow from banks at market rates and with secured collateral.

8. USPS is immune from antitrust laws—All private businesses in America, big and small, must comply with Federal and State antitrust regulations. The Postal Service, however, claims they are not subject to the same antitrust laws.

As a result, the Postal Service, a \$50+ billion business, is preying on small business owners with impunity, doing what it wants with little regulation from Federal, State, and local authorities. It is critical that Congress step in and set up some rules.

Mr. Speaker, the Postal Reorganization Act of 1970 was enacted before the CMRA industry had developed. A review of the act makes that clear. The act does not even include a definition of what services the Postal Service can and cannot offer. This 1970 law needs to be revised to set some groundrules—a line of demarcation setting out what activities the Congress intends the Postal Service to offer. Most agree that it should continue to deliver the mail, but I don't believe its job description should also include T-shirt sales or packaging services.

My bill sets out some rules as to what the Postal Service can and cannot do regarding competition with the private sector. It is simple and straightforward:

Like most of my colleagues, I am a strong supporter of the Postal Service and I rely on it everyday to receive and deliver my mail.

The Postal Service Core Business Act protects and promotes a strong and vibrant Postal Service by allowing it to keep offering the same services it has been doing all these years. It can continue to concentrate on its core business: mail delivery. It can continue to offer those special and ancillary services as it has for decades, including selling packaging materials for use by its customers.

What it cannot do is compete with private businesses in areas that the Postal Service has not been traditionally engaged. For example, its new packaging service, called Pack & Send, would be prohibited under my bill. The private sector is already offering this service in over 10,000 locations throughout the country.

The Postal Service will also be prohibited from becoming a volume photocopy dealer; there are plenty of private businesses which provide this service. The same goes for gift wrapping, notary services, and other business-related services.

The aforementioned services are not functions of the Postal Service established by our Founding Fathers in the Constitution, and are therefore better left to the willing and able private sector.

This bill will not effect the Postal Service's ability to deliver overnight packages.

This bill will not prevent the Postal Service from accepting packages for mailing or shipment.

This bill will not interfere in any way with normal postal service operation.

My bill provides that line of demarcation which must be established now that the Postal Service is trying to branch out into other non-traditional areas of business.

The American entrepreneur is out there in all 50 States to provide these new services. We do not need a Government created and protected entity like the Postal Service to provide these services.

Nearly 10,000 small business owners in virtually every congressional district support this bill. During the 104th Congress, many of these business owners contacted their Representatives with their support for a clear definition of Postal Service activities.

Mr. Speaker, I believe it is important to point out to my colleagues that the Postal Service is now offering this Pack & Send service in violation of the Postal Reorganization Act. The Postal Rate Commission [PRC] has recently found that this service cannot be offered unless and until the Postal Service has submitted it for a rate and classification hearing before the Commission.

There is one problem, however, only the Postal Service can submit the case to the Commission; the Commission cannot initiate it themselves. The PRC is now waiting for the Postal Service to submit the case or to cease the service. Until that time, the largest Federal agency, the Postal Service, is offering a service in direct competition with private sector businesses, and in violation of its own enabling legislation.

Clearly, we do not want Federal agencies acting independently of the mission they were

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assigned by Congress, which is the ultimate authority. The Constitution specifically directed the Congress to determine what kind of post office the Nation should have. That is what my bill is all about.

Interestingly, Mr. Speaker, the United States is not the only country experiencing this quandary of what business line its post office should and should not be permitted to enter. In Canada, the Canada Post Corporation is currently in the business of competing with the private sector. There is no constraint on Canada Post in this regard under Canadian law, and the Canada Post has jumped in with enthusiasm.

In 1993, Canada Post purchased the largest private, Canadian owned courier service, Purolator Courier, in order to compete with local and American delivery services. Further, it is in the mailing center business as well. Much as its American counterpart, it is competing head to head with local and franchised private centers such as MailBoxes, Etc.

Canada Post is aggressively promoting unaddressed admail in direct competition with private mailers and even going so far as to deny access to private apartment boxes to its private sector competition.

This is the future for the U.S. Postal Service if my bill is not passed and Congress does not act to set ground rules in this area of what the U.S. Postal Service can and cannot do.

The Situation in Canada has so deteriorated that the government appointed a one man commission to review these and other issues and to make recommendations to the Canadian Government.

That Commission held hearings and took testimony throughout Canada and thoroughly examined the issue of competition by Canada Post with private mailing centers. Its conclusion was straightforward:

"The Government should direct Canada Post Corporation to withdraw from all competition with the private sector in areas of activity outside its core public policy responsibilities for providing postal services." [Report of the Canada Post Mandate Review, p. 86]

"Specifically, that means exiting from the courier business, from unaddressed admail, from the operation of business support or mailing centers, from electronic products and services, and from retailing of non-postal merchandise." [Report of the Canada Post Mandate Review, p. 84]

Mr. Speaker, my bill does not take on all the issues that this comprehensive review did, but that review hit the issue on the head. The basic conclusion of the Commission was that no government agency, like Canada Post or the USPS, can serve and compete with its customers at the same time.

The Postal Service Core Business Act is sound and fair in identifying a workable solution for all parties. I urge my colleagues to join me in support, because it establishes the rules necessary for both the Postal Service and the private sector as to this area of postal related business. These small business owners are looking to us to ensure that they are afforded a fair chance to succeed, and as their Representatives we need to work to meet their needs.

LEGISLATION TO CORRECT MEDICARE BENEFICIARY OVER- CHARGES IN HOSPITAL OUTPATIENT DEPARTMENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. STARK. Mr. Speaker, today Representative WILLIAM COYNE and I introduced a bill to correct a glaring failure in the Medicare Program—the massive overcharging of beneficiaries in hospital outpatient departments [HOPDs]. This bill will save Medicare disabled and senior beneficiaries about \$35.7 billion between 1999 and 2003. It will stop the steady, upward climb in the percentage of HOPD costs that beneficiaries have to pay.

The problem is difficult to describe and the legislative solution is also complicated. But what is not complicated is understanding the impact on Medicare beneficiaries. I would like to include in the RECORD at this point an article from the June 30 New York Times and the AARP Bulletin of August, 1996 that does an excellent job of explaining why our bill is needed—ASAP.

I also include some prospective payment assessment commission analysis of data from the Health Care Financing Administration on how beneficiary copayments in HOPDs can far exceed a patient's 20 percent share at an ambulatory surgical center. Clearly, these HOPD payments are grossly excessive, and patient advocacy groups should help spread the word about cheaper sources of safe and effective medical care.

[From the New York Times, June 30, 1996]

QUIRK IN MEDICARE LAW YIELDS BIGGER BILLS
FOR OUTPATIENT CARE; OFFICIALS SAY BUR-
DEN ON THE ELDERLY IS INCREASING

(By Robert Pear)

WASHINGTON, June 30—Because of a quirk in the Federal Medicare law, elderly people are being required to pay more than their normal share of the bill for hospital outpatient services. It is far more than Congress originally intended and the burden is rising rapidly as such services account for a larger portion of all health care in the United States.

Beneficiaries are ordinarily responsible for 20 percent of the cost of services under Part B of the Medicare program. But because of the law, they are now responsible, on average, for 37 percent of the total payments to hospitals for outpatient services, one of the most important benefits under Part B, according to a recent report to Congress by a Federal advisory panel.

For many such services, the patients' share is even larger. Donna E. Shalala, the Secretary of Health and Human Services, said beneficiaries were paying more than 49 percent of the total Medicare payment to hospitals for outpatient surgery, radiology and other diagnostic services.

And Dr. Shalala said, "We expect that the beneficiary share of total hospital payments for these services will continue to increase rapidly," to 68 percent in 2000.

Since 1983, the Government has paid a flat amount for each Medicare patient admitted to a hospital, depending on the diagnosis. But there are no such limits on outpatient services. A hospital can often increase its Medicare revenue "by simply increasing its charges" for outpatient services, the Department of Health and Human Services told Congress. When the hospital increases its charges, the beneficiary pays more.

The Clinton Administration acknowledges that the costs are already causing hardship for many Medicare beneficiaries. But Administration officials say they lack the authority to limit what hospitals charge for outpatient services under Medicare, and they are fighting a lawsuit by Medicare patients who insist that the Government is supposed to set such limits.

The new Medicare handbook, sent to all beneficiaries in May, explains the situation this way: "When you use your Part B benefits, you are responsible for paying the first \$100 each year of the charges approved by Medicare. This is called the Part B annual deductible. After the deductible is met, Medicare pays 80 percent of the Medicare-approved amount for most services. You are responsible for the remaining 20 percent."

But, it states, there is one big exception: "If you receive outpatient services at a hospital, you are responsible for paying 20 percent of whatever the hospital charges, not 20 percent of a Medicare-approved amount."

In March, the Federal advisory panel, the Prospective Payment Assessment Commission, urged congress to correct this problem. "The growing financial burden for Medicare enrollees who receive services in hospital outpatient departments should be alleviated immediately," the panel said. "Beneficiary coinsurance for these services should be limited to 20 percent of the Medicare-allowed payment."

But neither Congress nor the Clinton Administration is pushing for a quick solution, partly because of the complexity of the problem and partly because of disagreement over who would foot the bill. If beneficiaries paid less, then the Federal Government would have to pay more or hospitals would have to accept less overall? Any solution would increase Federal Medicare costs, reduce hospital revenue or both.

For example, a 74-year-old woman named Marie Lohse had outpatient cataract surgery on one eye at a Los Angeles hospital. The hospital charged \$6,277. She was responsible for 20 percent of that amount, or \$1,255. But, she later learned, Medicare paid the hospital only \$1,280. So the hospital received a total of \$2,535, and Ms. Lohse paid 49.5 percent of the total reimbursement.

If she had paid 20 percent of the Medicare-approved amount, as required for many other Part B services, she would have paid only \$507.

Robert J. Myers, who was chief actuary of the Social Security Administration for 23 years, said of the current formula, "It's a raw deal, a gross injustice to beneficiaries that ought to be remedied."

Mr. Myers said it had always been "the general philosophy, the general principle of the Medicare program, that the beneficiary should be responsible for 20 percent of what Medicare recognizes as the reasonable and appropriate amount for a service."

And in most cases that is true. But hospital outpatient services are different: the patient is responsible for 20 percent of whatever the hospital charges. Originally, what hospitals charged and what Medicare recognized as reasonable were about the same. But in recent years, hospitals have charged far more than Medicare pays for outpatient services. So in paying 20 percent of the hospital charges, beneficiaries end up paying much more than 20 percent of what the hospitals ultimately receive for such services.

Earlier versions of the Medicare handbook, in 1991 and 1992, said inaccurately that beneficiaries were responsible for only 20 percent of the approved amount. The handbook now says "20 percent of whatever the hospital charges."

The financial burden on patients has been increasing because outpatient care accounts