

set by regulations.⁷⁶ However, the commercial rates for publications are set by market forces and fluctuate with commercial imperatives – not to mention that in many cases they are the result of negotiations with both domestic and international large volume customers pursuant to specific agreements. The responsibility for setting those rates rests exclusively with senior management of the Corporation who exercise their discretion based on commercial principles without intervention on the part of the government.

109. The term "requirement" in the context of the GATT also implies a demand or direction proclaimed by an authority within government. Again, commercial imperatives and market forces dictate the commercial rates for publications charged by the Corporation to its customers. The government has never issued a directive to the Corporation regarding publications mail. The Corporation's prices are set to meet market demands and opportunities (as in the case of any private sector company), and are clearly not the product of "laws, regulations or requirements" of Canada.

110. It is incorrect to suggest, as does the United States, that the differential between the commercial rate provided to Canadian publishers and the commercial rate provided to non-Canadian publishers is calculated to place non-Canadian publishers at a competitive disadvantage. Canada Post has no policy of giving a competitive advantage to one segment of its customers over another, and would have no interest in pursuing any such practice. For their part, customers have access to competing delivery channels and, as in all open markets, have the ability to negotiate rates in a manner reflecting their purchasing power.

111. The international commercial rates reflect the reality that suppliers in any competitive market will attempt to obtain the best possible price. Pricing is set to maximize contribution while remaining competitive. Factors such as the availability and cost to customers of competing distribution channels, currency exchange rates, service standards, etc., are all taken into consideration by Canada Post (as would any company in a competitive market) when setting its pricing. As a Crown corporation with a commercial mandate, Canada Post operates on the same basis as a private sector interest.

112. The commercial postage rate applicable to non-Canadian publications is set on the basis of the commercial business reality that the next-best option faced by mailers of publications that are printed outside Canada is the much higher international rate charged by the postal administration in the country of publication. In the case of publications from the United States, this means a rate for deposit in Canada with Canada Post that is about half of what they would have to pay (in SCdn equivalent) the United States Postal Service (USPS)

76. *Letter Mail Regulations*, SOR/88-430 as amended to April 30, 1996 (Exhibit X).