

Bernie Pazanowski | Bloomberg News

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Postal Service's Pricing Methodology Upheld by Appeals Court

*Andrew Harrer/Bloomberg News*

The U.S. Postal Service's method to set prices for competitive services was upheld by the U.S. Court of Appeals for the District of Columbia Circuit on May 22.

The ruling comes in the wake of President Donald Trump's assertion that USPS doesn't charge Amazon.com enough to deliver its packages.

The Postal Accountability and Enhancement Act requires the Postal Regulatory Commission to adopt regulations that prevent USPS from subsidizing products that face competition through products over which USPS has a monopoly, such as first-class mail.

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The cost of each competitive product must cover its direct and indirect postal costs.

The pricing method adopted by the PRC for competitive services includes only a portion of variable costs, such as wages, that change with production levels.

This allows USPS to use profit from its monopoly over first-class mail to offset lower prices it charges for parcel delivery services, where it competes with UPS Inc. This gives it an unfair advantage over private package-delivery companies, UPS said.

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But PRC's pricing method for competitive services is consistent with the Accountability Act and entitled to deference, the opinion by Judge David S. Tatel said. UPS offered no evidence indicating the statute requires PRC to treat all variable costs as attributable to competitive products, it said.

Judges Sri Srinivasan and Cornelia T.L. Pillard joined the opinion.

UPS ranks No. 1 on the Transport Topics Top 100 list of largest for-hire carriers in North America.

MoloLamken LLP represented UPS. DOJ represented PRC.

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