

PRESIDING OFFICER'S
RULING NO. MC2004-1/4

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

Experimental Periodicals
Co-Palletization Dropship Discounts
For High Editorial Publications

Docket No. MC2004-1

PRESIDING OFFICER'S RULING
IN REGARD TO MOTION TO COMPEL RESPONSES
TO INTERROGATORIES ABM/USPS-T1-11 AND 13
AND POSTAL SERVICE MOTIONS FOR LATE ACCEPTANCE

(Issued May 11, 2004)

Motion to compel responses: On April 1, 2004, American Business Media (ABM) filed a motion to compel responses to interrogatories ABM/USPS-T1-11 and 13.¹ Interrogatories ABM/USPS-T1-11 and 13 request the specific identities of mailers participating in the ongoing Docket No. MC2002-3 experiment.²

ABM/USPS-T1-11. Please identify the "one printer/consolidator" referred to at page 2, line 14.

ABM/USPS-T1-13. Please identify the printers/consolidators that were participating n[sic] the existing co-palletization program (a) as of the end of FY 2003 and (b) now.

¹ Motion of American Business Media to Compel Responses to Interrogatories ABM/USPS-T1-11 and ABM/USPS-T1-13, April 1, 2004. The Postal Service initially objected to providing responses to interrogatories ABM/USPS-T1-11 and 13 on grounds of relevance and confidentiality. Objection of United States Postal Service to Interrogatories ABM/USPS-T1-11 and -13 of American Business Media, March 31, 2004.

² First Interrogatories and Requests for Production of Documents of American Business Media to United States Postal Service Witness Taufique ABM/USPS-T1-1-31, March 24, 2004.

ABM contends that in general the information in question might be sensitive to the mailer, but not to the Postal Service. Thus, it argues that the Postal Service may not claim confidentiality if the mailers have no objection to the release of their identities. ABM asserts that there is no indication that the Postal Service has ever asked any of the mailers whether they would object to their identities being disclosed. ABM states that it will not further oppose the Postal Service's objection to ABM/USPS-T1-11, where a single identity is sought, if the Postal Service certifies that it has contacted the mailer and the mailer opposes disclosure of its identity. However, ABM finds no basis for a claim of confidentiality for ABM/USPS-T1-13, which seeks multiply identities that can only be associated with aggregate data.

In its response to ABM's motion to compel, the Postal Service certified that it has contacted the mailer associated with ABM/USPS-T1-11 and that the mailer wishes its identity to remain confidential.³ Thus, given ABM's statement that it would not further oppose the Postal Service's objection if the mailer wished not to be identified, the motion to compel in regard to ABM/USPS-T1-11 is moot.

The Postal Service subsequently provided an update to its response to ABM's motion to compel.⁴ The Postal Service reports that it has contacted the mailers associated with ABM/USPS-T1-13, and all but one are willing to be identified. The Postal Service asserts that identifying all but the one mailer is satisfactory to ABM's counsel, and subsequently filed its response on April 14, 2004.⁵ Therefore, the motion to compel in regard to ABM/USPS-T1-13 also is moot.

³ Response of United States Postal Service to Motion of American Business Media to Compel Responses to Interrogatories ABM/USPS-T1-11 and ABM/USPS-T11-13, April 8, 2004; United States Postal Service Erratum to its Response to American Business Media's Motion to Compel Responses to Interrogatories ABM/USPS-T1-11 and 13, April 9, 2004.

⁴ Update to Response of United States Postal Service to Motion of American Business Media to Compel Response to Interrogatory ABM/USPS-T11-13[sic], April 13, 2004.

⁵ Response of United States Postal Service Witness Altaf H. Taufique to Interrogatory of American Business Media (ABM/USPS-T1-13), April 14, 2004.

Motions for late acceptance. The Postal Service filed the following motions requesting late acceptance of interrogatory responses:

Motion of United States Postal Service for Late Acceptance of Taufique Responses to Interrogatories Propounded by American Business Media (ABM/USPS-T1-3, 6, 21-31), April 6, 2004,

Motion of United States Postal Service for Late Acceptance of Taufique Responses to Interrogatories Propounded by Time Warner, Inc. (TW/USPS-T1-19-20), April 14, 2004,

Motion of United States Postal Service for Late Acceptance of Witness Taufique's Responses to Interrogatories Propounded by American Business Media (ABM/USPS-T1-32-58), April 26, 2004, and

Motion of United States Postal Service for Late Acceptance of Response of Witness Taufique to Interrogatories of Time Warner, Inc. (TW/USPS-T1-25-26), May 3, 2004.

The motions are granted.

Ruling

1. Motion of American Business Media to Compel Responses to Interrogatories ABM/USPS-T1-11 and ABM/USPS-T1-13, April 1, 2004, is moot.
2. Motion of United States Postal Service for Late Acceptance of Taufique Responses to Interrogatories Propounded by American Business Media (ABM/USPS-T1-3, 6, 21-31), April 6, 2004, is granted.
3. Motion of United States Postal Service for Late Acceptance of Taufique Responses to Interrogatories Propounded by Time Warner, Inc. (TW/USPS-T1-19-20), April 14, 2004, is granted.

4. Motion of United States Postal Service for Late Acceptance of Witness Taufique's Responses to Interrogatories Propounded by American Business Media (ABM/USPS-T1-32-58), April 26, 2004, is granted.

5. Motion of United States Postal Service for Late Acceptance of Response of Witness Taufique to Interrogatories of Time Warner, Inc. (TW/USPS-T1-25-26), May 3, 2004, is granted.

Dana B. Covington, Sr.
Presiding Officer