

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

Experimental Priority Mail
Flat-Rate Box

Docket No. MC2004-2

PRESIDING OFFICER'S RULING CONCERNING
DOUGLAS F. CARLSON MOTION TO COMPEL RESPONSES
TO INTERROGATORIES DFC/USPS-1, 2 AND 4

(Issued July 28, 2004)

On July 15, 2004, intervenor Douglas F. Carlson filed a motion to compel responses to three interrogatories he had directed to the United States Postal Service institutionally.¹ The Service objected to these and one other interrogatory in a pleading filed on July 1, claiming that they "bear no specific relationship with the Postal Service case-in-chief."²

The three interrogatories in controversy request factual information about certain aspects of Postal Service operations. DFC/USPS-1 asks for the percentage reduction in weekly retail window-service hours on a nationwide basis since January 1, 2000. DFC/USPS-2 requests the number of postal facilities with parcel chutes or other collection receptacles that will allow customers to deposit either of the proposed Priority Mail flat-rate boxes. DFC/USPS-4 seeks the total number of shipping labels printed with and without postage in FY 2003 on the Postal Service's website for each combination of Priority Mail zone and weight increment.

In each instance, the Postal Service asserts that the requested information is irrelevant to its request in this case. The movant claims that the categories of

¹ Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatories DFC/USPS-1, 2 & 4, July 15, 2004 (Motion to Compel).

² Objections of the United States Postal Service to Interrogatories of Douglas F. Carlson, July 1, 2004, at 1.

information he seeks bear on the value of a flat-rate Priority Mail box to potential customers, and that “[t]he value, if any, of the flat-rate box is a legitimate issue for discovery.”³

Mr. Carlson explains that his earlier discovery efforts establish the backdrop of the instant motion. In DFC/USPS-6, he asked the Postal Service for all factual information identifying the value of the flat-rate aspect of both the Priority Mail and Express Mail flat-rate envelopes. In light of the Service’s objection on the ground of overbreadth, he then filed DFC/USPS-7, which requests “all documents that quantify or attempt to quantify the value of the flat-rate aspect” of the Priority Mail and Express Mail envelopes. On July 26, the Postal Service answered: “No responsive documents exist.”⁴

With regard to his interrogatory DFC/USPS-1, Mr. Carlson argues that, if the Service provides documents quantifying the value of existing flat-rate products prior to 2000, a response indicating a nationwide reduction in window-service hours would suggest a somewhat proportionate reduction in value since then. The Postal Service replies that it has not based its proposal on any assessments of the value of pre-existing flat-rate products; that no such assessments exist; and therefore that the interrogatory has no evidentiary or logical foundation.

I agree with the Service’s position. As the response to DFC/USPS-7 reveals, the initial factual premise of Mr. Carlson’s relevance argument has failed. Moreover, even if documents assessing the value of flat-rate products before 2000 could be found, an indication of reduced window-service hours in the interim would shed no direct light on the intrinsic value of the experimental Priority Mail products proposed in this case. It would only speak to a change in the putative value of *all* postal products and services involving window service. Therefore, I conclude that DFC/USPS-1 is not reasonably calculated to lead to the discovery of admissible evidence in this case, and shall not compel a response.

³ Motion to Compel at 2.

⁴ Response of the United States Postal Service to Interrogatory of Douglas F. Carlson (DFC/USPS-7), July 26, 2004.

Mr. Carlson contends that DFC/USPS-2 is relevant because parcel chutes represent one method for customers to deposit parcels without waiting in line for a window clerk. If customers must wait in line, he argues, the window clerk might as well weigh and rate the tendered box, thereby obviating most of the potential value of the flat-rate box. Thus, he argues, the availability of parcel chutes directly affects the potential value of flat-rate boxes.

The Postal Service responds that the number of parcel chutes would bear on perceived value only if they represented the only means of avoiding a wait in line, which is not the case. Further, the Service argues, even if there are few such receptacles, that fact would shed no light on the actual added value of the proposed flat-rate box. There would, the Service claims, still be compelling reasons for allowing the proposed experiment to proceed and thereby enable further assessment of the box's additional value to mailers.

I agree with Mr. Carlson that the extent of the availability of this additional means of tendering the proposed flat-rate box to the Postal Service bears on its desirability and intrinsic value to potential users. This option is no less relevant than the availability of pickup service. The Service's proposed experimental offering of this product is nationwide; therefore, Mr. Carlson's interrogatory is appropriate in scope. Nor has the Postal Service claimed that it would be impossible or unduly burdensome to produce the requested figure. For these reasons, I shall grant Mr. Carlson's motion to compel a response to this interrogatory.

Mr. Carlson argues that DFC/USPS-4 is relevant because customers who print postage from the USPS Web site are the group that would derive the maximum potential benefit from a flat-rate box because they may lack scales to weigh and rate parcels and could deposit the boxes in parcel chutes. In view of this concentration of potential benefit, he argues, the number of customers printing shipping labels at www.usps.com is highly relevant to evaluating the potential value of the flat-rate box. Therefore, he asserts that the interrogatory is reasonably calculated to lead to

admissible evidence regarding the appropriate magnitude of the value premium that should be included in its applicable rate.

The Postal Service argues that the interrogatory lacks a foundation showing its relevance to issues before the Commission. According to the Service, Mr. Carlson's claimed nexus between customers who print postage and the potential value of the flat-rate box has no evidentiary basis, and overlooks other means of affixing postage, such as existing stamps, meter strips, and PC postage. The Service also asserts that inquiries into the proportion of different forms of postage indicia for Priority Mail in the past will reveal nothing about the actual added value of the proposed flat-rate boxes. Additionally, the Service claims that providing such detailed information disaggregated by zone and weight increment would disclose commercially sensitive aspects of Priority Mail volumes, which would be unjustified because it is not needed.

I agree with the Postal Service that the potential relevance of the requested information is too tenuous to warrant compelling its production. As the Service argues, the extent of Internet usage to print postage for Priority Mail shipments in the past has no direct bearing on the intrinsic value of the proposed flat-rate boxes. The *availability* of this additional option for obtaining postage bears on the boxes' potential value to customers, and the record will reflect this fact. Introduction of the proposed boxes may or may not stimulate the use of this innovative means of obtaining postage. However, highly detailed information on past levels of its usage would make no appreciable contribution to an assessment of the value of the new packaging option proposed in this case. Consequently, I shall not compel a response to this interrogatory.

RULING

1. The Douglas F. Carlson Motion to Compel the United States Postal Service to Respond to Interrogatories DFC/USPS-1, 2 & 4, filed July 15, 2004, is denied with respect to DFC/USPS-1; granted with respect to DFC/USPS-2; and denied with respect to DFC/USPS-4.

Dana B. Covington, Sr.
Presiding Officer