

2396650 BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D. C. 20268-0001

COMPLAINT OF TIME WARNER INC. ET AL.
CONCERNING PERIODICALS RATES

Docket No. C2004-1

RESPONSES OF AMERICAN BUSINESS MEDIA TO
TW et al./ABM-65-68
(September 28, 2004)

American Business Media hereby provides the responses to Time Warner Inc., et al.'s Interrogatories and Request for Production of Documents TW et al./ABM-65-68, filed September 14, 2004.

The interrogatories are stated verbatim and followed by the response.

Respectfully submitted,

/s/ David R. Straus

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September 28, 2004

Response of ABM to TW et al./ABM-65

TW et al./ABM-65:

Please refer to the instructions accompanying Time Warner, Inc. et al.'s first set of interrogatories to ABM, filed July 27, 2004, which state in part:

With respect to each question and subpart thereof, if information is not available in the exact format or level of detail requested, please provide responsive material in such different format or level of detail as is available. If ABM is unable to provide current information, please provide the most recent information available and identify the date or period to which that information applies. If ABM is unable to provide complete information, please provide any partial or representative information available that is responsive to the question.

Please refer also to ABM's response to TW et al./ABM-3.b(1)-(13), filed August 18, 2004, where you replied to thirteen separate questions about the characteristics of ABM-member publications that ABM "does not routinely collect or maintain information that will permit it to identify in any systematic way" the characteristic in question.

With respect to each subpart of TW et al./ABM-3.b:

- a. Please state when ABM last surveyed or made inquiry of its membership or any substantial portion thereof, whether directly or through an agent, formally or informally, regarding the characteristics in question;
- b. Please describe the results of such survey or inquiry;
- c. Please provide copies of any summaries or reports that were circulated to the ABM membership, to ABM's Board, or to any of ABM's committees concerning such survey or inquiry of its results (the identities of particular publishers and publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004); and
- d. Please provide copies of all data or information collected through such survey or inquiry regarding the characteristic in question (the identities of particular publishers and publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004).

Response of ABM to TW et al./ABM-65

RESPONSE

a. The most recent survey began in March of 2001 and ran for several months, but it was a mailing characteristics study that relied upon mail.dat files received in response. To American Business Media's knowledge, it has never surveyed its members with respect to the information sought in Time Warner et al./ABM-3 (except to the extent that information responsive to parts 1 through 3 might be included in mail.dat files). Please note, however, that some of this information, such as information related to the nature and extent of electronic distribution, may be available in the directory section of American Business Media's web site, which as previously explained is updated by the members themselves.

b. There was no such study or inquiry.

c. Not applicable.

d. To the extent that any responsive information is contained in mail.dat files, it is American Business Media's understanding, recently confirmed with counsel for Time Warner, that the 155 mail.dat files already produced comply with this request.

Response of ABM to TW et al./ABM-66

TW et al./ABM-66:

Please refer to the instructions accompanying Time Warner, Inc. et al.'s first set of interrogatories to ABM, filed July 27, 2003, which state in part:

With respect to each question and subpart thereof, if information is not available in the exact format or level of detail requested, please provide responsive material in such different format or level of detail as is available. If ABM is unable to provide current information, please provide the most recent information available and identify the date or period to which that information applies. If ABM is unable to provide complete information, please provide any partial or representative information available that is responsive to the question.

Please refer also to ABM's response to TW et al./ABM-8, filed August 18, 2004, where you replied to five questions concerning participation in co-mailing, co-palletization, and pool shipping by ABM-member publications that ABM "does not routinely collect or maintain information that will permit it to estimate the number of American Business Media member publications that currently participate in a co-mailing or co-palletization program."

With respect to each part and subpart of TW et al./ABM-8:

- a. Please state when ABM last surveyed or made inquiry of its publisher and/or printer members or any substantial portion thereof, whether directly or through an agent, formally or informally, regarding participation in co-mailing, co-palletization, and/or pool shipping;
- b. Please describe the results of such survey or inquiry;
- c. Please provide copies of any summaries or reports that were circulated to the ABM membership, to ABM's Board, or to any of ABM's committees concerning such survey or inquiry of its results (the identities of particular publishers and publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004); and
- d. Please provide copies of all data or information collected through such survey or inquiry regarding the characteristic in question (the identities of particular publishers or publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004.

Response of ABM to TW et al./ABM-66

Response

a. The explanation in response to Time Warner et al./ABM-8 to the effect that American Business Media “does not routinely collect or maintain information” of the type requested was intended to exclude only casual conversation, typically between members and counsel, in which the subject of co-mailing, co-palletizing or pool shipping by its members may have come up. There are no records of such conversations. American Business Media’s information on this subject is pretty much limited to the information in the testimony of its witnesses. Except to the extent that data produced as part of the 2001 survey would reveal the extent of co-mailing, co-palletizing or pool shipping, American Business Media has never surveyed or made inquiry of its publisher or printer members, formally or informally.

b. See part a above.

c. See part a above.

d. See part a above.

Response of ABM to TW et al./ABM-67

TW et al./ABM-67

Please refer to the instructions accompanying Time Warner, Inc. et al.'s first set of interrogatories to ABM, filed July 27, 2004, which state in part:

With respect to each question and subpart thereof, if information is not available in the exact format or level or detail requested, please provide responsive material in such different format or level of detail as is available. If ABM is unable to provide current information, please provide the most recent information available and identify the date or period to which that information applies. If ABM is unable to provide complete information, please provide any partial or representative information available that is responsive to the question.

Please refer also to ABM's response to TW et al./ABM-9.a-j, filed August 18, 2004, where you replied to ten questions concerning ABM members who are printers of Periodicals that ABM "does not routinely collect or maintain information about the operations of its printer members."

With respect to each subpart of TW et al./ABM-9-a-j:

- a. Please state when ABM last surveyed or made inquiry of its printer members or any substantial portion thereof, whether directly or through an agent, formally or informally, regarding the characteristic or subject in question;
- b. Please describe the results of such survey or inquiry;
- c. Please provide copies of any summaries or reports that were circulated to the ABM membership, to ABM's Board, or to any of ABM's committees concerning such survey or inquiry or its results (the identities of particular publishers and publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004); and
- d. Please provide copies of all data or information collected through such survey or inquiry regarding the characteristic in question (the identities of particular publishers and publications may be masked, and/or materials may be submitted subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004).

Response of ABM to TW et al./ABM-68

Response

a. American Business Media has never conducted such a survey or made such an inquiry. The previous reply to which you refer, in which American Business Media stated that it “does not routinely collect or maintain information” of the type requested was intended to exclude only casual conversation, typically between printers and American Business Media counsel, in which the subjects covered by the request may have come up. There are no records of such conversations. Please note, however, that the 155 mail.dat files previously produced contain certain printer information.

b. See part a above.

c. See part a above.

d. See part a above.

Response of ABM to TW et al./ABM-68

TW et al./ABM-68:

In its response to TW et al./ABM-5c (filed August 31, 2004), ABM refers to a recent analysis of the potential impact on 141 ABM publications, belonging to five ABM member organizations, of the rates proposed by Time Warner, Inc. et al. Additionally, ABM provided to Time Warner, Inc. et al. (pursuant to a Nondisclosure Agreement, dated August 27, 2004) an Excel spreadsheet, consisting of four distinct worksheets that together appear to summarize an analysis performed on 144 different publications. No names identifying the publications or their owners appear in the spreadsheet.

In a partial response to TW et al./ABM-7, ABM provided (pursuant to the same Nondisclosure Agreement) a CD containing 155 mail.dat files for ABM publications, dating back to 2001. ABM's filed response to TW et al./ABM-7 states that these files, which were collected in 2001 in anticipation of the filing of the R2001-1 rate case, are "[t]he only mail.dat files in American Business Media's custody or control."

- a. Please confirm that the number of ABM publications analyzed with respect to the potential impact of the proposed rate is 144, not 141 as stated in your previous response. If not confirmed, please explain.
- b. Please confirm that no names of publications or ABM member organizations appear in the spreadsheet referred to above. If not confirmed, please explain.
- c. Please confirm that, while TW et al./ABM-5C requested the Excel files generated in the analysis of each publication, none of the spreadsheets generated for each publication as part of the analysis using Access queries to analyze mail.dat files were provided. Please confirm also that removing publication names from those spreadsheets would have been a trivial matter.
- d. Please confirm that none of the 155 mail.dat from 2001 that have been provided to Time Warner Inc. et al. were among the 144 files analyzed more recently.
- e. Please confirm that the 144 files analyzed this year were at the time of their analysis recent mail.dat files that reflected then current mail preparation.
- f. Please confirm that copies of these more recent 144 mail.dat files are in the custody of a consultant or consultants retained by ABM to perform the analysis and are also in the custody and control of ABM members who participated in the analysis and who are supporting ABM's activities in these proceedings.
- g. Was Crain Communications one of the five member organizations that provided mail.dat files for the recent analysis?
- h. Was VNU Business publications one of the five member organizations that provided mail.dat files for the recent analysis?

Response of ABM to TW et al./ABM-68

- i. Was Hanley Wood one of the five member organizations that provided mail.dat files for the recent analysis?
- j. Of the three witnesses whose testimony ABM sponsors in this case, who, if any, was directly involved in the analysis of the 144 publications?
- k. Please provide without further delays copies of the 144 mail.dat files as well as the 144 Excel spreadsheets generated in their analysis. (The identities of particular publishers and publications may be masked; Time Warner, Inc. et al. stipulated that these materials are subject to the terms of the existing Nondisclosure Agreement between ABM and Time Warner Inc. et al, dated August 27, 2004).

RESPONSE

a. Actually, in looking again at this exhibit and its backup, we realized that it contains 153 publications not 144. Line 77 contains combined data for five co-palletized publications and line 78 contains combined data for nine co-palletized publications, while lines 132-34 were unintentional repetitions of line 131. A corrected and enhanced exhibit is being filed in response to POIR-3.

b. Confirmed.

c. Confirmed that complainants requested the Excel files generated in the analysis and that they were not provided. In accordance with the understanding between counsel, American Business Media provided the summary spreadsheets in its custody or control (with names of titles removed) that showed the impact of the proposed rates on American Business Media member publications. American Business Media never had custody of or control over any Excel files generated in the analysis of each publication.

Response of ABM to TW et al./ABM-68

American Business Media does not know for certain but assumes that each of the publishers could have removed publication names from any spreadsheets they generated.

d. We believe this to be true, since American Business Media members were asked to analyze a recent issue, and because it is our understanding that retention of mail.dat files is in any event not a normal practice.

e. We believe this to be the case, although American Business Media did not ask those members that performed the analysis what date(s) were studied.

f. Not confirmed. You have not asked us to explain why we cannot confirm, but we will explain, given the implication of the request. To American Business Media's knowledge, none of the mail.dat files used as by members as a basis for analyzing the impact of the proposed rates was ever in the custody of any consultant. Except for the one member that asked another to perform the calculations (see testimony of McGarvy at 8, lines 18-19), each of the members that provided estimates of impact performed its own calculations and reported them to, and only to, American Business Media's counsel. As for whether the mail.dat files are in the custody and control of the members that participated in the analysis, we have learned based on our inquiry that only one of the participants has saved those files, because they are normally not retained from issue to issue.

Response of ABM to TW et al./ABM-68

g. Crain Communications performed an analysis, but it did not “provide” its mail.dat files to anyone.

h. VNU performed an analysis but did not “provide” its mail.dat files to anyone.

i. Hanley Wood did not perform the analysis.

j. No witness was directly involved in the analysis of all 153 publications. Witness McGarvy was involved in the analysis of the Crain and ComputerWorld publications that were analyzed, and witness Bradfield was involved in the analysis of the VNU publications that were analyzed.

k. American Business Media does not, and never did, have either custody or control of the mail.dat files and Excel spreadsheets referenced. Moreover, it is our understanding, upon inquiry following the receipt of this interrogatory, that neither the mail.dat files nor the individual spreadsheets have been retained by three of the five member companies whose publications were analyzed. The Excel spreadsheets but not the mail.dat files have been retained by one participant, and both have been retained by another. Crain Communications and VNU are among the three participants that preserved neither.