Postal Regulatory Commission
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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Market Test of Experimental Product— Every Door Direct Mail Retail	))	Docket No. MT2011-3

VALPAK DIRECT MARKETING SYSTEMS, INC. AND VALPAK DEALERS' ASSOCIATION, INC. REPLY COMMENTS REGARDING REQUEST FOR EXEMPTION FROM REVENUE LIMITATION ON MARKET TEST OF EXPERIMENTAL PRODUCT — EVERY DOOR DIRECT MAIL RETAIL
(December 12, 2011)

BACKGROUND

On December 12, the Public Representative ("PR") filed initial comments in this docket with respect to the Postal Service's "Request of the United States Postal Service for Exemption from Revenue Limitation on Market Test of Experimental Product — Every Door Direct Mail Retail." In response, Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. ("Valpak") hereby submits these reply comments.

REPLY COMMENTS

Initially, the PR properly analyzes the Postal Service's request for exemption from the $10 million limitation according to the three criteria of 39 U.S.C. section 3641(e)(2).

With respect to meeting an unexpected demand, the PR refers to ambiguity in the survey of users that should be resolved.

With respect to the criterion that the experimental product is likely to contribute to the financial stability of the Postal Service, the PR essentially concludes that there is insufficient information to determine whether the Postal Service's request has met that criterion: "Without

cost data, it is not possible to conclude that EDDM-R will provide a net contribution to the Postal Service and improve its Financial Stability." PR Comments, p. 6.

On the issue of unfair or otherwise inappropriate competition, the PR refers to the Postal Service's claims of helping mail service providers ("MSPs"), and then states: "However, the Postal Service does not document its claim that MSPs have benefitted from EDDM-R. It is probably anecdotal, and does not provide solid evidence EDDM-R has not resulted in unfair competition." *Id.*

Unfortunately, the PR then glosses over all of the statutory concerns that it raises — based in part on an extra-statutory *de minimis* argument that "the small size of this product makes it unlikely EDDM-R will bring great benefit or great harm to the Postal Service, its customers, or its competitors." *Id.*, p. 7. *See also* description of the program as "small," *id.* pp. 6-7. The Commission should not accept the PR's invitation to err based on size. Congress established the criteria by which the expansion of a market test beyond $10 million must be judged, and the Commission may not view the amount in question as "too small" to avoid strict application of the statutory criteria. Even if viewed as small, the instant market test is in the precise range which Congress established to apply these three criteria. If the EDDM-R market test fails to comply with all of the three statutory criteria, the Commission must deny the request for waiver.

Respectfully submitted,

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