

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

REQUEST TO ADD
PRIVATE ADDRESS FORWARDING
TO THE MARKET DOMINANT PRODUCT LIST

Docket No. MC2013-60

**COMMENTS OF THE UNITED STATES POSTAL SERVICE
IN RESPONSE TO NOTICE AND ORDER
CONCERNING REQUEST TO ADD PRIVATE ADDRESS FORWARDING
TO THE MARKET DOMINANT PRODUCT LIST**
(October 16, 2013)

The United States Postal Service hereby submits its comments and preliminary views regarding the Private Address Forwarding product concept, as directed by Postal Regulatory Commission Order No. 1838.¹

Under 39 U.S.C. § 3642(a), users of the mail may request that the Commission consider changes to the list of market dominant products under section 3621 or the list of competitive products under section 3631 by adding new products to either list. The Commission has received such a request in relation to a product concept designated by the requester as *Private Address Forwarding*.² The Commission has established a process for determining whether and, if so, how it might review the merits of such mail user requests. See 39 C.F.R. § 3020, Subpart C. For the reasons explained below, the Commission should exercise its authority under 39 C.F.R. § 3020.55 to reject the request that the Mail Classification Schedule be amended to include a *Private Address*

¹ Docket No. MC2013-60, Notice and Order Concerning Request to Add Private Address Forwarding to the Market Dominant Product List (September 23, 2013).

² Docket No. MC2013-60, Request to the Postal Regulatory Commission under 39 USC 3642 & 39 CFR 3020.50 to add Private Address Forwarding to the Mail Classification Schedule (September 17, 2013) (hereinafter, the PAF Request).

Forwarding (or similar) product. In doing so, the Commission should decline to institute further proceedings to consider the PAF Request, and refrain from directing the Postal Service to expend resources to analyze or develop any form of the proposed product concept beyond any the Postal Service may independently choose to expend for the purpose of examining the feasibility of product proposals for potential submission to its Board of Governors for such action as it may take under authority of 39 U.S.C. §§ 3632, 3633, 3641 or 3642.

I. The Feasibility of the Product Concept Has Not Been Determined

A. Postal Management Has Discretion Regarding Product Development

1. The Underlying Concept Is Independently Under Consideration

The planning and development of postal services is reserved to the Postal Service by section 39 U.S.C. § 403(a). Accordingly, examination of potential mail product concepts is an ongoing endeavor at Postal Service headquarters. The *Personal Address Forwarding* (PAF) product concept summarized in the Request appears to be similar to others that have circulated within the Postal Service starting more than a decade ago, either as a discrete product concept or as part of a larger suite of potential services.

For instance, U.S. Patent No. 7,295,997 (application 10/311,748 filed June 19, 2001) references a concept in which merchants generate mailing:

[I]label information [that] may include a unique identifier, for example, a random number or a barcode, to identify the customer, but may not include the customer's name or address information. . . . Once the shipper receives the package, the shipper may read or scan the label to determine the customer's name and address, apply new label that has the customer's name and address to the package, and ship the package to the customer. Accordingly, in this

embodiment, the customer's information remains anonymous from the merchant.³

Another innovation can be found in the patent application for *Mail My Way*, which envisions that:

a "virtual address" or "vanity address" is arbitrary character data defined by a mail recipient that is other than a physical address or mailing address of the customer. Desirably, customers may create a virtual/vanity address for use in lieu of their mailing or physical address via the customer interface.⁴

The Postal Service recently also has applied for a trademark for another similar concept under the name of *Digital License Plate* (DLP).⁵

The common ground between PAF and these other concepts appears to be as follows:

- the secure recording and storage of unique digital or alpha-numeric codes in postal data systems at the request of mail recipients,
- the use of these codes to represent the postal delivery addresses to which recipients want mail delivered,
- acceptance by the Postal Service of mail bearing these codes in lieu of delivery addresses, and
- utilization of the recipient-specific codes by the Postal Service as a basis for processing and delivery of their mail to them.

³ See <http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetacgi%2FPTO%2Fsearch-bool.html&r=5&f=G&l=50&co1=AND&d=PTXT&s1=7,295,997&OS=7,295,997&RS=7,295,997>

⁴ See <http://appft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetacgi%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PG01&s1=20120011068&OS=20120011068&RS=20120011068>

⁵ See the attached copy of Trademark Application 8600747 (July 2, 2013). The *Digital License Plate* concept includes providing authentication of personal identification, secure storage of personal information, and encoding of identification information on valuable documents and products. To simplify the discussion below comparing PAF to similar internally-generated product concepts, the Postal Service will reference only the *Digital License Plate* product concept.

At any given time at postal headquarters, multiple product concepts conceived by or presented to postal managers and analysts in various functional groups are under consideration. Consistent with its authority under section 403(a), postal management determines if and when to devote resources to examining such issues as the availability of technology, operational feasibility, associated costs, potential demand, marketability, and the policy implications of providing a particular product or service. Each product concept faces competition for limited investigative and/or developmental resources within the agency. Responsible senior postal managers must use their judgment to prioritize the concepts to which analytical resources are devoted.

2. Many Underlying Operational Issues Are Unresolved

Product concepts along the lines of the *Digital License Plate (or Personal Address Forwarding)* require examination of such issues as whether existing postal systems for online and in-person customer enrollment and identification are sufficient or would need modification.⁶ Presently, no system for storing records of coded customer identities and addresses for purposes of a product like DLP exists.⁷ Mail processing equipment image recognition software equipment would have to be examined in order to determine how it might need to be modified to process digital address codes and look-up corresponding addresses. Options for application of a machine-readable

⁶ In consultation with the Postal Inspection Service, management would need to establish an appropriate level of compatibility with National Institute of Standards and Technology and other cyber-security protocols for any new information technology systems developed for the product.

⁷ The creation of a records system containing such information requires compliance with the Privacy Act, 5. U.S.C. 552a, and establishment of conditions under which records are securely stored, and the degree to which access to records within the system is generally restricted but accessible to such governmental instrumentalities as law enforcement and social service agencies, and courts on a need-to-know basis.

barcode and/or human readable address labels to mail pieces would need to be explored.⁸

Because the PAF product concept bears similarity to DLP and other concepts in its product development pipeline, the Postal Service can readily identify some relevant issues and considerations. The product concept has features that would complicate a full investigation of its merits. For example, the feasibility of applying the concept to all types and shapes of mail (letters/card vs. flats vs. parcels) directed to a registered recipient poses challenges, given variances that exist in the potential for integrating various mail streams with technology capable of reading and confirming the validity of a recipient's address code and affixing machine-readable delivery barcodes or human-readable address labels. The Postal Service cannot presently project if and when internal examination of the various technological issues that affect the feasibility of DLP (or any variant thereof) will make further progress or be completed. Nor can it predict the extent to which related security and privacy issues can be resolved with sufficient satisfaction to encourage exploration of potential costs, prices or customer demand.

3. Numerous Privacy Issues Would Need To Be Resolved

At page 3, the PAF Request proposes that the "identity or forwarding address of a PAF customer" not be disclosed outside of the following narrow set of circumstances: postal employees with a need to know, a subpoena that can be anonymously contested

⁸ For instance, the feasibility of integration with the Postal Automation Redirection System (PARS) would need to be examined. PARS is a system currently in use and designed to intercept and process Undeliverable-As-Addressed mail pieces using automated techniques.

by the PAF customer, a pen register warrant, and by the PAF customer's consent to allow a third party mail carrier to service their PAF-addressed mail.⁹

The Privacy Act, 5 U.S.C. § 552a, provides that information may be disclosed from a system of records if the individual has authorized the disclosure in writing, or if the disclosure fits within a specified category specified by section 552a(b). Authorized disclosures include to the Bureau of the Census for purposes related to census and survey activities, to other domestic government agencies for a civil or criminal law enforcement activity if the activity is authorized by law, and to a person upon a showing of compelling circumstances affecting an individual's health or safety. These authorized categories of disclosure reflect the fact that Federal agencies have both a duty to protect personal information and to disclose information to third parties, in an appropriate manner, if such disclosure serves a legitimate public interest.¹⁰

To that end, 5 U.S.C. § 552a(b) also permits agencies to disclose information for routine uses for which the agency has provided proper notice. Under this provision, the Postal Service has developed a set of standard routine use disclosures that comport with the policy objectives reflected in the Privacy Act. These disclosures include, for

⁹ Some of these proposals may be contrary to existing statutes and/or Postal Service regulations. Under PAF, the Postal Service would enter into non-disclosure agreements with private delivery firms and share PAF customer name and address information with private delivery service employees authorized to receive and relay PAF-coded mail delivered by the Postal Service to the address designated by the PAF subscriber. Such arrangements would raise legal and liability risks for the Postal Service that would warrant in-depth exploration.

¹⁰ Postal Service regulations reflect the agency's responsibility to balance competing interests when determining whether records should be disclosed. It is the postal policy to make its official records available to the public to the maximum extent consistent with the public interest. If disclosure is not prohibited by statute, Executive Order, or regulation, the Postal Service exercises its discretion as to whether to disclose after considering the following: the effect of non-disclosure on the public's right to know about a particular matter, the effect of disclosure on the right of privacy of any affected individuals; the effect of disclosure on the public interest in the economical, efficient, and orderly operation of the nation's mail system; and any other factors that may be relevant under the circumstances. See 39 C.F.R. § 265.2.

example, disclosures to agencies and entities such as credit bureaus that perform identity verification and credit risk assessment services, or to government agencies when necessary in connection with decisions by the requesting agency to issue licenses, grants, or other benefits.¹¹ To advance certain of these public policy goals, the Postal Service would likely need to include routine uses that extend beyond the limited circumstances described in the PAF Request.

Moreover, the PAF Request appears to contemplate the disclosure of additional information to, or the collection of additional information from, third parties. For example, in order to effectuate the proposal that the Postal Service refuse PAF service to customers who are documented to have abused PAF or who have been convicted of mail fraud, identity theft, or abuse of legal process, the Postal Service would have to establish PAF-system specific routine uses that would allow for disclosure of a PAF customer's name and actual physical location to third parties in order to confirm convictions or other necessary information. Alternatively, the Postal Service may have to collect such information from those third parties and store it in the PAF database. The PAF Request asserts that PAF would benefit customers who wish to receive mail without disclosing their identity or physical address.¹² It is worth noting that the Postal Service currently has procedures in place that protect the identities and street addresses of individuals. The current Postal Service Privacy Act system of records for

¹¹ For a complete list of standard routine uses, see "Standard Routine Uses," Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*, available at http://about.usps.com/handbooks/as353/as353apdx_007.htm.

¹² It is asserted that PAF addresses would permit "customers to receive mail from third parties without disclosing their identity or physical address" and that it would be "extremely valuable for people who value their privacy...e.g., people with stalkers, abusive ex-spouses, sensitive jobs, sensitive mail, etc." PAF Request at 4. However, it is not clear to the Postal Service that all categories of persons lumped together here place equal value on non-disclosure of their names as they do their physical addresses.

address change, mail forwarding, and related services illustrates how the Postal Service both allows for certain disclosures, while generally protecting such information.¹³ It bears emphasizing that the routine uses within this records system are subject to the exception that information concerning an individual who has filed an appropriate protective court order with the postmaster/Computerized Forwarding System manager will not be disclosed under any routine use except pursuant to the order of a court of competent jurisdiction. New addresses of domestic violence shelters are subject only to a subset of the disclosures listed. New address information from permanent change-of-address orders will not be given to mailers unless the mailer is already in possession of particular information regarding the customer. Any future determination of the extent to which the PAF product concept could be said to enhance customer privacy¹⁴ requires examination of the degree to which current postal services already provide some of the same privacy protections.

II. The Commission Should Evaluate the PAF Proposal in Light of the Factual Context and the Commission's and the Postal Service's Respective Roles in the Statutory Scheme

Mail users have always played a role in the Postal Service's pursuit of refinements to existing mail classifications and in urging the development of new products that also achieve the policies of chapter 36 of title 39. As the Commission is well aware, the Postal Service does not suffer for a lack of direct interaction with household, commercial and institutional customers regarding existing product offerings,

¹³ See "USPS 800.000 System Name: Address Change, Mail Forwarding, and Related Services", Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*, available at http://about.usps.com/handbooks/as353/as353apdx_040.htm.

¹⁴ Or have other purported "[b]enefits . . . [and] market value over existing services". PAF Request at 4.

how such products could be changed, or how they could be complemented by the establishment of new ones. However, the Post Office Department could not have considered instituting Airmail service and prices before the feasibility of air transportation was established. And the Postal Service could not have established barcode-based presort classifications before the advent of barcoded mail sortation technology, or delivery confirmation and tracking services without being able to implement proper scanning technology and procedures. Similarly, the Postal Service presently does not contemplate that it would offer products such as DLP (or any variation thereof) until it has explored and resolved the above-referenced technological, security and privacy questions to its own satisfaction.

Over the last several decades, the Commission has reviewed many classification change proposals and new product initiatives, some of which were designed for the benefit and convenience of a broad swath of customers (Delivery Confirmation, Qualified Business Reply Mail and the Forever Stamp, for example), or for different components of the bulk mailing industry (the various mail classifications based on utilization of different generations of letter and flat mail sortation technology). The Postal Service respects the role established by the Congress for the Commission in 39 U.S.C. §§ 3622, 3633 and 3642 as it relates to the establishment of mail classifications and special services. When exercising its authority under section 3642, the Commission should give careful consideration and due regard to the Postal Service's authorities and responsibilities under 39 U.S.C. § 403(a), the statutory scheme, and the policies embodied in the Title 39 U.S.C. In this regard, in this instance, the Commission's determinations should be made particularly in light of the Postal Service's

responsibilities and prerogatives to allocate its scarce capital, technological and human resources within the context of overall financial, operational, and service objectives, as determined by postal management. Here, the establishment of a new product depends on the availability of mail processing technologies (and related security and privacy systems) not currently in existence, or the linkage of technologies presently not integrated.¹⁵ In this context, the Postal Service has the duty to evaluate the feasibility, direction and prioritization of diverse pre-decisional product development investigations. These considerations are particularly important, when no allegation has been made and no evidence has been offered to support the conclusion that the present unavailability of the product in question violates any policy of Title 39 U.S.C.

The informal dialogue directly between the Postal Service and its diverse customer base regarding potential new products is never-ending. In this regard, the Postal Service greatly appreciates it whenever a customer offers constructive thoughts in an articulate manner about a postal product concept that he or she finds appealing, and requests that the concept be brought to the attention of responsible postal analysts and decision-makers. That has been accomplished by the Request filed in this docket, which has been transmitted by the Commission to the Postal Service.

The roles of the Postal Service, the Commission, and customers, however, should be carefully balanced, in light of the provisions of section 3642 and 39 C.F.R. § 3020, Subpart C. The opportunity to affect postal services within the framework of these provisions and the statutory scheme should not be misread to overtake the Postal Service's responsibilities and prerogatives to determine postal policy and operations, or

¹⁵ As opposed to merely reclassifying and/or re-pricing the components of an existing product or mailstream.

to lead to Commission determinations that would, among other things, require Postal Service management to reveal its pre-decisional deliberations about new product concepts, interfere with the process of determining new product concepts the Postal Service should explore, or compel postal management to justify its current priorities, subject to the risk of a Commission order rearranging them. In these respects, the Postal Service trusts that the Commission will exercise the opportunities created under section 3642 and 39 C.F.R. § 3020.55 prudently, and with due regard to the Postal Service's role in the statutory scheme, including the policies embodied in sections 403, 404, 3621-22, 3622-23, and other provisions of the Title 39 U.S.C.

The Postal Service consider that, in this instance, it would not be appropriate for the Commission to impose upon it a formal obligation to publish a status reports or relative rankings of DLP or other product proposals, or for the Commission to schedule or require negotiations or dialogue between the Postal Service and a requester under section 3642(a). In light of the considerations outlined above, the Postal Service considers that the appropriate course of action for the Commission in this docket is to exercise the option specified in 39 C.F.R. § 3020.55(b) and reject the request to add *Personal Address Forwarding* (or any variant thereof) to the Mail Classification Schedule.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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