

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

Request to Add Private Address Forwarding
To the Market Dominant Product List

Docket No. MC2013-60

PUBLIC REPRESENTATIVE COMMENTS

(November 18, 2013)

On September 18, 2013, Petitioner Sai filed a request with the Commission to add a new product identified as Private Address Forwarding (PAF) to the market dominate product list as a special service.¹ Order No. 1838 established a schedule for interested persons to comment on the proposal and assigned a Public Representative.² In response to this Order (as modified by Order No. 1858) the Public Representative provides the following comments.

New product description. PAF allows a mailer to send a mailpiece to a mail recipient without the mail recipient disclosing the recipient's actual name and/or mailing address. This is accomplished by the mail recipient providing the mail sender with a unique Postal Service assigned, recipient identifier to be used in lieu of an actual recipient name and/or mailing address. Upon receipt of the mailpiece by the Postal Service, the Postal Service replaces the unique recipient identifier with the recipient's actual name and mailing address, and forwards the mailpiece to the recipient. Request at 1.

¹ Request to the Postal Regulatory Commission to Add Private Address Forwarding to the Mail Classification Schedule, September 18, 2013 (Request). Petitioner subsequently filed a request to amend his proposal. See Petitioner's Motion to Amend Private Address Forwarding Proposal, November 4, 2013.

² Notice and Order Concerning Request to Add Private Address Forwarding to the Market Dominant Product List, September 23, 2013 (Order No. 1838). The procedural schedule was subsequently modified by Order Modifying the Procedural Schedule, October 23, 2013 (Order No. 1858).

Petitioner Sai explains that PAF may be beneficial to mail recipients who value their privacy. It may provide benefits to recipients who would otherwise use Post Office Box service. PAF would also allow recipients to keep the same unique identifier while experiencing multiple changes in physical address. *Id.* at 4.

This is the first petition to add a new product the Commission has received from a user of the mail pursuant to 39 CFR § 3020.50 *et seq.* Petitioner Sai has given his proposal much thought, and has considered many of the additional details that would go into offering PAF as a viable product.

The filing of the Request. This Request was filed as a means for an individual, with limited resources, and with limited experience in interacting with the Postal Service, to present an innovative idea for a new postal product to the Postal Service. The Request solves the problem of determining who to contact within the Postal Service, and provides a method for presenting an idea for serious consideration.

Filing a request in this manner should alert the Postal Service that it is not doing enough to be open to ideas presented by individuals, and to make available avenues for these individuals to discuss new ideas. Unlike mailers who interact with the Postal Service on a daily basis, individuals generally do not have access to decision makers at the Postal Service.

Process for presenting new ideas to the Postal Service. The Public Representative's concern in this docket is the development of a process which allows entities from outside the Postal Service to present new ideas for the Postal Service's consideration. This may require a new openness on the part of the Postal Service. The Postal Service needs to listen to externally generated proposals, and assign appropriate resources to ensure that all proposals are given serious consideration. The Public Representative suggests that a dialogue be opened outside of this proceeding, between the Commission and the Postal Service, to formulate a process whereby new ideas can be considered in a less adversarial fashion than what appears to be the case under current Commission rules.

The Public Representative is less concerned with the merits of the PAF proposal. The proposal appears feasible. Both Petitioner Sai and the Postal Service point out many considerations that will have to go into making PAF a viable product. PAF as a special service may be appropriate for use with postal products that have a uniform national price. Use with zoned rate postal products might be problematic because the zone of a PAF mailpiece must be disclosed to apply appropriate postage. More thought and discussion is necessary to analyze potential nefarious uses of PAF. Finally, information of the potential market demand for PAF, and cost and revenue projections are needed for the Public Representative to make a recommendation on whether or not PAF should be added to the market dominant product list.

Postal Service intransigence is not helpful. The Postal Service states that “[t]he planning and development of postal services is reserved to the Postal Service by section 39 U.S.C. § 403(a)”. Postal Service comments at 2. Nothing in 39 U.S.C. § 403(a) “reserve[s]” to the Postal Service the process associated with the planning and development of postal services. “Reserve[s]” connotes that the Postal Service is the only entity allowed to undertake this task, and that this may not be undertaken by any other entity. The Postal Service, as a business, will not move forward if it limits itself to only consider internally conceived product ideas.

The Postal Service in effect appears to be discouraging anyone, other than itself, from promoting proposals for new products. It asks the Commission to reject the proposal to include PAF in the list of market dominant product, and decline to institute further proceedings. It asks the Commission to “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 expand for the purpose of examining the feasibility of product proposals for potential submission to its Board of Governors.” Postal Service Comments at 1-2. The Public Representative would argue that the discouragement being offered by the Postal Service is not helpful to the planning and development of innovative postal services.

Potential Commission actions. Upon review of the Request, the Postal Service's reply, and any public comment, the Commission must determine whether the proposal to modify a product list complies with applicable statutory requirements, and whether the proposal is consistent with the Postal Service's position expressed in its reply. See 39 CFR § 3020.55. The Commission then may approve the Request (where consistent with the Postal Service's position), reject the Request, institute further proceedings, or take other action as appropriate. *Id.* If the Commission finds that further proceedings are necessary, it shall schedule a conference to determine the merits of going forward. A variety of options then become available such as a formal hearing, discovery, other actions as appropriate, or doing nothing at all (with explanation).

Future steps. Adding PAF to the market dominant product list would be premature at this point. The Commission has the authority to approve the Request and add PAF to the product list, but because the Postal Service opposes adding PAF, and the product has not undergone sufficient development, it would be a fruitless exercise. The Postal Service's opposition is a practical matter. The Commission can provide the Postal Service with the authority to offer PAF, but the Commission cannot direct the Postal Service to actually provide a non-essential special service such as PAF.

The Commission could reject the Request at this point. The Public Representative would be hesitant to suggest this outcome because of the chilling effect this would have on individuals presenting ideas on potential new products to the Postal Service. The Postal Service eventually may benefit from the inundation of new ideas.

The Commission could schedule a conference as a first step to instituting further proceeding. Two issues are ripe for consideration: a determination of what additional information in support of PAF is necessary to go forward, and the possibility of discovery. At this stage of development, a hearing on the merits of the proposal appears premature.

Before the Public Representative could support going forward with PAF, the Public Representative would have to examine a business plan that as a minimum quantifies the potential demand for PAF, and the potential costs and revenues

associated with PAF. Assigning the responsibility for developing an acceptable business plan would be an issue. It would be unfair (and may not be possible) to ask the Postal Service to develop a business plan for a product it did not support. Alternatively, the petitioner may or may not have sufficient resources to develop a detailed business plan. These are harsh facts that may make it difficult for individuals to successfully propose new ideas that are not also supported by the Postal Service.

If the Petitioner is willing to go forward, he may need information that is only available from the Postal Service. This opens the possibility of discovery. Discovery could be narrowly permitted for this purpose. However, discovery typically would not be available to delve into Postal Service deliberations concerning potentially similar product offerings. The Postal Service should be permitted to freely discuss all potential new products internally, without fear of discovery.

In conclusion, the Public Representative believes that PAF may have potential, but would be reluctant to go forward with adding PAF to the market dominant product list without reviewing a comprehensive business plan that supports its addition.

Respectfully submitted,

James Waclawski
Public Representative

901 New York Ave. NW, Ste. 200
Washington, DC 20268-0001
202-789-6826, FAX 202-789-6861
james.waclawski@prc.gov