

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

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POSTAL RATE AND FEE CHANGES, 2000)

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Docket No. R2000-1
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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

**MOTION OF ASSOCIATION OF ALTERNATE POSTAL SYSTEMS
TO COMPEL PRODUCTION OF DOCUMENTS REQUESTED IN
INTERROGATORIES AAPS/USPS-T35-9 AND 10**

(March 16, 2000)

Pursuant to Rule 27 of the Commission's rules of practice, the Association of Alternate Postal Systems hereby moves for an order directing the Postal Service to provide the documents requested in Interrogatories and Requests for Production of Documents AAPS-T35-9 and AAPS-T35-10. A copy of the interrogatories is attached.

This motion should not be necessary, yet the Postal Service continues to be less than cooperative, perhaps in the hope that small, low-budget participants will run out of funds before they run out of issues.

The SAI Revision

The first request to which the Postal Service has objected seeks updates of the infamous SAI Report on alternate delivery that was the subject of extensive motions practice in Docket Nos. MC95-1 and R97-1. In its objection (and its similar objection to AAPS/USPS-T32-2), the Postal Service identifies a 1998 revision to that SAI report, and after repeating its stock objection ("relevance, deliberative process privilege and commercial sensitivity"),¹ the Postal Service quite reasonably offers to make the 1998 revision available on the same basis and with the same restrictions as were imposed on the production of the original report in the earlier dockets, citing P.O. Ruling No. R97-1/52.

Counsel for AAPS, upon receipt of the objection and offer, immediately contacted counsel for the Postal Service to accept the offer and spare both parties the burden of still more motions that beat a dead horse. The Postal Service rejected that acceptance and insisted that a motion to compel be filed, to which it would raise no objection (if, presumably, it finds the request for relief unobjectionable). Accordingly, AAPS hereby requests that the 1998 revision to the SAI study be produced under protective conditions specified in, and in (reasonably) redacted form under, a ruling identical to that identified above. This is exactly what the Postal Service said it would do, and it should be ordered to do so.

¹ Given that the statute requires consideration of the impact of rates on competitors and the discussion of this issue by at least two Postal Service witnesses (Moeller and Mayes), one can only wonder how a relevance objection can be raised.

The Postal Service, in response to Interrogatory AAPS/USPS-T35-10, has identified but refuses to produce another work by SAI, this time an "assessment" of a private delivery service that is apparently responsive to a clearly relevant request for studies of private sector competition for the carriage of saturation advertising mail. Upon receipt of the objection (along with the prior objection), counsel for AAPS offered to review a copy of the "assessment" under the same protective conditions that would apply to the 1998 SAI report. For reasons that have not been given and are not apparent, the Postal Service has refused.

There should be no question that a document that studies even a single alternate delivery company's competition with the Postal Service for the delivery of saturation advertising is relevant, given rate criterion 4 requiring an examination of the effect of rates on competitors in the private sector. The relevance of the information is driven home by Postal Service witness Mayes' response to interrogatory NAA/USPS-T32-19(b), where she states that such information as the details of competitors' pricing, costs and volumes would be "helpful to guard against creating a harmful impact on competing firms." If this information is relevant to Ms Mayes and to the Postal Service, it must be relevant to intervenors.

In fact, the Postal Service does not deny all relevance, asserting in its March 6th Objections to Interrogatory AAPS/USPS-32-2 that the document has "virtually no materiality or relevance...."² A little is enough, although we submit that the document is potentially more than a little relevant, especially when AAPS's agreement to very restrictive conditions eliminates any possible Postal Service concerns.

* * *

For the foregoing reasons, AAPS respectfully requests that the Presiding Officer order the documents sought under the protective conditions described above.

Respectfully submitted,



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² In the interests of full disclosure, AAPS reluctantly points out that the separate objection related to the same document sought in Interrogatory AAPS/USPS-T35-10, different Postal Service counsel asserts that the document is "clearly irrelevant." We have chosen to go with the understated "virtually no relevance" claim, although as shown above it is clearly relevant.

**INTERROGATORIES TO WHICH OBJECTIONS
HAVE BEEN RAISED**

AAPS/USPS-T35-9. Has the SAI Study been updated since the close of the record in Docket No. R97-1. If so, please make a copy of the study available.

AAPS/USPS-T35-10. Since the close of the record in Docket No. R97-1, has the Postal Service conducted or caused to be conducted any study of competition from the private sector for the carriage of saturation advertising material? If so, please make a copy of that study available. If there is such a study and the Postal Service intends once again to object to its release, in response to this question please provide the name and employer of the person or persons that conducted the study, a summary of its content and a copy of the study plan or outline of its scope.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing documents in accordance with Section 12 of the Commission's Rules of Practice.

Bonnie S. Blair
Bonnie S. Blair, Esq.

Dated: March 16, 2000