

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

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

POSTAL RATE AND FEE CHANGES, 2000

Docket No. R2000-1

**OBJECTION OF ASSOCIATION OF ALTERNATE POSTAL SYSTEMS
TO INTEROGATORIES OF ADVO, INC.**

Pursuant to the Commission's Rules of Practice, the Association of Alternate Postal Systems hereby objects to the following interrogatories served upon AAPS witness White on June 19, 2000: ADVO/AAPS-T1-4(d), 4(e), 5(a), 5(b), 5(c) partial, 8(a), 8(b), 8(c), 11 and 18(b). In general, there are two bases for these objections. First, in certain of these interrogatories, Advo seeks information related to the Daily and Sunday Oklahoman, the newspaper published by the Oklahoma Publishing Company, the parent company of Distribution Systems of Oklahoma, Mr. White's employer. Neither the Oklahoma Publishing Company nor the Daily (or Sunday) Oklahoman is a party to this case, and Mr. White's testimony does not address this newspaper. Second, in certain interrogatories, Advo seeks information from competitors (both DSO and the non-party newspaper) that is clearly commercially sensitive and of the type that Advo itself has consistently refused to provide in Postal Rate Commission proceedings.

Overall, Mr. White has revealed a substantial amount of information about his company—information, as shown below, of the type that Advo and others have routinely and consistently refused to provide in prior cases. For example, in response to USPS-15 and Advo-6(a), Mr. White provides the range of rates that DSO charges for

various sizes of product, and he offers a rate card in response to Advo-12. In response to Advo-6(b), Mr. White describes the manner in which DSO prices inserts in shoppers that it delivers. In response to USPS-17(b), he describes the manner and level of compensation that DSO pays its independent contractor carriers, and in response to Advo-4(a)-(c), he describes the scope and size of the distribution of the key product handled by DSO. This information should enable the parties and the Commission to assess Mr. White's testimony, especially because it is far more extensive than any ECR mailer has offered for the record.

In contrast, AAPS refers the Presiding Officer to an answer by Advo in Docket No. MC95-1 to a motion to compel by OCA.¹ There, Advo objected to a series of requests for specific information about both private delivery operations that it had recently obtained and its mailing operations. At pages 1-2 of that answer, in defending its refusal to provide operating and financial information about its alternate delivery operations, Advo stated:

Because each of these private hand delivery operations is confined [as is DSO] to a single market (Boston, Philadelphia and Cincinnati), disclosure of the company-specific information requested by OCA would necessarily disclose market-by-market information in these highly competitive markets that is extremely sensitive. Its disclosure would be of use to Advo's competitors and harmful to Advo.

We couldn't have said it better ourselves. Advo goes on to defend its refusal to provide information on the number of employees or wages by year and

¹ "Answer of Advo, Inc. in Opposition to Motion of the Consumer Advocate to Compel Responses to Interrogatories OCA/ADVO-T1-7(1)-(7), 8(c), and 11(b) and (d)," filed on September 6, 1995.

company (page 2), prices (page 3)², number of pieces delivered annually for each market (page 4), and other similar information. Advo quotes its witness (and chairman) Kamerschen (at pages 2-3): “[i]f you are asking for the prices we charge to customers, that information is commercially sensitive and proprietary.” As shown below, the information that DSO seeks to withhold as commercially sensitive overlaps substantially with the information that Advo itself has refused to disclose as commercially sensitive.

The questions to which objections are hereby raised are reproduced below, along with the basis of AAPS’s objection:

ADVO/AAPS-T1-4. Please describe DSO’s distribution and circulation of The Express Line TMC product, including the following:

- (d) Please provide the total subscriber circulation of The Daily Oklahoman in the areas or zones where DSO distributes The Express Line.**
- (e) Please provide the total household count in the areas or zones where DSO distributes The Express Line.**

In response to parts (a) through (c) of this request, Mr. White stated that this product is distributed only to non-subscribers of the Daily Oklahoman and provided the weekly circulation. He also responded to part (f), which asked whether, in areas where the Express Line is delivered, DSO makes deliveries to all households. However, AAPS objects to parts (d) and (e), which seek information about the Daily Oklahoman, a non-party, and commercially sensitive information about both that newspaper and DSO, a competitor of Advo. The information requested would provide Advo (and others) with important and sensitive information about the penetration of the newspaper

² DSO has provided nearly all of the pricing information requested.

in various zones (much like the volume information Advo refused to disclose, as discussed above). DSO and its parent, the Oklahoma Publishing Company—unlike the Postal Service but like Advo—are private sector companies that should not be required to divulge sensitive information of this type in order for an employee (Mr. White) to represent the alternate delivery industry in a postal rate proceeding.

In addition, questions about the other businesses of the parent company are beyond the scope of Mr. White's testimony. AAPS, as a limited participant, is not obligated to respond to questions beyond the scope of its testimony (although even without this factor it would properly withhold the information as commercially sensitive). See Section 3001.20(a) of the Rules of Practice.

* * *

ADVO/AAPS-T1-5. Please provide the following information for both Distribution Systems of Oklahoma and The Daily and Sunday Oklahoman.

- (a) For each year from 1987 to the present, please provide the total annual volume of preprint circulars distributed by (i) The Daily and Sunday Oklahoman, and (ii) Distribution Systems of Oklahoma.**
- (b) For each year, of the total volume of preprints distributed by DSO, how many were distributed only to nonsubscribers of The Daily Oklahoman?**
- (c) In addition to the Express Line and preprints, has DSO delivered other publications such as shoppers or buyers guides? If so, please provide the annual volumes of such publications distributed by DSO from 1987 to the present.**

AAPS objects to (a), (b) and the second part of (c), on the same grounds as its previous objection. Part (i) of (a) is objectionable because it involves a non-party, is unrelated to Mr. White's testimony, and seeks commercially sensitive information (that Mr. White does not even have). The remaining information to which AAPS objects is

highly sensitive information that DSO should not be required to disclose or share with a major competitor, just as Advo refused to provide it.³

* * *

ADVO/AAPS-T1-8. Please provide the following market share information. If precise data are not available, please provide DSO/The Daily and Sunday Oklahoman's best estimate of its market share, and explain the basis for the estimate.

- (a) **What is the market share of multi-page preprint circulars held by DSO/The Daily and Sunday Oklahoman in the Oklahoma City metro MSA area?**
- (b) **What is the market share of single-sheet (8" x 10" or larger) preprint circulars held by DSO/The Daily and Sunday Oklahoman in the Oklahoma City metro MSA area?**
- (c) **If information on the breakout of multiple-page v. single-sheet preprints is not available, what is the market share of total preprint circulars held by DSO/The Daily and Sunday Oklahoman in the Oklahoma City metro MSA area?**

This interrogatory seeks market share information about a non-party that is beyond the scope of Mr. White's testimony and that, even if Mr. White had the information (which he does not), is clearly highly sensitive and therefore confidential.

* * *

ADVO/AAPS-T1-11. Please provide the current retail rate card (or booklet) of The Daily and Sunday Oklahoman newspaper, including rates for distribution of preprint inserts. If the rate cards do not show specific rates for preprint inserts, please provide the rates charged for preprint inserts, including rates by weight or pages, and volume and frequency discounts.

This interrogatory seeks rate information about a non-party that is beyond the scope of Mr. White's testimony. As noted above, Mr. White provided a rate card and

³ Even if the data were not commercially sensitive, we would raise both burden and relevance objections to an interrogatory that seeks data back to 1987.

other detailed rate information about DSO, the alternate delivery company for which he works and whose interests he is representing (along with those in the rest of the industry). That is more than Advo has been willing to do. Indeed, as far as we know, Advo never has agreed to provide the rates it charges, and it should not in this case be permitted to obtain the rates of a newspaper competitor that is not a party to the proceedings from a witness who is testifying about an independently run subsidiary in a different business.

* * *

ADVO/AAPS-T1-18. Please refer to the example you cite at page 25 of your testimony concerning the effect on your costs of an increase in weight of a TMC product from 7-1/2 ounces to 8 ounces. You state that the TMC delivery in question was “address specific products, so not every household was delivered.” You also state that “we increased the delivery charge to the customer.”

(b) What was the delivery charge to the customer on a per piece basis before, and after, this change?

Part (b) of this interrogatory seeks commercially sensitive information pertaining to specific rate information for specific customers that, for the reasons stated above, is confidential and therefore protected. Mr. White’s response does indicate that, on a

percentage basis, rates were raised by 4.2%, which should be sufficient information.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the following document upon all participants in this proceeding in accordance with section 12 of the Rules of Practice.

Bonnie S. Blair
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