

Before the  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001

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OFFICE OF THE SECRETARY

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Postal Rate and Fee Changes, 2000

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Docket No. R2000-1

**STAMPS.COM'S OPPOSITION TO USPS'S MOTION TO COMPEL  
RESPONSE TO INTERROGATORY USPS/STAMPS.COM-T3-1**

Stamps.com hereby opposes the Postal Service's June 23 motion to compel a further response to Interrogatory USPS/STAMPS.COM-T3-1 to witness Leora Lawton. The interrogatory asks Stamps.com to provide "all supporting data and documentation" concerning Stamps.com's customer demographics.

In her partial answer to that interrogatory, witness Lawton confirmed that her survey results indicated that Stamps.com "has a substantial number of customers who qualify as households, home offices, small businesses (1-9 employees), and large businesses (10+ employees)." Stamps.com, however, objects to providing a detailed demographic breakdown or additional information regarding its customer base. First, this information is irrelevant to a determination of the proper postal rate for PC-postage and is unlikely to lead to relevant information. Second, the Service already has much of the same demographic information which it receives from all PC Postage vendors without relying on Stamps.com's proprietary customer demographic information. Third, this information is confidential and could cause harm to Stamps.com's competitive position if released.

This opposition is supported by the attached Declaration of Thomas Kuhr.

**I. STAMPS.COM'S DEMOGRAPHIC INFORMATION IS IRRELEVANT TO THE DETERMINATION OF THE PROPER MAIL CLASSIFICATION PRICE.**

The Service's motion should be denied because the demographic information concerning Stamps.com's customers is not relevant to any issue in this proceeding. In its motion to compel, the Service contends the information is relevant for two reasons. First, the Service contends that the demographic composition of Stamps.com's customers "is relevant to an evaluation of the fairness and equity of the proposed classification, as well [a]s its desirability and its justification" and its relative value to people. (Mot. to Compel at 2.) Other than this assertion of relevance, there is no explanation of why it is relevant. We do not see how the demographic breakdown of Stamps.com's customers would affect the "fairness and equity" consideration that is applied to proposed rates and classifications. Stamps.com has a substantial number of users in all four demographic categories, so the particular demographic breakdown of our customers would have no bearing on this factor.

Second, the Service contends that the demographic data of our customers "may shed some light on the issue of which type of mail should serve as the benchmark" for determining the proposed discount. (Mot. to compel, p. 2.) Once again, relevance is asserted, but not explained. In fact, the demographic data of Stamps.com's customers will shed no light on the appropriate benchmark to apply. This is best shown by the Postal Service's application of the "handwritten mail" benchmark to QBRM. The Postal Service applies this benchmark even though it is safe to assume that none of these

courtesy reply pieces would have been handwritten if there were no QBRM discount. (See Decision in R97-1, pp. 306 – 307, 326 – 327.) In this proceeding as well, the Postal Service also applies the benchmark of handwritten mail to QBRM (a benchmark we agree is appropriate), notwithstanding that none of this mail would have been handwritten but for the discount. Thus, the Postal Service's own rate proposal in this proceeding establishes that it does not consider the actual amount of "handwritten mail" prior to the discount to be a relevant factor in setting rates.

Moreover, even if it were a relevant factor, the demographic breakdown of our customers will not aid the Commission in determining the appropriate benchmark because there is no evidence establishing the percentage of handwritten vs. printed mail produced by each of these four demographic groups. It cannot be assumed that all mail produced by households or small businesses is handwritten and that all mail produced by businesses with more than 10 employees is printed. Similarly, it cannot be assumed that businesses with 1 – 9 employees produce more handwritten mail than businesses with 10 or more employees.<sup>1</sup> Thus, while the requested information may seem interesting to the Postal Service, the Service has not established how it is relevant to this proceeding.

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<sup>1</sup> One category of users that would be assumed to produce printed addresses – very large volume mailers – can be ruled out entirely. The use of Stamps.com by very large volume mailers is ruled out by the \$500 maximum postage balance that may be maintained in a PC Postage account. Given this maximum balance limitation, it is unlikely that PC Postage will attract large volume mailers, because the \$500 balance would be exhausted rapidly, and continually replenishing the balance would be too time consuming and inconvenient. (See Kuhr Declaration, p. 2.)

**II. THE POSTAL SERVICE CAN OBTAIN THE REQUESTED INFORMATION FROM ITS OWN DEMOGRAPHIC DATA.**

The motion to compel should also be denied because the Service already obtains similar demographic information on PC Postage users without the need to rely on Stamps.com's confidential customer information. As described in the Kuhr Declaration, each time a customer registers to use the Stamps.com service or any other PC Postage service, the customer must submit a meter license application (Form 3601-A). The license application asks the meter is being acquired for personal use or business use. Each application is sent directly to USPS's Central Meter Licensing Service (CMLS). Customers receive license approval directly from CMLS, the meter license is linked to each customer's meter number, and their license information can be referenced at any time as long as the license is active. (Kuhr Declaration, p. 3.) Thus, the Postal Service already has in its possession the demographic data on which PC Postage customers are consumers and which are businesses.

In addition, the USPS IBIP group has historical Stamps.com customer purchase and printing information. Stamps.com has delivered customer log files for the entire customer base at the end of each postal accounting period since our beta testing began. This customer usage information is listed by meter number, can be broken down by rate category, and includes all purchase and individual print transactions that occurred within that accounting period. The USPS can easily correlate the customer print history with their license information to find how each customer classified themselves (personal or business), how much they printed, and what type of mail they

used. Applications submitted to the Service for metered mail licenses classify requesters according to business function and the amount of metered postage used annually. (Kuhr Declaration, p. 3.) Because the Service's customer market is undoubtedly a great deal larger than Stamps.com's, USPS's own demographic information will provide a much clearer picture of the entire PC Postage market.

In a similar case, the Service sought detailed information regarding mail survey data collected by the Alliance of Nonprofit Mailers ("ANM"). Presiding Officer Ruling No. R97-1/106 at 1 (Mar. 9, 1998). This data, concerning the number of nonprofit organization required to make back postage payments to the Service, was summarized during the testimony of an ANM witness, but the Service requested additional information regarding the confidential survey. See id. The Service argued that it needed the additional information to determine the magnitude of possible survey bias. See id. ANM argued in reply that the Service already had the ability to obtain this information by looking at its own statistics concerning back payments and comparing it to ANM's general results. See id. The Commission found ANM's argument compelling and held that because "the Service ha[d] independent means of producing the relevant data" ANM's confidentiality concerns outweighed the Service's interest in obtaining ANM's detailed survey information. Here, the Service has information from its meter license mail applications classifying applicants as businesses or consumers. Considering Stamps.com's confidentiality concerns and the Service's ability to obtain similar information independently, the Service should utilize its own customer data to evaluate the fairness and equity of the proposed mail classification.

**III. THE REQUESTED DEMOGRAPHIC INFORMATION IS COMMERCIALY SENSITIVE AND WILL HARM STAMPS.COM'S COMPETITIVE POSITION IF DISCLOSED.**

The demographic information the Service requests is confidential and should not be disclosed because Stamps.com's confidentiality concerns outweigh any probative value the Service might glean from the information and private enterprises are not held to the same disclosure rules as the Service.

**A. Stamps.com's confidentiality concerns outweigh any probative value the demographic information might have to the Service.**

Sensitive proprietary business data is frequently protected from disclosure that will harm the competitive business position of a company. See P.O. Ruling No. R97-1/104 (Feb. 27, 1998). The disclosure of the detailed customer demographic information being requested would cause competitive harm to Stamps.com. (Kuhr Declaration, pp. 1-2.) Commission precedent and the Service's own interpretation of Commission rulings support a case-by-case approach towards these confidentiality concerns, employing a balancing test to determine both the need and effect of disclosure of commercially sensitive materials. See P.O. Ruling R97-1/106 (March 9, 1998); See also P.O. Ruling 95-1/19 at 2.

In its Motion to Compel, the Service cites P.O. Ruling No. R2000-1/53 and asserts that this ruling eradicates any basis for withholding information from the Service based on commercial sensitivity concerns. While this Ruling does refer to Commission decisions permitting disclosure in spite of commercial sensitivity arguments, it neither nullified commercial sensitivity as a grounds for non-disclosure nor created a presumption of disclosure. Instead the Presiding Officer states "the nature of the information and its manner of use [...] must be considered on a case-by-case basis." P. O. Ruling No. R2000-1/53 at 4 (April 27, 2000).

In the matter at hand, the nature of Stamps.com's customer demographic information is highly sensitive because disclosure will enable direct competitors to undermine Stamps.com's customer base. In fact, the Postal Service in a recent motion, makes similar arguments in support of non-disclosure of its own commercially sensitive research and analysis. See United Postal Service Answer in Opposition to Motion of Newspaper Association of America to Compel Production of Documents Requested in Interrogatory NAA/USPS-11 (June 26, 2000) (arguing that P.O. Ruling No. R2000-1/53 "explicitly states that considerations of commercial sensitivity and privilege must be considered on a 'case-by-case basis'").

The Service also fails to specifically show how Stamps.com's demographic information will be used. In P.O. Ruling 97-1/106, the Service similarly failed to explain in detail how the information it requested would prove probative enough to outweigh interests in protecting confidential, commercial information. This led the Commission to deny the Service's Motion to Compel. See id. Here, the Service also fails to indicate specifically how it intends to use the demographic information on Stamps.com's customers. Therefore, Stamps.com's interest in preserving the confidential nature of its research outweighs any probative value this data "may" have for the Service.

**B. Private Enterprises Are Not Held to the Same Disclosure Rules as the Service.**

It is well established that private enterprises are not held to the same disclosure rules as the Service. See P.O. Ruling No. R97-1/104 at 2 (Feb. 27, 1998). In this ruling, the Parcel Shippers Association ("PSA") attempted to compel proprietary volume, price, revenue and cost data from the United Parcel Service ("UPS"). Id. PSA argued that the Commission could not properly develop parcel post rates without this

information from UPS and that UPS should provide this information because the Postal Service must do so. See id. The Presiding Officer found this argument without merit, pointing out that information from UPS would not provide a complete picture of the market since other firms compete in the same area. See id. The Commission also recognized that the commercially sensitive data of private sector companies is “clearly proprietary,” in contrast to data held by the Service. Id. The Presiding Officer stated that because the “Postal Service provides statutory monopoly services in addition to competing with private sector firms [...] it is obligated to satisfy certain obligations imposed on it by statute.” Id.

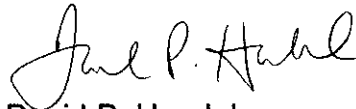
Stamps.com is also a private corporation and thus should not be subject to the same disclosure standards as the Postal Service. Exposing those who participate in the rate-setting process to the disclosure of their confidential and proprietary business data would have a chilling effect on their participation in these proceedings. As noted in Kuhr’s declaration, the requested demographic data could be used by a competitor in formulating their own marketing plan. (Kuhr Declaration, p. 2.) The Service itself argues in a recent motion that its own marketing plan, including marketing data, is commercially sensitive and should not be revealed because “disclosure of this document would allow competitors to enjoy the proprietary fruits of the Service’s research and analysis.” See “United Postal Service Answer in Opposition to Motion of Newspaper Association of America to Compel Production of Documents Requested in Interrogatory NAA/USPS-11,” at 5 (June 26, 2000). Stamps.com similarly seeks protection from the disclosure of its confidential information.



We are aware that the Commission has procedures for the provision of sensitive commercial information under a protective order. The existence of such procedures, however, does not mean that they should be resorted to whenever confidential material is requested. Materials that are not relevant, or materials that pale in their relevance in comparison to their confidentiality, should not be required to be provided under any procedure.

For the foregoing reasons, the Service's motions to compel should be denied.

Respectfully submitted,

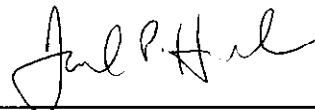


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Dated: July 5, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 5 day of July 2000, served the foregoing document in accordance with the Commission's Rules of Practice.



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David P. Hendel