

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

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OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 2000

Docket No. R2000-1

**NEWSPAPER ASSOCIATION OF AMERICA
MOTION TO COMPEL THE UNITED STATES POSTAL SERVICE
TO RESPOND TO INTERROGATORY NAA/USPS-12
August 22, 2000**

Pursuant to sections 26(d) and 27(d) of the Commission's rules of practice, the Newspaper Association of America ("NAA") respectfully moves to compel the United States Postal Service to respond to interrogatory NAA/USPS-12.

The Interrogatory

Interrogatory NAA/USPS-12 asks if the Postal Service has, since 1997, conducted a study or analysis of preprint advertising in daily newspapers or in newspaper Total Market Coverage programs, including, but not limited to volumes of or revenues associated with preprint advertising." The interrogatory further requests the production of any such document.

The Postal Service's Objection

The Postal Service objected on August 10. It asserts that the interrogatory is an untimely general discovery request. It further argues that the information is not "available only from the Postal Service" as required by rule 25(a). The Postal Service also argues that it would be prejudicial to allow the interrogatory, complaining that no party would be able to file rebuttal testimony to the material.

The Postal Service also trots out once again its usual litany of commercial sensitivity, cumulateness, and deliberative process privilege. The Postal Service states that it has identified the SAI Report, filed as library reference USPS LR-I-268 under terms of confidentiality, as potentially responsive to this request. It further states that the redaction issue is *res judicata*. The Postal Service goes on to states that it has tentatively identified a draft update of the SAI Report as potentially responsive to this request, but objects to discovery on the grounds of commercial sensitivity and deliberative process.

Finally, the Postal Service objects on the grounds of overbreadth, claiming that it couldn't possibly seek for responsive information from all postal installations nationwide. The Postal Service also objects on relevance grounds, asserting that the SAI study does not serve as a factual foundation for the Postal Service's case-in-chief.

The Postal Service Should Be Required To Answer The Question

The Postal Service's objection implies, but does not state, that the SAI Report and its update are the only documents that it has tentatively identified as responsive to this request. NAA is familiar with the redacted version of the SAI report filed as a library reference in this proceeding, but of course has not seen the draft update. The interrogatory asks if there is **anything else**. As such, it is not cumulative **and thus is meant not to include the SAI report or any update**. NAA would be satisfied for purposes of this question if the Postal Service were to state clearly that the SAI report is the only document likely to be responsive to this request. Postal Service headquarters should surely know if an analysis of the type requested by NAA has recently been commissioned, and providing a clear response should not be difficult.

In any event, the Postal Service's objections should be overruled. First, NAA/USPS-12 is not untimely. It was not a follow-up interrogatory and was filed before the deadline for discovery on USPS. Moreover, it relates, to the issue of whether the Postal Service considers newspaper preprint programs to be competition, or rather the competition is, as NAA submits is correct, between saturation mailers and newspapers, which use the postal system in various ways. This bears directly on the accuracy of Postal Service witness O'Hara's rebuttal testimony. It also is relevant to the testimony of SMC witnesses Bradpiece and Guiliano, among others.

The Postal Service's second objection – that the information is not solely within the possession of the USPS – apparently misunderstands the question. NAA's interrogatory seeks to learn whether the Postal Service has conducted a study of newspaper preprint advertising. The purpose of this inquiry is to determine whether Postal Service management regards newspapers as such competitors as to warrant commissioning a special survey. THAT information IS solely within the knowledge of the Postal Service. Any data the Postal Service has regarding newspaper preprint insert volumes is, we submit, strictly irrelevant to this proceeding. If the Postal Service is willing to stipulate that such data is irrelevant, it may redact it from any responsive document.

The Postal Service's third ground of objection also fails for it is the existence of the study itself and the Postal Service's position towards the Postal Service and newspapers that is the issue, not any newspaper advertising data. Any data that NAA would need is available to it (and to the world) on NAA's web site.

The Postal Service's objections on the grounds of commercial sensitivity and deliberative process also fails. Commercial sensitivity does not preclude production of any such study for if the Postal Service does view newspapers as competitors, all the world has a right to know it. Finally, the interrogatory is not overbroad. Perhaps the Postal Service has again misunderstood the interrogatory, but NAA is asking only for whether the Postal Service has conducted a study or analysis of preprint advertising in newspapers, and if so, to produce it. As noted above, the critical inquiry concerns whether the Postal Service has conducted such a study. If such a study would exist, surely it would have been commissioned at headquarters and not in the field.

Conclusion

For all these reasons, the Presiding Officer should compel the Postal Service to respond to interrogatories NAA/USPS-1(a) and (d).

Respectfully submitted,

NEWSPAPER ASSOCIATION OF AMERICA

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

August 22, 2000



William B. Baker

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

DUPLICATE

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Docket No. R2000-1

POSTAL RATE COMMISSION
OFFICE OF THE CLERK

**NEWSPAPER ASSOCIATION OF AMERICA
INTERROGATORY TO
THE UNITED STATES POSTAL SERVICE
(NAA/USPS-12)
July 31, 2000**

The Newspaper Association of America hereby submits the attached interrogatory to the United States Postal Service (NAA/USPS-12) and respectfully requests a timely and full response under oath.

Respectfully submitted,

NEWSPAPER ASSOCIATION OF AMERICA

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July 31, 2000

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NEWSPAPER ASSOCIATION OF AMERICA
INTERROGATORY TO
THE UNITED STATES POSTAL SERVICE
(NAA/USPS-12)

NAA/USPS-12. Has the Postal Service, at any time since 1997, conducted or caused to be conducted a study or analysis of preprint advertising in daily newspapers or in newspaper Total Market Coverage programs, including but not limited to volumes of or revenues associated with preprint advertising?

- a. If so, please fully describe all such studies or analyses.
- b. If so, please produce a copy of all such studies or analyses.