

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

CUSTOMIZED MARKET MAIL MINOR  
CLASSIFICATION CHANGES

Docket No. MC2003-1

**UNITED STATES POSTAL SERVICE  
OBJECTION TO INTERROGATORIES OF THE OFFICE OF THE CONSUMER  
ADVOCATE DIRECTED TO WITNESS ASHE  
(OCA/USPS-T1—3(A) (in part), 4(A) (in part), 5 (in part), and 7(A))**

The Postal Service objects to interrogatories OCA/USPS-T1—3(a) (in part), 4(a) (in part), 5 (in part), and 7(a), filed by the Office of the Consumer Advocate on March 21, 2003. Grounds for objection for each interrogatory are presented separately below.

***Interrogatory OCA/USPS-T1-3(a) (in part) and 4(a) (in part).***

Interrogatory 3(a) provides:

In developing the CMM proposal, did you discuss the proposal with any operations personnel to see if there were potential operational concerns regarding the handling of CMM mail pieces? ... If so, please provide copies of all documents including notes taken or summaries made regarding their reaction to your proposal. If no notes or summaries were made of the discussions, summarize the input operations personnel gave regarding CMM mail pieces.

Interrogatory 4(a) provides:

In developing the CMM proposal, did you discuss the proposal with any rural route or city carriers to see if they anticipated any difficulties in casing and subsequently delivering CMM mail pieces? ... If so, please provide copies of all notes taken or summaries made regarding these discussions. Indicate how many carriers were contacted and include in your response all documents, analyses, notes, workpapers and data sources developed or used as a result of these consultations. Cite all sources and provide the derivations of all calculated numbers.

The Postal Service objects in part to 3(a) and 4(a), to the extent these interrogatories request notes or summaries made by Operations staff in connection with their analysis of the CMM proposal. As of the date of this pleading, the Postal Service has identified five documents that are potentially responsive to this request. One of the documents is a meeting summary where decisions of an interdisciplinary group, composed of several organizational units, including Operations, offered input on the CMM concept. Two of the documents involve analysis by Operations relating to the proposal. Two of these documents consist of site visit analyses at a delivery unit. One of these two documents also contains an unrelated legal inquiry directed to the undersigned counsel.

All of the documents responsive to this request are deliberative and predecisional in nature, as they were used to evaluate the proposal for internal purposes.<sup>1</sup> Such documents are accordingly subject to the deliberative process privilege. The Postal Service does, however, intend to respond to these interrogatories by providing in its response a summary of input from Operations personnel consulted in connection with the proposal.

***Interrogatory OCA/USPS-T1-5 (in part).*** Interrogatory 5 provides:

Excluding focus group facilitators, please provide the number of participants in attendance at each of the four focus groups reported in USPS-LR-2 and provide copies of all summary notes, data and other information developed as a result of each focus group discussion. If no documentation or data was collected, please explain how National Institute conducted its analysis.

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<sup>1</sup> The unrelated legal inquiry contained in one of the documents is also subject to the attorney-client privilege.

The Postal Service has identified the following documents to be responsive to this request:

- 1) a memorandum from the office of market research to the office of product development summarizing the findings of this research;
- 2) notes taken by Postal Service personnel present at each of the focus group sessions;
- 3) notes from a meeting for planning the project;
- 4) notes from an internal meeting to discuss results;
- 5) information (in grid format) about the individuals who were recruited for each of the sessions, including name, company, job title, and summary of answers to the questions on the screener, as well as the screener questionnaires themselves;
- 6) advertiser discussion guide;
- 7) tapes of the proceedings;
- 8) transcripts of the proceedings; and
- 9) records in the files of the market research contractor, including email messages and communications with the Postal Service about the research.

As explained below, the Postal Service objects in part to production of certain documents requested in this interrogatory on grounds of relevance, deliberative process privilege, and commercial sensitivity. The question is also objectionable on grounds of vagueness and overbreadth.

As a general matter, most of these documents are of limited or no relevance. They are not necessary for the Commission's evaluation of the market research. It must be kept in mind that the market research was only used to support a qualitative, and not a quantitative, assessment of the classification proposal. Hence, the salient information necessary for the Commission's analysis is more than adequately covered by the full text of the report, which is marked as USPS LR-2/MC2003-1.

Several of the documents, including items 1 through 4 and at least one of the documents in 9, contain opinions and recommendations by Postal Service employees or its contractors which are deliberative and predecisional in nature and are subject to the deliberative process privilege.

Moreover, many of the documents contain participant identifiers and company names, which, if disclosed, could reveal confidential business opinions of the focus group participants or their respective employers and clients. Focus group participants were, moreover, assured that their responses would remain confidential. To disclose information tying views and opinions to participants would violate promises made to participants and discourage consumers and business professionals from participating in future market research efforts conducted by the Postal Service or National Analysts.

Notwithstanding the objections above, the Postal Service is willing to provide the advertising discussion guide (item 6). The Postal Service also will offer to provide copies of the transcripts (item 8), but only under the terms of a ruling authorizing redaction of all personal identifiers and company names, as well as information that could reveal the identity of a specific person, employer, or client. The Postal Service is not, however, willing to provide the tapes (item 7). Redacting personal identifiers and company names from the tapes would be burdensome and costly to perform. In any event, the tapes are duplicative of the transcripts, and producing the voice conversations would be of no benefit in light of the Postal Service's willingness to furnish copies of the transcripts.

***Interrogatory OCA/USPS-T1-7(a).*** Interrogatory 7(a) provides:

Please estimate CMM volumes for each of the first five years of its initial offering. Include in your response all documents, analyses, notes, workpapers and data sources used in making your determination. Provide copies of all source documents relied upon, cite all sources used and show the derivation of all calculated numbers.

The Postal Service objects to this interrogatory on grounds of relevance and burden. The Postal Service is seeking waiver of the Rules 64(d) and 69a(a)(3), which, in effect, would require the calculation of volume statistics in order to determine the impact on revenues. To require production of this information would bog the Postal Service down in burdensome analysis and defeat entirely the Postal Service's interests in securing expedition and a swift recommended decision for this minor classification change.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Ratemaking

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Anthony Alverno  
Attorney

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2997; Fax -6187  
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