

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

Postal Rate and Fee Changes, 2006

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Docket No. R2006-1

MOTION OF DIRECT MARKETING ASSOCIATION
TO COMPEL RESPONSES TO
INTERROGATORIES DMA/GCA-T1-10-12

(October 20, 2006)

Pursuant to sections 26(d) and 27(d) of the Rules of Practice, Direct Marketing Association moves to compel responses by Greeting Card Association witness James A. Clifton (GCA-T-1) to interrogatories DMA/GCA-T1-10-12. The interrogatories are reproduced in Attachment A. GCA's revised objections, filed on October 20, 2006, are reproduced in Attachment B.

DMA filed these questions as a follow-up to interrogatory DMA/GCA-T1-3. In his answer to DMA/GCA-T1-3(b), Dr. Clifton asserted that the banking industry as a whole "should be pleased with" his proposal to reduce the rate for Single-Piece First-Class letters by one cent per piece, and recover the resulting shortfall—approximately \$400 million—through higher rates on Standard Mail. In support of this claim, Dr. Clifton stated that, according to the "latest publicly available reliable data I have seen":

1. A "majority of the bank industry's mail volume in First Class continues to be mailed at the full single piece rate";
2. "banks outside of urban and suburban areas do not necessarily have access to a presort bureau and do not have enough mail volume to warrant leasing or purchasing automation machinery"; and
3. "Less than 6% of the banking industry's volume of mail and cost of mail is posted at Standard A Regular Rates."

Id.

DMA follow-up interrogatories DMA/GCA-T1-10 through 12 ask Dr. Clifton to produce his factual support for these three claims. GCA objects to each of the three follow-up questions on grounds of “relevance, burden and harassment” on the theory that Dr. Clifton’s testimony for GCA “nowhere addresses banks relative usage of First Class as opposed to Standard mail,” “banks usage of presort bureaus,” or “banks relative usage of First Class as opposed to Standard mail.” Revised Objection of GCA to Interrogatories DMA/GCA-T1-10-12 (filed Oct. 20, 2006). These objections are without merit.

The Postal Reorganization Act directs the Commission, in deciding what rates to recommend for “each class of mail or type of service,” to consider, *inter alia*, “the effect of rate increases upon . . . business mail users.” 39 U.S.C. § 3622(b)(4). The financial services industry constitutes a major group of business mail users. According to the 2005 Household Diary Study, a publicly available source of data that Dr. Clifton himself has cited in this case,¹ households received 13.8 billion bills and statements by mail from the financial services industry in 2005, slightly more than half of the 25.2 billion bills and statements from all sources that year. 2005 Household Diary Study at 32. Banks, S&Ls, credit unions and credit card issuers alone accounted for 8.9 billion of these pieces. *Id.* In the same year, households received 8.7 billion pieces of advertising from the financial services industry via First-Class Mail, and 19.4 billion pieces via Standard Mail. *Id.* at 39. Under the circumstances, information on the financial effect of Dr. Clifton’s proposal on the banking industry is likely to be directly relevant to the Commission’s analysis under Section 3622(b)(4).

¹ See Clifton Direct Testimony (GCA-T-1) at 9 n.1; Revised Response of GCA witness Clifton to USPS Interrogatory USPS/GCA-T1-49 (filed Oct. 20, 2006).

Moreover, the information sought by Interrogatories DMA/GCA-T1-10-12 is also likely to shed light on Dr. Clifton's credibility as a data analyst. Dr. Clifton was an economic consultant and rate case witness for the American Bankers Association in R94-1, MC95-1, R2000-1 and (until his testimony was withdrawn last month) in this docket. As such, he presumably had ample opportunity to educate himself about the mix of mail entered by the banking industry. Dr. Clifton's portrayal of the mail mix of the banking industry, however, appears quite idiosyncratic.

First, his claim that "[l]ess than 6% of the banking industry's volume of mail and cost of mail is posted at Standard A Regular Rates" (response to DMA/GCA-T1-3(b)) is difficult to reconcile with the data reported by 2005 Household Diary Study. The data indicate that the financial services industry mailed 19.4 billion pieces of Standard Mail advertising to households—a volume nearly as large as the total volume of bills, statements and First-Class advertising mail entered by the same industry (22.5 billion pieces).

Equally counterintuitive is Dr. Clifton's claim that a "majority of the bank industry's mail volume in First Class continues to be mailed at the full single piece rate" rather than presorted (response to DMA/GCA-T1-3(b)). The 2005 Household Diary Study reported that 83.9 *percent* of the First-Class Mail received by households from the bank industry in 2005 was "sent presort." For the credit card industry, the figure was 97.1 *percent*. For the financial industry as a whole, the figure was 86.4 *percent*. 2005 Household Diary Study, Appendix A-2, Table A2-20.

Perhaps there are legitimate explanations for these apparent inconsistencies. The Commission's discovery rules, however, entitle DMA to probe this issue, rather than simply accept Dr. Clifton's claims on faith.

Finally, GCA's objections of "burden and harassment" are frivolous. DMA/GCA-T1-10(a) and 12(a) merely ask Dr. Clifton to produce the "publicly available reliable data" to which he referred in response to DMA/GCA-T1-3(b). If the data exist, Dr. Clifton should be able to produce them.

DMA/GCA-T1-10(b) and 12(b) merely ask Dr. Clifton to "explain how you verified that the data are reliable." If he verified that the data are reliable, a brief explanation will suffice. If he did not in fact verify that the data are reliable, a statement to that effect will suffice as well.

DM/GCA-T1-11 requests a greater array of information. But Dr. Clifton either has the requested information or not. If he has it, producing it should not be unduly burdensome. If he lacks it, a statement to that effect will suffice.

Respectfully submitted,

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**DIRECT MARKETING ASSOCIATION INTERROGATORIES
TO GCA WITNESS JAMES A. CLIFTON, GCA-T-1
(filed October 4, 2006)**

DMA/GCA-T1-10. Please refer to your response to DMA/GCA-T1-3(b), where you state that “From the latest publicly available reliable data I have seen, a majority of the banking industry’s mail volume in First Class continues to be mailed at the full single piece rate.”

- a) Please produce the “last publicly available reliable data” to which you refer.
- b) Please explain how you verified that the data are reliable.

DMA/GCA-T1-11. Please refer to your response to DMA/GCA-T1-3(b), where you state that “This probably reflects the fact that banks outside of urban and suburban areas do not necessarily have access to a presort bureau and do not have enough mail volume to warrant leasing or purchasing automation machinery.”

- a) Please define what you mean by the phrase “have access to a presort bureau.”
- b) What is the maximum distance between a bank and the nearest presort bureau for use of a presort bureau to be practical and cost effective?
- c) What percentage of First-Class Mail entered by banks is generated within 25 miles of a presort bureau? Within 50 miles? Within 100 miles? Within any other distance for which you have data?
- d) What is the minimum size of a local market needed to support a presort bureau?
- e) What percentage of First-Class mail entered by banks is generated in communities equaling or exceeding the size identified in response to part (d)?
- f) What is the minimum mail volume generated by a bank to warrant leasing or purchasing its own automation machinery?
- g) What percentage of First-Class mail entered by banks is generated by banks with a mail volume equaling or exceeding the minimum identified in response to part (f)?
- h) Please produce all data, studies and analyses that support your answers to the previous parts of this interrogatory.
- i) Please produce any other data, studies and analyses indicating that banks outside of urban and suburban areas lack access to a presort bureau.

DMA/GCA-T1-12. Please refer to your response to DMA/GCA-T1-3(b), where you state that “Less than 6% of the bank industry’s volume of mail and cost of mail is posted at Standard A Regular Rates according to the public available reliable data I have seen.”

- a) Please produce the “publicly available reliable data” to which you refer.
- b) Please explain how you verified that the data are reliable.

**Revised Objections of GCA to Interrogatories of DMA
Directed to Witness James A. Clifton (DMA/GCA-T1-10-12)
(filed Oct. 20, 2006)**

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

Postal Rate and Fee Changes, 2006

Docket No. R2006-1

**REVISED OBJECTIONS OF THE GREETING CARD ASSOCIATION TO
INTERROGATORIES OF DIRECT MARKETING ASSOCIATION DIRECTED TO
WITNESS JAMES A. CLIFTON (DMA/GCA T-1-10-12)**

(October 20, 2006)

The Greeting Card Association ("GCA") hereby provides the revised objections to the following interrogatories of Direct Marketing Association (DMA) filed on October 4, 2006: DMA/GCA T-1-10-12. This replaces the objections filed on October 16, 2006. The revision is necessitated by the omission of proper identification of each objection as required by the Commission's Rules of Practice and Procedure § 3001.26(c). Revised objections are being filed contemporaneously herewith.

Each interrogatory is set out verbatim followed by the objection.

Respectfully submitted,

/s/ James Horwood _____

James Horwood
Spiegel & McDiarmid
1333 New Hampshire Ave. NW,
2nd Floor
Washington, DC 20036

Date: October 20, 2006

DMA/GCA-T-1-10. Please refer to your response to DMA/GCA-T1-3(b), where you state that “From the latest publicly available reliable data I have seen, a majority of the banking industry’s mail volume in First Class continues to be mailed at the full single piece rate.”

- a) Please produce the “latest publicly reliable data” to which you refer.
- b) Please explain how you verified that the data are reliable.

OBJECTION:

This question is a follow-up to a question that GCA objected to on grounds of relevance, burden and harassment as regards discovery on what GCA witness Clifton “believe[s]” with respect to matters that he has not opined on in his GCA testimony. GCA expressly did not waive its objections to the question or any attempt to introduce into evidence the otherwise objected-to response to DMA/GCA-T1-3(b). The Commission’s Rules permit “discovery reasonably calculated to lead to admissible evidence.” GCA witness Clifton’s testimony GCA-T1 nowhere addresses banks relative usage of First Class as opposed to Standard mail, and DMA’s inquiries into this matter are wholly irrelevant and not likely to lead to any admissible evidence.

DMA/GCA-T-1-11. Please refer to your response to DMA/GCA-T1-3(b), where you state that “This probably reflects the fact that banks outside of urban and suburban areas do not necessarily have access to a presort bureau and do not have enough mail volume to warrant leasing or purchasing automation machinery.

- a) Please define what you mean by the phrase “have access to a presort bureau.”
- b) What is the maximum distance between a bank and the nearest presort bureau for use of a presort bureau to be practical and cost effective.
- c) What percentage of First-Class mail entered by banks is generated within 25 miles of a presort bureau? Within 50 miles? Within 100 miles? Within any distance for which you have data?
- d) What is the maximum size of a local market needed to support a presort bureau?
- e) What percentage of First-Class mail entered by banks is generated in communities equaling or exceeding the size identified in response to part (d)?
- f) What is the minimum mail volume generated by a bank to warrant leasing or purchasing its own automation machinery?
- g) What percentage of First-Class mail entered by banks is generated by banks with a mail volume equaling or exceeding the minimum identified in response to part (f)?
- h) Please produce all data, studies and analyses that support your answers to the previous part of this interrogatory.
- i) Please produce any other data, studies and analyses indicating that banks outside of urban and suburban areas lack access to a presort bureau.

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DMA/GCA-T1-3(b). The Commission's Rules permit "discovery reasonably calculated to lead to admissible evidence." GCA witness Clifton's testimony GCA-T1 nowhere addresses banks usage of presort bureaus, and DMA's inquiries into this matter are wholly irrelevant and not likely to lead to any admissible evidence.

DMA/GCA-T-1-12. Please refer to your response to DMA/GCA-T1-3(b), where you state that “Less than 6% of the bank industry’s volume of mail and cost of mail is posted at Standard A Regular Rates according to the public available reliable data I have seen.”

- a) Please produce the “publicly available reliable data” to which you refer.
- b) Please explain how you verified that the data are reliable.

OBJECTION:

This question is a follow-up to a question that GCA objected to on grounds of relevance, burden and harassment as regards discovery on what GCA witness Clifton “believe[s]” with respect to matters that he has not opined on in his GCA testimony. GCA expressly did not waive its objections to the question or any attempt to introduce into evidence the otherwise objected-to response to DMA/GCA-T1-3(b). The Commission’s Rules permit “discovery reasonably calculated to lead to admissible evidence.” GCA witness Clifton’s testimony GCA-T1 nowhere addresses banks relative usage of First Class as opposed to Standard mail, and DMA’s inquiries into this matter are wholly irrelevant and not likely to lead to any admissible evidence.