

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Review of Nonpostal Services

Docket No. MC2008-1

Rebuttal Comments of DigiStamp Inc.
Concerning the Response of the
United States Postal Service to Order No. 126

The most recent debate in this Docket has been about the Postal Service's licensing of their name, specifically in the ink cartridge business. My previous filings in this Docket have been about a different nonpostal service, the Electronic Postmark (EPM) service. It has been my opinion that the EPM program is a merger of corporate and federal power that will inevitably stifle competition; it will empower corporate and federal bureaucrats to protect entrenched interests. Conceptually, the ink cartridge business and the EPM service¹ represent the same problem, but the impact is very different.

I have concern that the EPM program in recent discussion is being cast in the guise of a simple "licensing of a name" to a non-postal service.²

¹ The Electronic Postmark is a brand name of a private industry service called trusted digital time stamps.

² DigiStamp has petitioned the Commission to terminate the EPM program. The content of this document is specific to the recent discussions and is not intended to summarize the scope of previous legal briefs.

The Postal Service's description of their role as "ensuring quality" is not supported by the facts.

The Postal Service describes "ensuring quality" related to their licensing activities. The evidence of this Docket is that the Postal Service is not capable of performing that role in the EPM service.

The risks that are flagged by the Information Assurance Consortium (IAC) are the result of untrained, technically unqualified Postal Service employees assigned to manage the EPM. From the IAC comments in this docket:

In our dealings with the USPS, they made it clear that the USPS did not have in its employment individuals with technical expertise in trusted time stamping methods or solutions. Further, the USPS representatives indicated that there was no intention and were no plans to hire. To our knowledge, this condition has not changed. The USPS acknowledge that they had not achieved their internal goals or objectives for adoption of the EPM and that they did not have the knowledge or expertise to market EPM branded trusted time stamps.³

Additionally, my testimony and examples of incompetence recorded in this Docket were not refuted by the Postal Service. For example, an excerpt from a section titled "The USPS EPM program has been hazardous to the public interests":

The USPS has had serious quality problems with their EPM program in the past, and problems continue. I would like to bring forward from Docket No. C2004-2 two examples where the USPS failed in their management of the EPM program. Given my more recent experience of the past year of working more closely with the USPS, I see no evidence that the EPM team has improved their technology management skills.⁴

If the USPS were to be the government body that regulates and certifies applications to the EPM licensing program, it would seem reasonable to expect the organization to demonstrate proficiency in judging quality. To the contrary,

³ Comments of the Information Assurance Consortium Regarding MC2008-1 9/30/2008 page 2

⁴ Statement of Rick Borgers on Behalf of the DigiStamp Inc. 7/30/2008 page 9

the record of the Docket has demonstrated only incompetence regarding the qualities of the EPM service.⁵

I want to reinforce at this stage in this review on nonpostal services that the EPM program is not analogous to putting the Postal Service brand name on an ink cartridge.

Simply, the audit of the quality of an ink cartridge requires far less rigor and expertise than that of a method for determining the security of electronic communications. Hypothetically, an ink cartridge could be considered of sufficient quality to bear the USPS name if it successfully ejects its ink contents onto a page in an accurate and precise manner. In contrast, a method of secure electronic communications could not be considered of sufficient quality to be trusted if it successfully conveys information to the recipient reliably. Functionality is not the purpose of secure communications.

The USPS lacks the technical expertise, and shows no intention of ever having such expertise, to determine if a method of electronic communication is secure. Such an inability to judge the security of an electronic form of communications means the backing of the USPS, and subsequently the federal government, would be given to licensees with no expectation that their product will serve the public. It seems likely to me that such incompetence in this ecommerce market would inevitably lead to an insecure product receiving the backing of federal law enforcement officers. This is clearly a hazard to the public.

I ask the Commissioners to consider "a few years from now." If the EPM program is allowed to continue, the public and legislators will realize that the USPS has

⁵ Dating back to the testimony of Mr. Foti in Docket C2004 and then detailed in this docket in the Statement of Rick Borgers on behalf of DigiStamp Inc. on July 30, 2008 section "The USPS EPM program has been hazardous to the public interests" pages 9-12

extended their federal authority and monopoly⁶ to the business of Internet communications; this was done against the better judgment of, well ... everybody except a few entrenched interests.

Respectfully submitted,

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⁶ Direct Testimony of Rick Borgers, on Behalf of DigiStamp, Inc. Docket No. C2004-2 4/17/2006 Page 8: The USPS has lobbied State legislators to recognize the EPM as a validator of communications. Such lobbying includes South Carolina, West Virginia, Maryland, Nebraska, Pennsylvania, and New Jersey. In the case of South Carolina, the USPS has already succeeded, with the South Carolina Uniform Electronic Transaction Act, which [these new laws] also *excludes any service provider other than the Postal Service and extends the government monopoly into an electronic communications market*