

BEFORE THE  
POSTAL REGULATORY COMMISSION  
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REVIEW OF NONPOSTAL SERVICES

Docket No. MC2008-1 (Phase II)

UNITED STATES POSTAL SERVICE RESPONSE TO PRESIDING  
OFFICER'S INFORMATION REQUEST NO. 1  
(April 3, 2009)

On March 23, 2009, the Commission issued Presiding Officer's Information Request (POIR) No. 1 in the above-captioned proceeding. The Postal Service hereby provides its responses. Each question is repeated verbatim and is followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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1. Are the Postal Service's ink fluorescence standards mandatory for all postage meter ink cartridges used by authorized postage meter manufacturers? If not, please explain.

**RESPONSE:**

Fluorescence is one method used to "face" mail pieces that go through the Postal Service's Advanced Facer Canceler System (AFCS) mail processing equipment. All mail items that go through this equipment must have a method to correctly align (or face) the mail piece. Mail items that typically go through this equipment are letters. Letters can be "faced" through fluorescence, phosphorescence (postage stamps have this chemical), or by applying a facing identification mark (FIM). See DMM 604.4.3.3(g).

Use of fluorescence is not mandatory for any postage meter or PC-Postage product, but it is an option available to provide the facing requirement. Postage meters have generally adopted the fluorescent ink method. The method used by PC-Postage depends on the mail item. If the mail item is a package or flat, a shipping label is generated and there are no requirements for "facing" compliance. For letters, if a PC-Postage customer prints postage directly on an envelope, the system will print a FIM in the correct area of the envelope, and if the customer prints postage on an adhesive label, fluorescent labels are required (that is, customers purchase labels that contain a fluorescent strip or coating, usually from the PC-Postage provider or one of its distributors).

As a final note, both Pitney Bowes and Neopost have meters in the market that, like PC-Postage, uses standard black ink. The mail that comes out of these systems either is presorted or is otherwise discounted, so that the mail enters the mail stream through a mail entry unit (bypassing the AFCS), or a FIM is printed.

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2. Please explain how the Postal Service enforces (or ensures compliance with) its ink fluorescence standards for postage meter ink cartridges used by authorized postage meter manufacturers.

**RESPONSE:**

The Postal Service does not regulate the manufacturing and distribution process for postage meter ink cartridges, nor does the Postal Service conduct audits or reviews on meter vendors' internal management of ink cartridges. In order to ensure that the fluorescence standards are met for mail processing purposes (i.e., the "facing" process discussed in the response to Question 1), the Postal Service generally requires the manufacturer, if the manufacturer informs the Postal Service that it has a new ink cartridge line or raw ink supplier, to perform a "2C light meter test." A 2C light meter is a device that is used to measure either fluorescence on meter strips or phosphorescence on postage stamps; the Postal Service has loaned these meters to all the postage meter vendors (as well as the PC-Postage providers). The manufacturer can also submit sample envelopes to the Postal Service, who will perform the same test. If the Postal Service discovers a significant amount of mail in the mail stream that is not being properly faced, the Postal Service deals directly with the customer by mail or phone contact, though this is a relatively rare occurrence.

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**3.** For each mailing and shipping product, please identify (by product) all Postal Service standards that relate to the Postal Service's processing of the mails, e.g., specifications for envelopes.

**RESPONSE:**

For the LePage's products relating to the mailing and shipping of parcels (i.e., Security Boxes, Shipping Boxes/Cartons, Bubble Wrap, Foam Sheets, Wrapping Paper, Labels, Packaging Paper, Stretch Wrap, and Tape), the relevant standards include the standards set forth in DMM 101, 102, 401, and 402 relating to parcels, and the additional physical standards relating to the classes of mail. For the LePage's products relating to the mailing and shipping of flats and letters (i.e., Envelopes, Labels, Mailers, and Tape), the relevant standards include the standards set forth in DMM 101, 102, 201, 202, 301, 302 and 401 relating to letters and flats, and the additional physical standards relating to the classes of mail.

For all of the products, the mailability standards of DMM 601 also apply.

For the meter cartridges, please see the answer to question 1 above.

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**4.** Are the Postal Service's standards for its mailing and shipping products, including those for ink fluorescence, adopted by the Postal Service in its sole discretion? If not, please explain.

**RESPONSE:**

The Postal Service adopts rules and regulations relating to mail processing based on its discretionary authority under section 401(2) of title 39.

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5. The following questions relate to the licensing of mailing and shipping products licensed by the Postal Service and sold, or to be sold, under the United States Postal Service brand through non-Postal Service retail channels.

a. Please identify each mailing and shipping product licensed by the Postal Service and sold, or to be sold, under the United States Postal Service brand through non-Postal Service retail channels that is related to operations of the Postal Service or to postal services in general, including postage scales, stamp dispensers, and other postal-related items.

b. For each item identified in response to subpart a, please provide the revenues received by the Postal Service in FY 2007 and FY 2008.

**RESPONSE:**

LePage's

In FY 2007, the Postal Service received the following royalties for mailing and shipping products licensed to and sold by LePage's:

<b>CATEGORY</b>	<b>ROYALTIES</b>
Bubble Pouches	\$2,181.71
Bubble Wrap	\$23,138.82
Envelopes	\$5,274.02
Foam Sheets	\$198.15
Kraft Wrapping Paper	\$12,127.90
Labels	\$5,175.47
Mailers	\$96,054.64
Packaging Paper	\$596.16
Security Boxes	\$3,880.25
Shipping Boxes/Cartons	\$11,562.67
Sticky Notes	\$1,105.63
Stretch Wrap	\$1,455.37
Tape	\$161,800.14
Displays with Multiple Items <sup>1</sup>	\$113,510.67
<b>TOTAL</b>	<b>\$438,511.60</b>

In FY 2008, the Postal Service received the following royalties for mailing and shipping products licensed to LePage's:

<sup>1</sup> LePage's bundles together a display case with the items listed above and sells them as a unit.



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6. Thuro identifies various Licensed Articles apparently produced by LePage's 2000, Inc. (LePage's). Supplemental Sworn Statement of Gary A. Thuro, January 30, 2009, at 2 (Thuro Statement).

- a. Does LePage's manufacture the Licensed Articles? If not, please explain.
- b. Does the packaging of each Licensed Article:
  - (i) Clearly identify the manufacturer? If not, why not?
  - (ii) Clearly identify the country of origin?
  - (iii) Indicate that the item is produced under license with the Postal Service or otherwise indicate that the Postal Service is the licensor? If not, why not?
- c. Please identify all other mail preparation Licensed Articles offered for sale by LePage's under the current license with the Postal Service.
- d. Please identify all other Licensed Articles that are not mail preparation items (such as mattress covers) offered for sale by LePage's under the current license with the Postal Service.

**RESPONSE:**

- a. LePage's manufactures the Licensed Articles.
- b. The packaging of each Licensed Article identifies LePage's as the manufacturer; identifies the country of origin; and indicates that the Postal Service is the licensor.
- c. See the response to Question 5.
- d. LePage's offers for sale the following non-mail preparation items under the Postal Service license:

Chair Covers  
Furniture Protectors  
Mattress Covers  
Moving Boxes  
Moving Kits  
Moving Tape  
Sofa Covers

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7. Thuro identifies various Licensed Articles apparently produced by Clover Technologies Group (Clover). *Id.*

- a. Does Clover manufacture the Licensed Articles? If not, please explain.
- b. Does the packaging of each Licensed Article:
  - (i) Clearly identify the manufacturer? If not, why not?
  - (ii) Clearly identify the country of origin?
  - (iii) Indicate that the item is produced under license with the Postal Service or otherwise indicate that the Postal Service is the licensor? If not, why not?
- c. Please identify all the "supplies...categorized as Mailing and Shipping Supplies." *Id.*
- d. Please identify all other Licensed Articles, if any, offered for sale by Clover under the current license with the Postal Service categorized as Mailing and Shipping Supplies.
- e. Other than the items identified in the Thuro Statement, please identify all other Licensed Articles that are not categorized as Mailing and Shipping Supplies offered for sale by Clover under the current license with the Postal Service.

**RESPONSE:**

- a. Clover does not manufacture the product. Clover has an exclusive agreement with Pinpoint who designs and manufactures this product line.
- b. (i) No. As a business practice, Clover does not indicate the manufacturer on the packaging for any of its products whether Clover manufactures the product or one of its partners does.

The packaging of the Postal Service-branded meter cartridge includes a trademark notice suited to the small size of the packaging. The language of the notices fulfills its function of protecting the Postal Service's marks.

Clover's practice of not including its name on the products is not uncommon. As a general rule and depending on the product or industry, manufacturers may or may not be identified on packaging.

- (ii) Yes. Clover's packaging identifies the origin as China.
- (iii) Yes. Please see the response to part (i).

c. and d. Postage meter cartridges and meter sealing solution.

e. Not applicable. Please see the Notice of the United States Postal Service Filing of the Amended pages of Supplemental Sworn Statement of Gary A. Thuro filed on March 20, 2009.

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8. Thuro identifies various Licensed Articles apparently produced by Measurement Limited (Measurement). *Id.* at 3.

- a. Does Measurement manufacture the Licensed Articles? If not, please explain.
- b. Does the packaging of each Licensed Article:
  - (i) Clearly identify the manufacturer? If not, why not?
  - (ii) Clearly identify the country of origin?
  - (iii) Indicate that the item is produced under license with the Postal Service or otherwise indicate that the Postal Service is the licensor? If not, why not?
- c. Please identify all other mail preparation Licensed Articles, if any, offered for sale by Measurement under the current license with the Postal Service.
- d. Other than the items identified in the Thuro Statement, please identify all other Licensed Articles that are not categorized as Mailing and Shipping Supplies offered for sale by Measurement under the current license with the Postal Service.

**RESPONSE:**

- a. Yes.
  - b.(i) Measurement Limited's name appears on the packaging, though it is not specifically identified as the "manufacturer."
  - (ii) Yes.
  - (iii) The Postal Service style guide for packaging specifies the use of the Officially Licensed Product (OLP) logo. The approval process requires submissions at various stages such as concept, copy, pre-press proof, packaging mock up and final packaging. The Logo was included and approved on all stages except the final production sample. The error was later identified and the licensee was directed to make the correction on all packaging for future production runs. Corrected packaging samples have been submitted.
- c. and d. The only licensed articles are the scales.

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9. Thuro identifies various Licensed Articles apparently produced by U.S. Stamp and Sign (U.S. Stamp). *Id.*

- a. Does U.S. Stamp manufacture the Licensed Articles? If not, please explain.
- b. Does the packaging of each Licensed Article:
  - (i) Clearly identify the manufacturer? If not, why not?
  - (ii) Clearly identify the country of origin?
  - (iii) Indicate that the item is produced under license with the Postal Service or otherwise indicate that the Postal Service is the licensor? If not, why not?
- c. Other than the items identified in the Thuro Statement, please identify all other Licensed Articles that are categorized as Mailing and Shipping Supplies offered for sale by U.S. Stamp under the current license with the Postal Service.
- d. Other than the items identified in the Thuro Statement, please identify all other Licensed Articles that are not categorized as Mailing and Shipping Supplies offered for sale by U.S. Stamp under the current license with the Postal Service.

**RESPONSE:**

- a. Yes.
- b.(i) The U.S. Stamp and Sign name is on the package, though it is not specifically identified as the "manufacturer."
- (ii) Yes.
- (iii) Yes.
- c. None
- d. None

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**10.** Thuro identifies various Licensed Articles apparently produced by Deluxe Enterprise Operations (Deluxe). *Id.* at 4.

- a. Does Deluxe manufacture the Licensed Articles? If not, please explain.
- b. Does the packaging of each Licensed Article:
  - (i) Clearly identify the manufacturer? If not, why not?
  - (ii) Clearly identify the country of origin?
  - (iii) Indicate that the item is produced under license with the Postal Service or otherwise indicate that the Postal Service is the licensor? If not, why not?
- c. Other than return labels, please identify all other Licensed Articles that are categorized as Mailing and Shipping Supplies offered for sale by Deluxe under the current license with the Postal Service.
- d. Other than the bank checks and checkbook covers, please identify all other Licensed Articles categorized as Stationery and Paper Goods offered for sale by Deluxe under the current license with the Postal Service.

**RESPONSE:**

The Licensed Articles are singles and duplicate checks, return address labels and checkbook covers. Deluxe Enterprise, also known as Direct Checks Unlimited, prints the American Heroes image on the articles. These are not products that are packaged or manufactured in the traditional sense.

- a. Yes, Deluxe Enterprise prints the licensed articles.
- b. The licensed articles are not packaged.
- c. The only licensed article that is a mailing or shipping supply is the American Heroes return address labels.
- d. Not applicable.

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11. Thuro states that "a postal-branded mailing or shipping item offers customers some measure of reassurance that they meet the Postal Service's standards for durability, legibility, and quality." *Id.* at 5.

- a. Please describe the Postal Service's standards for durability, legibility, and quality.
- b. Please explain how the Postal Service measures its standards for durability, legibility, and quality.
- c. Please state how frequently the Postal Service tests postal-branded mailing or shipping items for durability, legibility, and quality. If different items are tested more or less frequently, please explain how the appropriate schedules are determined.
- d. Please explain how the Postal Service enforces (or ensures compliance with) its standards for durability, legibility, and quality.
- e. Please discuss the actions the Postal Service has taken when it has determined its standards were not being met.
- f. Please identify each mailing and shipping item for which meeting the Postal Service's standards for durability, legibility, and quality are important for the Postal Service's receipt, processing, transportation or delivery of the mail.
- g. Do customers gain some measure of reassurance only if the packaging of the item appears to convey that the item is manufactured or licensed by the Postal Service? If not, please elaborate.

**RESPONSE:**

- a. and b. The Postal Service does not publish standards for the durability, legibility and quality of its licensed articles, beyond the regulations that govern mail preparation and physical standards of mail. It does, however, take numerous actions to ensure the quality of the products that bear its brand.

When the Postal Service decides to license product in a certain category, it conducts research to identify best-in-class licensees and completes a due diligence process to ensure that potential licensees are financially viable. Products already in the marketplace with a proven track record is another measure of quality. The best candidate companies are selected and approached about pursuing a license with the Postal Service.

Once the license agreement is negotiated, the Postal Service works closely with the licensee on product development. Products may be tested by the Postal Service's Engineering Office to ensure that they comply with Domestic Mail Manual (DMM) and mail processing machinability requirements. In the case of the Clover Technologies meter cartridges, testing of the florescence of the

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Clover ink samples was performed by the Meter Technologies group. The Postal Service may also request the licensee to provide the results of its internal product testing. In addition, the Postal Service licensing employees may make on-site visits to manufacturing facilities to ensure production quality. During the term of the license, the Postal Service licensing employees also may review the products by making on-site visits to retailers (e.g., Kmart, Office Depot, Walgreen's) to confirm that Postal Service licensed product is properly presented and regularly reset, so consumers will have a positive impression of the Postal Service brand.

- c. Licensed product and packaging is submitted for approval to the USPS Licensing program manager at each stage of development. The licensee is given approval to proceed to the next stage if the product meets the product quality and style guide specifications and other aesthetic attributes related to branding as determined by the program manager. During the term of the license, if the licensee wants to sell a new item that was not previously reviewed it must submit the item to the Postal Service for a quality review as described in the answer to parts a and b.
- d. The product approval process examines samples at every stage of product development. Please see the answer to parts a. and b. above.
- e. During the product approval process, a product that fails the quality review would not be allowed to be sold under the Postal Service's brand. It would need to be redesigned. If a branded product is found to be of poor quality, the license agreement gives the Postal Service the authority to order the removal of the product from the market place.
- f. Each licensed item categorized as a mailing and shipping product is designed to package, seal, protect, label or weigh mail pieces or to apply postage to mail pieces. It is important that these products function appropriately to ensure that the mail piece can be accepted, processed, handled and delivered to the addressee intact.
- g. The consumer's view of whether a product is of enough quality to purchase depends on a wide range of factors, such as where it is sold (for example, a customer may find a product acceptable if it is sold at a store he or she trusts, such as Staples). Certainly, licensees perceive that having the Postal Service brand placed on their products will have a positive effect on consumers' views. In particular, with respect to mailing and shipping supplies, customers will likely assume a certain level of quality and expertise with respect to products that bear the Postal Service's widely recognized and respected brand.

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**12.** What criteria (or standards) does the Postal Service apply to determine whether to license the use of the Postal Service's brand on items that are unrelated to the mails (such as mattress covers)?

**RESPONSE:**

The Postal Service when evaluating a prospective licensee prior to the execution of any agreement looks at four criteria:

- Their track record in the commercial marketplace as a licensee of a major brand
- Their product presence in established commercial channels
- Their current financial health and company history
- Consumer brand recognition

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**13.** Does the Postal Service offer any items for sale with prepaid mailers or with other types of postage prepaid packaging? If so, please describe.

**RESPONSE:**

The Postal Service sells various items that include prepaid postage, such as stamped envelopes, stamped stationery, stamped cards, and prepaid Express Mail and Priority Mail packaging. The Postal Service also sells various stationery kits, which include envelopes and stamps (though the stamps are not generally affixed to the envelopes), including the "Art of Disney: Magic, Stationery Kit," the "Art of Disney: Friendship Stationery" set, the "Our Wedding Stationery Set with Stamps," and the "Our Wedding Thank You Cards with Stamps."

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14. With respect to the sale of items by the Postal Service:

- a. Is it the Postal Service's position that it may sell any item as a postal service provided the item is sold with a stamped mailer on which a personalized message may be written? Please elaborate.
- b. Is it the Postal Service's position that it may sell any item as a postal service provided the item is sold at a retail postal facility including, without limitation, main post office, station, branch, or contract unit? Please elaborate.
- c. Is it the Postal Service's position that it may sell any item as a postal service provided the item is sold at a retail postal facility including, without limitation, main post office, station, branch, or contract unit with stamped packaging? Please elaborate.

**RESPONSE:**

- a. The Postal Service does not believe that it has the authority to sell any conceivable item through its retail channels as a "postal service" simply because the item is accompanied by a stamped mailer, including a stamped mailer on which a personalized message may be written. There may, however, be items that are appropriately considered "postal services" when sold in such a manner. The Postal Service does not currently sell any item which it claims is a "postal service" on this basis, nor is it asking the Commission in this proceeding, or in any other pending proceeding, to determine that an item is a "postal service" on this basis. In the context of any specific, concrete proposal, the Postal Service will consider its legal authority, and will make the appropriate filings with the Commission. As such, any determinations as to the scope of the Postal Service's authority in this regard should await a concrete proposal, rather than being discussed or decided in the abstract.
- b. No, it is not the Postal Service's position that an item is properly deemed a "postal service" under the statutory meaning of the term simply because the Postal Service wishes to sell that item through its retail channels.
- c. No. Please see the response to part (a).

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**15.** Is it the Postal Service's position that it may license any item for sale, e.g., shoes or golf clubs, as long as the item contains the Postal Service's brand? If so, please elaborate. If not, please discuss any limitations that may apply.

**RESPONSE:**

The Postal Service believes that it has the authority to license its intellectual property for use on commercial products manufactured and sold by other parties, in situations where the other party perceives a value to placing the Postal Service's brand on its products (and is thus willing to compensate the Postal Service for the right to do so), and where the Postal Service, in its business judgment, considers the licensing of its intellectual property on those products to be appropriate. For a discussion of the considerations that the Postal Service takes into account when exercising its business judgment in this regard, please see the response to Question 12.

The Postal Service also notes that Order No. 154 authorizes the Postal Service to continue licensing its brand for what the Commission terms "promotional" purposes (i.e., "commercial licenses unrelated to the Postal Service's operations"). See Order No. 154 at 72-74.

The sale of licensed articles by the Postal Service itself through its various channels, meanwhile, requires either that the article be considered a "postal service," or that it fall within the scope of a grandfathered nonpostal service (e.g., OLRP). Not every conceivable item would fall within these categories. As discussed in the response to Question 14, however, rather than discuss which specific items may fall outside of those categories in the abstract, considerations of the Postal Service's legal authority should be made in the context of concrete proposals.

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**16.** Aside from this proceeding, has the Postal Service received or been advised of any complaints concerning mailing and shipping products licensed by the United States Postal Service and sold through non-Postal Service retail channels from (a) manufacturers, (b) distributors, (c) retailers, and (d) the general public. If so, please describe the complaints and the Postal Service's response.

**RESPONSE:**

No.

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17. The Postal Service has sold in retail lobbies occasional CDs and DVDs tied to stamp releases, certain seasonal events, or part of a mutual brand placement arrangement. Supplemental Statement of Carrie A Bornitz on Behalf of the United States Postal Service, January 29, 2009, at 3.

- a. Does the Postal Service currently sell or plan to sell any CDs or DVDs that are not related to the sale of any stamp, seasonal event, or Postal Service event or ceremony? If so, please list the products, the dates of the sales, and locations where these items are sold.
- b. With respect to each CD and DVD listed in response to subpart a, if any, please indicate:
  - (i) Whether each is considered to be an Officially Licensed Retail Products (OLRP) product. If not, please explain.
  - (ii) Whether the packaging includes any indication that the item is sold by the Postal Service or sold under license from the Postal Service? Please explain.
  - (iii) If the packaging does not include any indication that the item is sold by the Postal Service or sold under license from the Postal Service, please explain how the sale of such items leverages the Postal Service brand.

**RESPONSE:**

- a. No.
- b. Not applicable.

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**18.** Bornitz indicates that the Postal Store (at USPS.com) offers some CDs and DVDs that are not within the OLRP program, and that the Postal Service plans to merge the merchandising strategy for these two channels in the future. *Id.*

- a. Please identify each similar item offered via the Postal Store that is not within the OLRP program.
- b. Please elaborate on plans to merge the merchandising strategy for the Postal Store and the OLRP program.

**RESPONSE:**

- a. This question omits a critical phrase from the Bornitz statement: the CDs and DVDs sold on Postal Store are not “within the OLRP program *that [she] manage[s].*” Supplemental Statement at 3 (emphasis added). Postal Store and retail lobby merchandising are managed by different functions within the Postal Service. However, all of the CDs and DVDs sold by the Postal Service, either through the Postal Store, or through its retail locations, fall within the scope of the OLRP program for regulatory purposes. The MCS language for OLRP is not limited by the channel in which the retail item is sold; instead, it covers retail merchandise sold through all Postal Store retail channels. Thus, as witness Bornitz states in her Supplemental Statement, the OLRP program as described in this proceeding “was intended to include all retail sales of merchandise through Postal Service channels, including the sale of recorded music.” *Id.* See also Order No. 154 at 49 n.11 (noting that OLRP products are sold through USPS.com).

Most of the CDs and DVDs sold on Postal Store are discussed in the statement of witness Bornitz. These are the Frank Sinatra “Nothing But the Best” CD, the “Milestones of the Civil Rights Movement” DVD, the “Ultimate Mancini” CD, the “Gospel Singers Stampfolio with CD,” the “Postal Service” band single CD, the “The States” miniseries DVD, and the “Benjamin Franklin” DVD. In addition to these items identified by witness Bornitz, Postal Store also sells two CDs containing versions of the song “Take Me Out to the Ballgame,” which was issued in conjunction with the “Take Me Out to the Ball Game” commemorative stamp.

- b. A team has been established to set and manage an overall merchandising strategy for the Postal Service, across all of the Postal Service’s various retail channels. In the past, the various channels (such as retail lobby marketing and the Postal Store) operated more independently of one another.