

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**RESPONSES OF MICHAEL PLUNKETT OF
THE UNITED STATES POSTAL SERVICE
TO INTERROGATORIES OF CAPITAL ONE SERVICES, INC.
(COS/USPS-77-81)
(May 11, 2009)**

The United States Postal Service hereby provides the responses of Michael Plunkett to the following interrogatories of Capital One Services, Inc., filed on April 20, 2009: COS/USPS-77-81.

Each interrogatory is stated verbatim, and is followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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May 11, 2009

RESPONSE OF MICHAEL K. PLUNKETT
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

COS/USPS-77. With respect to your response to COS/USPS-16(a-b), what criteria did you use to determine that "negotiations would be worthwhile."

RESPONSE:

In this context, negotiations would be considered worthwhile if they yielded a mutually beneficial agreement that the parties considered likely to succeed in the oversight process by the PRC.

RESPONSE OF MICHAEL K. PLUNKETT
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

COS/USPS-78. With respect to your response to COS/USPS-16(d), please list the criteria you used to determine whether a customer "was or was not a suitable candidate for NSA negotiations.

RESPONSE:

The criteria the Postal Service uses to judge the suitability of a given NSA candidate are set forth in the NSA handbook, DM-709-A.

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COS/USPS-79. With respect to your response to COS/USPS-16(d), please define the term "relevant issues" as it applies to a BAC-type NSA.

RESPONSE:

Relevant issues would include the economics of the agreement under consideration, and the probability of successful review in the oversight process, in the event an agreement can be reached.

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COS/USPS-80. With respect to your response to COS/USPS-16(e), while you were negotiating the BAC NSA with Bank of America, did you ever offer to negotiate with another mailer an NSA with the same functional terms? If so, please provide details and dates of that second negotiation. If your answer is no, please explain why.

RESPONSE:

No. Based on my understanding of Commission Opinion and Recommended Decisions, the Commission has expressed a preference for the need for more customer-specific data. In my estimation, even if we had concluded that an identical agreement reflected sound business judgment, it would have been unlikely to survive review in the external oversight process by the Commission. I would consider that a rote replication of the salient benchmarks in the BAC agreement to be contrary to the Postal Service's interests.

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COS/USPS-81. With Respect to your Response to COS/USPS-17, you state: "I am able to judge informally, that NSAs ought generally to have a minimal impact on the specific industries within which NSA customers operate."

- A. 1. Please provide all support for the quoted statement that you are aware of.
2. Please indicate the basis for your ability to "judge informally" to reach the conclusion expressed in that statement.
3. Please clarify whether you are speaking as an expert on the banking industry in this making statement.
- B. The quoted statement addresses the impact on "specific industries," rather than the effects of an NSA on "the NSA applicant's competitors... [and] on competition in the relevant industry." See Interrogatory COS/USPS-17.
1. Please indicate whether you agree that: "NSAs ought generally to have a minimal effect on the NSA applicant's competitors and on competition in the relevant industry."
2. Please provide all support that you are aware of for your agreement or disagreement with the statement in subpart B.1, immediately above.
3. Please clarify whether you are speaking as an expert on the banking industry in agreeing or disagreeing with the statement in subpart B.1.
- C. In your response to COS/USPS-17, you state "I have not conducted any formal studies of the kind suggested here.... I believe it is unlikely that an NSA would have significant competitive impact in that industry."
1. Please provide any informal study or analysis, of any kind, as described in COS/USPS-17.
2. If you are not aware of any such study or analysis, of any kind, formal or informal, please explain the basis for your belief that "it is unlikely that an NSA would have significant competitive impact in that industry."
3. Please clarify whether in making the statement in subpart C.2, you are speaking as an expert on the banking industry.
4. In the current economic crisis would the availability of not-insignificant sums of cash (i.e., millions of dollars) to one bank confer a competitive advantage to that bank over its competitors? Why or why not?

RESPONSE:

- A. See my response to COS/USPS-17. I do not consider myself an expert on the banking industry, however, I would note that by my estimation, the gross benefits that Bank of America will receive from this NSA are denominated in the millions of dollars, compared to Bank of America's current market value of

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more than \$52 billion, or the \$250 billion BAC was worth at the time the NSA was negotiated. Based on this proportionality, I judge the NSA impact to be quite small in comparison to the overall size of the corporation.

- B. I do not in any way consider myself an expert on the banking industry, but my belief is that any single NSA is unlikely to have any meaningful impact on the competitive fortunes of either an NSA participant or its direct competitors.
- C. See my response to subpart A. I have conducted no study; however, I believe that the impact of an NSA of this magnitude in the context of a large commercial bank to be quite small.