

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

COMPLAINT OF GAMEFLY, INC.)
) Docket No. C2009-1
)

MOTION OF THE UNITED STATES POSTAL SERVICE
FOR LATE ACCEPTANCE OF ITS RESPONSES
TO GFL/USPS-21
(October 22, 2009)

The Postal Service hereby moves for the late acceptance of its responses to the following interrogatory of GameFly, Inc.: GFL/USPS-21, filed on July 31, 2009. This response is being filed late due to the need for cross-functional consultation and coordination; the facts that operations staff, information technology staff, and legal staff all have other assignments beyond this docket, and many of those assignments also require substantial time and focus. Assembling the response was also challenging, as illustrated by the following three paragraphs pulled from the response itself:¹

Confirm scans are collected and provided to Confirm customers in near real time. The scale and volume of such scans precludes the Postal Service from retaining such information. However, the Postal Service did not object to GFL/USPS-21 because it expected that Confirm data could reasonably be harvested and supplied, although not retrospectively. Accordingly, after receiving the interrogatory, the Postal Service began to

¹ This explanation responds, in part, to footnote 1 in Presiding Officer's Ruling NoC2009-1 (October 16, 2009). While it is true that consideration of this footnote, and how to handle it herein, has added at least two days to the filing of a response to GFL/USPS-21, other interceding work—largely that of counsel—can not be counted in terms of “a specified number of days” beyond the simple observation that this response is 41 days late.

explore how to harvest the data and make them useful for this proceeding's purposes. Had counsel known then what is now, the interrogatory would likely have drawn an objection based on the burden (especially with respect to GameFly's own data which it can presumably provide at any time it chooses to do so.)

An attempt to copy scan data files for GameFly, Blockbuster and Netflix manually proved a lot more daunting than expected. Each of these mailers is provided files transferred via FTP (file transfer protocol). GameFly, for example, gets four files per hour, a total of approximately 1000 files during the mid-September data collection period. Blockbuster gets only four files via FTP per day, while Netflix gets just a single, extremely large file per day.

A variety of problems were encountered. First, the volume of scans for these three mailers is such that even when collecting scan data for only a few days, the volume of scan data quickly approaches the capacity of a full hard drive. Second, an early collection of scans proved not to be in a form that operations staff could use to distinguish respective mailers. Third, the data needed to be translated so that the mail processing machine used to process mail pieces and the associated operations code were mapped either to the flats or letters mail streams. Fourth, a method of sampling was developed so that the full range of file sizes for respective mailers (small, medium, large) was selected for inclusion. Fifth, Presiding Officer's Ruling No. 5 directed that only inbound (Origin Confirm) scans need be supplied, so data for Netflix then were excluded. Finally, both undersigned counsel and the operations and information technology personnel who worked with the scan data have a host of other responsibilities that go beyond this single interrogatory or docket. As such, the time available to work on the scan data and this response was limited.

The response to GFL/USPS-21, and its related application for nonpublic treatment and motion for late acceptance could not be completed until now, complicated as they were by the press of other business in this and other proceedings. The Postal Service regrets the delay, believes no prejudice arises from the delay, has already described this response and its limitations to counsel for GameFly, and continues work on other pending matters.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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