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

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

**MOTION OF GAMEFLY, INC.,
TO EXTEND PROCEDURAL SCHEDULE
(October 30, 2009)**

GameFly, Inc. ("GameFly") respectfully moves for a further extension of the filing date for GameFly's direct case from Monday, November 2, 2009, until Wednesday, December 2. The Postal Service has authorized us to state that it does not oppose the requested extension.

In further support thereof, GameFly respectfully states as follows:

(1)   While the Postal Service has been working off the backlog of overdue discovery responses, several dozen of GameFly's discovery requests still remain unanswered. Most of these unanswered questions were served by GameFly more than five weeks ago. Some were part of GameFly's very first set of discovery requests, filed on July 31.

(2)   For many of the questions to which the Postal Service has provided answers, the answers are still incomplete. In particular, the Postal Service informed GameFly in mid-September that thousands of emails responsive to GameFly's first set of discovery requests (served on the Postal Service on July 31) had not been produced because the search terms devised by the Postal Service generated too many hits. The

Postal Service asked GameFly to propose alternative Boolean search terms that might retrieve a more manageable number of documents. GameFly did so on September 24. Approximately one week ago, the Postal Service informed GameFly that the alternative search terms also produced too many responsive documents. The Postal Service has been cooperative in seeking to resolve this issue, but GameFly will need time to review the documents, and possibly submit follow-up questions, once the documents are produced.

(3) Presiding Officer's Ruling No. C2009-1/5, which compelled the Postal Service to provide more information about Netflix-only drop slots in response to GFL/USPS-28 and 31, directed the parties to meet and confer on the design of an appropriate sample of post offices to survey. The Postal Service proposed earlier this month that its consultant Christensen Associates draw up a sample for GameFly's review. GameFly agreed to this procedure. We look forward to seeing the proposed sample.

(4) On October 22, in response to Presiding Officer's Ruling No. C2009-1/5 (September 28, 2009) at 14-15, which directed the Postal Service to produce certain scan data sought by GameFly in GFL/USPS-21, the Postal Service produced a summary of Confirm data, but none of the underlying data. The Postal Service now contends that the underlying data are too voluminous to produce. GameFly and the Postal Service are attempting to work out a resolution of this issue.

(5) On October 13, GameFly moved to compel Postal Service responses to several discovery requests originally served upon the Postal Service on September 18. *See* Motion Of Gamefly, Inc., To Compel The Postal Service To Answer Discovery

Requests GFL/USPS-84, 85, 99, 100, 109, 117, 122, 151 AND 152(d). The Postal Service filed a partial opposition to the motion on October 20. The motion and opposition are currently pending before the Commission.

(6)   On September 25, GameFly moved to unseal certain documents that the Postal Service had produced in discovery under seal. The Postal Service and Blockbuster filed oppositions on October 19. GameFly filed a rejoinder on October 27. The Commission presumably will need some time to issue a ruling on the motion to unseal. If the ruling grants the motion in whole or in part, GameFly's counsel would like an opportunity thereafter to review the unsealed documents with GameFly's senior management before the company's direct case is finalized and filed.

CONCLUSION

For the reasons stated above, GameFly requests that the Presiding Officer extend the filing date for GameFly's direct case until December 2, 2009.

Respectfully submitted,

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October 30, 2009