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Hon. Shoshana M. Grove, Secretary  
Postal Regulatory Commission  
901 New York Avenue N.W., Suite 200  
Washington, D.C. 20268-0001

Re: Docket No. C2009-1, *Complaint of GameFly, Inc.*

Dear Secretary Grove:

Pursuant to 39 C.F.R. § 3001.20b and Ordering Paragraph 3 of Presiding Officer's Ruling No. C2009-1/12, please accept this letter as the comments of John A. Branda on the standards noticed for comment in that Ruling. In support thereof, Mr. Branda respectfully states as follows:

(1) Mr. Branda is a 58-year-old individual who is a resident of Spokane Valley, Washington. Between 1999 and 2007, Mr. Branda was an employee of the United States Postal Service. During the last 8 years of his employment, he was [job title] at the [facility] in Spokane, Washington. This facility is the primary Postal Service facility that sends and receives mail via the Spokane Airport.

(2) On the evening of July 17<sup>th</sup>, 2007, Mr. Branda was on duty as supervisor of the Postal Service's inbound bulk mail receiving area in the Spokane facility. In that capacity, he was responsible supervising the acceptance of bulk mail and packages, and their movement to the interior of the processing center by 6:30 pm Pacific time.

(3) Several minutes after 6 pm, a Netflix truck arrived at the facility with more than 20,000 DVDs that had been handled at a nearby Netflix shipping center. This was 3 minutes after the cutoff established by the management of the facility for acceptance of this kind of bulk mail. Two other late-arriving customers had arrived just ahead of the Netflix truck. Mr. Branda informed the drivers of all three vehicles that they had missed the cutoff for acceptance that evening. The truck itself was not even unloaded. The pieces of mail were on a hand truck

(4) After finishing his tour of duty, Mr. Branda went home. Later that evening, he received phone calls from a Netflix employee, and then a Netflix executive, demanding that he order the mail processing center to accept the DVDs for processing that night. When Mr. Branda declined to do so, the Netflix executive told him that Netflix intended to "escalate" the incident, and there would be serious consequences.

(5) On the following day, Mr. Branda's superiors placed him on administrative leave. On July 19<sup>th</sup>, 2007, the Postal Service officially terminated his employment. He had had no previous incidents of discipline by the Postal Service.

(6) Mr. Branda has filed suit against the Postal Service for Termination outside of the Public Interest

(7) The wrongful termination suit illustrates the public interest in the fullest possible unsealing of the information produced by the Postal Service in discovery in Docket No. C2009-1, *Complaint of GameFly, Inc.* Whether the Postal Service has a secret policy of preferential treatment for Netflix is likely to be a central issue in Mr. Branda's lawsuit. Individuals like Mr. Branda, however, lack the deep pockets needed to engage in protracted discovery battles against an entity as large as the Postal Service. Keeping evidence of the Postal Service's actual policies regarding Netflix would enable the Postal Service to keep small plaintiffs like Mr. Branda isolated and ignorant about the extent of the Postal Service's preferences for Netflix, and seriously undermine the ability of terminated employees like Mr. Branda to pursue their day in court.

(8) Mr. Branda obviously does not ask the Commission to form an opinion, even tentatively, about the merits of his claim against the Postal Service. That is the responsibility of the courts in Washington State. But the public interest would be served if the Commission made public all information in C2009-1 that can legitimately be made public, so that non-affluent individuals like Mr. Branda can pursue their claims on a level playing field, and do not have to squander resources relitigating discovery of documents and information that should be made public for all.

Respectfully submitted,

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