

Butler Mailing Services, Inc.

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December 9, 2009

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:

My name is Todd Butler. I am president of Butler Mailing Services, Inc., 9060 Sutton Place, Hamilton, OH 45011. In accordance with Ordering Paragraph 3 of Presiding Officer's Ruling No. C2009-1/12 in Docket No. C2009-1, *Complaint of GameFly, Inc.*, I urge the Commission to unseal as many of the documents filed under seal in this case as possible.

Butler Mailing Services, Inc. has been providing traditional letter shop services to mailers since 1983. More recently, we have developed and patented advanced technologies for CD/DVD mailers that are designed to provide economical distribution of optical discs, while minimizing their breakage by most of the USPS's automated mail processing equipment. We have over 45 CD/ DVD mail piece designs that have been approved for automated letter processing by the Postal Service.

Like many in the DVD rental and mailing industries, I have long been concerned by (1) the relatively high breakage rates of DVDs on certain pieces of automated letter mail processing equipment. (2) The elaborate workarounds and added costs small DVD rental companies are burdened with to minimize Postal Service equipment caused breakage. (3) The special manual processing that two large DVD rental companies (Netflix and Block Buster), have received from the Postal Service resulting in significant (millions of dollars) cost savings to them. (4) The inability of other DVD rental companies and small one way disc mailers to obtain the same preferential treatment.

Unlike GameFly, Inc., my company and our customers lack the resources to pursue litigation against the Postal Service over these issues. Instead, we have monitored the proceedings in Docket No. C2009-1 in the hope of discovering cost-effective opportunities utilizing current postal procedures and policies which were established to reduce disc breakage rates for the two largest mailers of optical discs. Small, start-up rental companies are incurring devastating costs to either replace broken discs or massive postage and packaging costs in an attempt to protect their discs from breakage. All disc mailers need the same relief Netflix and Block Buster have been able to secure from the Postal Service.

Unfortunately, a high percentage of the pleadings, discovery responses and other documents filed in this case have been filed under seal preventing us from reviewing what special services the USPS is providing selective companies in the disc mail industry. This secrecy has effectively prevented my small company and other competitors in the DVD mailing industry from verifying (1) whether the Postal Service is discriminating against us, (2) whether there is any valid justification for this discrimination, and (3) whether the discrimination could be remedied in such a way that Butler Mailing Services and other companies could participate in the procedures initiated by the USPS on behalf of Netflix and Block Buster to reduce their DVD breakage.

If we can not see what is going on in the proceedings, without being bankrupted by the legal system and Commission proceedings, we can not defend our rights! If this information is not released, the Commission will be guilty of what GameFly is accusing the Postal Service, favoritism. It will be favoritism for big government, big corporations, and expensive lawyers with small companies like mine, that can not afford the cost of entry, being *totally* excluded from the table in what is supposed to be an open process! What are the Commission, the Postal Service, and these big corporations hiding behind their impenetrable legal stone wall? The fact that these two companies are getting special processing has been obvious for years and is not a secret!

Some in our industry feel that these two big corporations are getting special treatment because they are big customers and the USPS wants to grow their business. I believe the USPS should be promoting disc mail as an industry with industry friendly policies, not picking the two biggest as the only one's worthy of support.

If we had a better sense of the facts and issues in this case, we could make better informed decisions about whether to pursue relief through the Commission, as GameFly has done. It is also likely that we could better help mailers—and the Postal Service—to refine their mail piece designs and postal processing procedures to reduced DVD breakage rates. A reduction in DVD breakage rates would make the disc mail a more

attractive medium of communication by mail. And that in turn would increase the volume and revenue for the Postal Service.

For these reasons, I respectfully request on behalf of Butler Mailing Services, Inc., that the Commission order the documents produced in this case to be unsealed to the maximum extent possible.

Very truly yours,

Todd Butler
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Making postal delivery, *an interactive multimedia experience!*