

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

COMPLAINT OF GAMEFLY, INC.

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Docket No. C2009-1

**REPLY OF GAMEFLY, INC.,  
TO “RESPONSE” OF NETFLIX TO GAMEFLY COMMENTS  
ON PRESIDING OFFICER’S RULING NO. C2009-1/12  
(December 23, 2009)**

GameFly, Inc. (“GameFly”) respectfully submits this reply to the December 17 “Response” of Netflix to the December 9 comments of GameFly on Presiding Officer’s Ruling No. C2009-1/12.

The main thrust of Netflix’ pleading—to defend Netflix against GameFly’s supposed claim that Netflix has opposed the unsealing of protected material in this docket—is surprising. GameFly has not contended, and does not contend, that Netflix has mounted any such opposition. To the contrary, GameFly *agrees* with Netflix that it (1) has *not* intervened in the case, (2) has “never opposed the unsealing of any materials in this proceeding,” and (3) has “never argued that their publication would result in any injury to Netflix.” That is GameFly’s very point. If Netflix, which knows its own interests better than the Postal Service does, is willing to have the sealed documents relating to Netflix made public, the Postal Service’s derivative objections to disclosure on behalf of Netflix should be given no weight. See Rejoinder of GameFly to Oppositions (Oct. 26, 2009) at 2-3 (“*Netflix did not file an opposition to GameFly’s motion*”) (emphasis in original); *id.* at 13-16; Comments of GameFly in Response to

POR-12 (Dec. 9, 2009) at 1-2 (noting that Netflix did not oppose unsealing) and 9 n.1 (noting that Netflix has “made no showing of competitive injury” and “has not sought to block the unsealing of any documents involving the company”).

GameFly’s reference to Netflix as a “putative” beneficiary of keeping Netflix-related documents under seal is in the same vein. Cf. Netflix Response at 1 (citing GameFly Comments at 1). Netflix is a putative beneficiary of continued secrecy *according to the Postal Service*. Netflix itself has not sought continued secrecy for the documents.

Respectfully submitted,

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