

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Mail Classification Schedule Language  
For Nonpostal Services

Docket No. MC2010-24

PUBLIC REPRESENTATIVE COMMENTS  
IN RESPONSE TO ORDER No. 457  
(June 4, 2010)

This consolidated docket was established on May 7, 2010, to consider Mail Classification Schedule (MCS) language for nonpostal services.<sup>1</sup> Three separate Postal Service pleadings are the subject of this proceeding. The first pleading was filed November 7, 2008, in response to Order No. 120.<sup>2</sup> The second pleading was filed March 10, 2009, in response to Order No. 154.<sup>3</sup> The third pleading was filed April 26, 2010, in response to Order No. 154.<sup>4</sup> MCS language for a total of 12 nonpostal services is at issue in this docket. The Public Representative proposes additional language for one of these services (Electronic Postmark). The Public Representative also notes that some “realigned” services have received generic titles and descriptions. These generic titles and descriptions have the effect of enlarging the scope of some services beyond what the Commission originally approved.

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<sup>1</sup> Notice and Order Concerning Mail Classification Schedule Language for Nonpostal Services, Order No. 457, May 7, 2010.

<sup>2</sup> United States Postal Service Notice of Filing of Proposed Mail Classification Schedule Language for Six Nonpostal Services Pursuant to Order No. 120, November 7, 2008. This pleading contains proposed MCS language for six products, two of which have since been rejected by the Commission.

<sup>3</sup> United States Postal Service Notice of Filing of Proposed Mail Classification Schedule Language for Nonpostal Activities in Response to Order No. 154, March 10, 2009. This pleading contains proposed MCS language for eight services.

<sup>4</sup> Notice of the United States Postal Service of Amendment to Mail Classification Schedule Language for Nonpostal Activities Required to Be Filed by Order No. 154, April 26, 2010. This pleading contains an amendment to proposed MCS language in the March 10, 2009, pleading for fulfillment of philatelic orders.

*Alliances with the Private Sector to Defray Cost of Key Postal Functions.* This proposed service results from grouping together two services approved by the Commission in Order No. 154. Those services were “MoverSource” and “WhitePages.” MoverSource was explicitly approved by the Commission in Order No. 154, Appendix I, Part B as a market dominant service.<sup>5</sup> WhitePages is not mentioned in Order No. 154. It apparently was part of a *competitive* service approved by the Commission.<sup>6</sup> According to the Postal Service, “The costs [of MoverSource and WhitePages] are defrayed through advertising that is solicited by the private sector entity. Any revenues in excess of the costs of the alliance are shared between the entity and the Postal Service.”<sup>7</sup> The unifying characteristic of these two services appears to be the source of revenues—namely, advertising. Accordingly, the Public Representative proposes including these services in the category “Advertising,” discussed below.

*USPS Electronic Postmark.* The proposed language for Electronic Postmark (EPM) service<sup>8</sup> omits an important feature. According to AuthentiDate (the only EPM vendor appearing on the Postal Service’s web site<sup>9</sup>), “The USPS® defines and maintains the technical and operational standards for USPS EPM Service Providers. The USPS® also provides emergency backup support to verify any EPM seals issued by an authorized EPM Service Provider.”<sup>10</sup> The provision of “backup support” appears to be an important element of EPM service. According to the Postal Service, “The Postal Service receives on a regular basis and maintains information from any licensee that could be used to build a backup verification service for EPMs in the event that licensee

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<sup>5</sup> Docket No. MC2008-1, Errata Notice, January 9, 2009, at 2.

<sup>6</sup> “[MoverSource] shares similar essential features with WhitePages, a web affiliate agreement which is part of a separate “nonpostal service” listing in Order No. 154.” March 10, 2009, Notice at 6. The reference to “web affiliate agreement” appears to refer to one of two competitive services approved by the Commission: “Affiliates for Website” or “Affiliates—Other (Linking Only).” See January 9, 2009, Errata Notice at 2.

<sup>7</sup> March 10, 2009, Notice at 7.

<sup>8</sup> November 7, 2008, Notice at 5.

<sup>9</sup> <http://www.usps.com/electronicpostmark/welcome.htm>, as viewed May 28, 2009.

<sup>10</sup> <http://www.authentidate.com/index.php/content/view/380/> as viewed June 1, 2010.

no longer performs that service.”<sup>11</sup> The Public Representative proposes that the following language be added to the MCS description of EPM.

The Postal Service has the ability to create a backup verification service for EPMs in the event that a licensee no longer provides that service.

*Advertising.* The Postal Service has proposed MCS language for a service called “Advertising.” This service derives from a “realignment” of three Commission-approved services: “Affiliates for Websites,” “Affiliates—Other (Linking Only),” and “Meter Manufacturers Marketing Program.”<sup>12</sup> The proposed MCS language includes the statement that “advertising may be placed or provided on the Postal Service’s website, in retail locations, *or other postal venues.*”<sup>13</sup> The italicized words expand this service beyond what the Commission approved in Order No. 154. The Postal Service claims that this language “is more appropriate than creating separate MCS language for advertising activities based on where the advertising appears . . . .”<sup>14</sup> Unfortunately, the only advertising discussed in Order No. 154 was advertising on or linked to the Postal Service’s website or advertising in retail locations. The Public Representative proposes removing the “other postal venues” language from the MCS. This language creates a loophole big enough to drive a truck (with advertising on it) through.

*Mail Services Promotion.* The Postal Service has created this category by grouping three services that the Commission approved as “affiliate linking agreements.”<sup>15</sup> The services are Click2Mail, Premium Postcard, and CardStore.<sup>16</sup> Apparently, the unifying characteristic of these services is that “[i]n exchange for compensation, the Postal Service advertises the merchant’s products or services and may actively promote them.”<sup>17</sup> It is not clear how “actively promote” differs from

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<sup>11</sup> Docket No. MC2008-1, Initial Brief of the United States Postal Service, September 10, 2008, at 86-87 (citation omitted).

<sup>12</sup> See March 10, 2009, Notice at 7-9. See also Order No. 154 at 66-67, 77-79, and App. I, Part B at 2 (as amended January 9, 2009).

<sup>13</sup> March 10 Notice at 14 (emphasis added).

<sup>14</sup> *Id.* at 5.

<sup>15</sup> Order No. 154 at 77-78.

<sup>16</sup> March 10 Notice at 8.

<sup>17</sup> *Id.* at 15.

“advertise.” However, it does appear that the Postal Service intends, as with Advertising, to expand the scope of the category beyond what was discussed and approved in Order No. 154. The Postal Service has stated, “If the Postal Service enters into new agreements that involve advertising and the possible active promotion of mail services and products, *whether on the web or in other venues*, it would be covered in the MCS under this category.”<sup>18</sup> The Commission only discussed these services in the context of web linking. No “other venues” were considered. The Public Representative proposes that these services be included with Advertising, above.

*Leasing, Licensing and Other Non-Sale Disposal of Tangible Property.* This category combines two services approved by the Commission (“FedEx Drop Box” and “Non-Sale Lease Agreements”) with a new service never discussed by the Commission (“rental of personal property”).<sup>19</sup> The merger of FedEx Drop Box and Non-Sale Lease Agreements is logical, since both involve real property. However, there is no basis for grandfathering the leasing of personal property. Nothing in Order No. 154 indicates that the Commission considered allowing the Postal Service to rent out cars, trucks, or computers. Absent evidence that the Postal Service was leasing out personal property on January 1, 2006, the Commission should restrict this proposed category to real property. See 39 U.S.C. 404(e)(2).

Respectfully submitted,

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<sup>18</sup> *Id.* at 8 (emphasis added).

<sup>19</sup> *Id.* at 10.