

POSTAL REGULATORY COMMISSION

In the Matter of:)
)
COMPLAINT OF GAMEFLY, INC.) Docket No.: C2009-1

Main Hearing Room
Postal Regulatory Commission
901 New York Avenue, N.W.
Washington, D.C.

Volume 9
Tuesday, October 5, 2010

The above-entitled matter came on for a
hearing, pursuant to notice, at 9:40 a.m.

BEFORE:

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HON. TONY HAMMOND, Vice Chairman
HON. NANCI E. LANGLEY, Commissioner
HON. MARK ACTON, Commissioner

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1 like to add to this document?

2 A Yes, one minor correction.

3 Q Could you please describe where you would
4 like to make that correction?

5 A On page 8 of the original testimony, lines
6 19 and 22. I have on here "destined for Los Angeles",
7 and it is actually "destined for Long Beach", and is
8 repeated on line 22.

9 Q Including these corrections, if you were to
10 testify today would the content of this document be
11 the same?

12 A Yes.

13 MR. MECONE: Okay. Presiding Officer, the
14 Postal Service requests that you move into evidence
15 the direct testimony of Larry J. Belair on behalf of
16 the United States Postal Service.

17 MR. HOLLIES: No objection.

18 COMMISSIONER BLAIR: It is so moved. It
19 will be included in the record, and the direct
20 testimony of Mr. Belair on behalf of the Postal
21 Service is now received into evidence.

22 (The document referred to was
23 marked for identification as
24 exhibit USPS-T-2 and was
25 received in evidence.)

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USPS-T-2

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

COMPLAINT OF GAMEFLY, INC.

Docket No. C2009-1

**DIRECT TESTIMONY OF
LARRY J. BELAIR
ON BEHALF OF THE
UNITED STATES POSTAL SERVICE**

As Supplemented on August 6, 2010

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Autobiographical Sketch

My name is Larry J. Belair. Since December 2009, I have served as Senior Plant Manager for the United States Postal Service, San Diego District. My responsibilities include the administration of policy and program oversight for mail processing operations within the San Diego District, which includes two processing and distributions centers, one processing and distribution facility, one independent delivery distribution center, and approximately 2000 employees.

A second generation postal employee, I began my career in 1994 as a Parcel Post Distribution Machine Operator at the Minneapolis Processing and Distribution Center. Over the past 16 years, I have served in a variety of leadership positions including, most recently, Manager, In-Plant Support Pacific Area; Manager, In-Plant Support Saint Paul P&DC; and Manager, Distribution Operations at Minneapolis P&DC.

I studied Economics, and Housing in Urban Studies, at the University of Minnesota-Minneapolis and St. John's University in Collegeville, MN. I have participated in the Advanced Leadership Program (ALP) and Executive Leadership Program (ELP) sponsored by the United States Postal Service.

As Manager, In-Plant Support for the Pacific Area, I had the responsibility to review, initiate and implement measures that enhance cost savings, operational efficiency, and process improvement with the goal of providing premier, cost effective service to customers while strengthening the value of all postal product lines. Led by the Pacific Area Manager of Operations Support, we achieved these objectives by working closely with District and local leadership

teams representing field operations management. We fostered collaboration among field operations and Operational Industrial Engineers (OIEs), using Lean Six Sigma (LSS) principles to identify mail flow improvements for each district and actively tracking progress toward goals, thereby maximizing performance.

The development and empowerment of District and local leadership teams increased employee commitment to efficient customer service through improved operational practices. Some key successes included the centralization and development of standardized web applications, field strategy development related to cost reductions and improved operational efficiencies (e.g., overtime usage, complement control, budget targets, service performance goals, mail conditions, percentage of mail to service standard in delivery, DPS percentages and manual mail percentages), and Senior Operations Manager (SOM) training material. I also facilitated the development and implementation of field operations training that encourages employee responsibility for identifying and implementing cost reduction and service improvement strategies. The success of field operations collaboration and use of LSS principles helped rank the Pacific Area number one nationally in (1) tour compression (*i.e.*, reducing workhours during non-peak timeframes) and employee migration to tour hours when more mail was "in-house"; (2) automated flat processing; (3) reducing the amount of legacy (and aging) Mail Processing Equipment; (4) Lean Six Sigma certified staff; and (5) reducing within plant Function 1 workhours compared to SPLY--in fact for two consecutive years. These activities resulted in an operational cost savings of more than \$150 million for the Postal Service.

As Senior Plant Manger of the San Diego District, I continue working with field and area associates on cost reduction, operational improvements and superior customer service. I actively engage my employees with collaborative processes that encourage participation in strategic planning and reliance upon the expertise of seasoned operations managers, OIEs, and LSS subject matter experts. As a result, field managers drive process development, compliance with operational standards, resource management and service improvement.

The continuance and further development of these strategies have ranked San Diego District Plants: (1) number two nationally (of 79 districts) year-to-date in Voice of the Employee survey; (2) number one in Pacific Area and top five nationally in 2-Day EXFC (External First-Class Mail measurement); (3) number one in Pacific Area and top five nationally in 3-Day EXFC service; (4) number two in Pacific Area and top 10 nationally within combined Delivery Confirmation Priority Mail Retail; (5) number one in Pacific Area and 10 nationally in Priority Mail Open and Distribute (PMOD), and finally (6) number one in Pacific Area in overtime avoidance. Those national performance indicators speak to the dedication, commitment, and teamwork I and my team bring to work each day to capture efficiencies and provide exceptional customer service.

1 **1. Purpose of Testimony.**

2
3 The purpose of my testimony is to provide an overview of how and why letter and
4 flat shaped mail containing a DVD is processed both on the outbound trip from a DVD
5 round trip mailer to customers and then inbound from customers back to a mailer's
6 processing facility. My experience with the Postal Service ranges from a position as a
7 front line manager to an operations executive (and is detailed above). That experience
8 makes me an expert on the flow of DVDs through the mail and able to explain why
9 various operational activities are undertaken for DVD mail.

10 I served as a front line manager of distribution and processing operations when
11 the DVD market began to develop. I am uniquely situated, because of my experience
12 managing operations and resolving challenges with a wide variety of customers, and
13 therefore able to provide insight on how general changes in the mail mix affect postal
14 operations, and how operations change when machinery is deployed or customer
15 mailing patterns shift. For example, in early 2000, as an operations manager in
16 Minneapolis, we averaged one tray of outgoing Netflix mail per day. When I left
17 Minneapolis, we were averaging more than one hundred trays per day. And that meant
18 managing the same growth in return volume.

19 As a hands on manager, I have learned from my experience and that of my
20 colleagues. Under the leadership of the Postmaster General and the Deputy
21 Postmaster General, we have cut costs saving millions of workhours while improving
22 efficiency and maintaining service to the American people. I can accordingly explain
23 how and why local decisions are made in mail processing operations every day.
24 Specific decisions may be prompted by reviewing available data and identifying where

1 operational improvement is needed. Sometimes change evolves through trial and error,
2 while other change may derive from the benefit of a colleague's experience or a
3 suggestion from a senior manager. I also interact with customers, who may bring some
4 issue to my attention that, upon examination, can lead to an operational change.
5 Issues, challenges, or concerns brought to our attention from any of these sources
6 constitute opportunities. Typically, we work collectively through issues brought to our
7 attention to determine whether some change is appropriate. Such is the nature of the
8 work in operations. This process of analyzing and reacting to change can be used to
9 explain the various ways in which DVD mail is processed today.

10 **2. Are you familiar with the mailing practices of companies that**
11 **rent DVDs to their customers through the mail?**
12

13 Yes, I am aware various DVD mailers utilize the Postal Service within their
14 supply chain to provide transport of DVDs to and from their fulfillment and return
15 centers. Both Netflix and GameFly have their corporate headquarters in California, so I
16 have had interaction with representatives of both companies. It has been my
17 experience that GameFly infrequently requests meetings with postal managers, even at
18 the area office level, meeting with us once or twice a year. It is my understanding that
19 GameFly manages their service requests through their Business Service Network
20 (BSN) representatives. Netflix has requested meetings with area and local postal
21 managers more frequently, which I expect may be related to the number of distribution
22 centers they have around the country. It should be noted that both GameFly and Netflix
23 have former Postal Service executives in their organizations and both take advantage of
24 that postal talent and knowledge.

25

1 **3. From a Postal Service operations perspective, please describe**
2 **generally how DVD mail enters the postal system, both outbound**
3 **from the DVD rental company to a customer and inbound from**
4 **customer back to the DVD rental company, and how it is processed**
5 **through the mail. Please explain any significant variations in**
6 **patterns of mail processing that might arise and what effects such**
7 **processing may have on the DVD mail.**

8
9 Outbound DVDs, which may be letter shaped (Netflix, Blockbuster and other
10 DVD mailers) or flat shaped (GameFly alone) are tendered to postal facilities at different
11 levels of presort, such as 5-digit, 3-digit, SCF and Mixed (or residual) mail. Depending
12 on the presort level of the handling unit (letter or flat tray), the contents may be sorted at
13 origin to the destination facility, or the handling unit itself is transported to destination.
14 The pieces are processed in the most efficient manner possible, based on shape, size,
15 weight, mail class and mailer requests. Once mail arrives at the destination facility,
16 specific steps include 3- and 5-digit destinating letter trays or to a lesser extent flats in
17 flats trays (tubs) prepared by the mailer are then processed on automation equipment.
18 For example, letter-shape DVDs are processed on letter-sorting equipment such as
19 Delivery Barcode Sorters (DBCS) and merged with other letters in the delivery point
20 sequence (DPS) environment. DPS is dispatched daily to the customer service
21 operation for delivery (usually) by a letter carrier. Conversely, 3- and 5-digit destinating
22 volume in flat tubs prepared by the mailer is processed on Automated Flat Sorting
23 Machines (AFSM 100s) and merged with other flats into a carrier-route sort. Such
24 volume is dispatched daily to the customer service operation for distribution mail clerks
25 to disperse to letter carriers who then place flats into delivery sequence order for
26 delivery. With the introduction of the Flats Sequencing Systems (FSS), flats can also be
27 sorted via automation into delivery sequence order.

1 Return DVDs are mailed in an envelope provided by the DVD rental company;
2 renters enter such pieces into the mail any way they choose, including blue collection
3 boxes, delivery receptacles at the customer's residence or business, at a Post Office
4 retail counter or collection chute, by giving it to a postal employee, or various other
5 ways. Many inbound DVD mailpieces begin their return from the delivery unit that
6 originally delivered the piece to the rental customer. Each inbound DVD mailpiece is
7 taken to a processing center where it is sorted to a destination processing center by the
8 most efficient method available. If sorted on automation equipment, any CONFIRM
9 scans would be sent to the DVD rental company indicating a specific customer's DVD
10 has begun its return trip.

11 When volume densities of a single DVD rental company's pieces warrant, postal
12 employees may segregate all of that company's pieces (that are located—some are not
13 found) in separate trays so they can avoid downstream handling. Segregation can
14 begin as far upstream as the rental customer's delivery unit. Any segregated pieces are
15 consolidated together, and travel on the same transportation as the rest of the mail.
16 Upon arrival, mail processing operations simply sleeve the trays and route containers to
17 a consolidated dispatch operation for mailer pickup through caller service. Some of the
18 time, sleeved trays of segregated pieces must be transported to a subsequent mail
19 processing facility for caller service pickup. Mailers who do not utilize caller service
20 from a processing facility, receive return mail from Post Office customer service or
21 delivery unit personnel. Some return pieces never get segregated, so those residual
22 pieces (usually letter shaped) are processed with the rest of the First-Class Mail single
23 piece mail, addressed below.

1 Each of the major DVD mailers uses different mailing envelopes and different
2 types of tracking services through the CONFIRM program. Both Blockbuster and
3 GameFly utilize Business Reply Mail for their return mailpieces, which requires an
4 accounting step to assess postage due fees; while Netflix utilizes Permit Reply mail
5 where return postage is prepaid and the postage due assessment step is not required.
6 Consequently, it is not important to retain a count of the Netflix return pieces prepared
7 for customer pickup. As trays of Netflix mail are filled at delivery units, they can be
8 transported directly through the processing plant into the staging area for pickup without
9 any intermediate handlings of any of the individual pieces. Likewise, at the plant, as
10 trays of Netflix mail are filled, they can be dispatched to the staging area for pickup
11 without any further postal handling and the associated cost of that handling. This also
12 allows the mail to be available to the customer earlier in the day for pickup, which can
13 help ensure satisfaction of Netflix' "one day" model of return processing by placing in
14 that day's outgoing mailing a returned DVD being sent to a new user. While it may
15 seem counterintuitive that isolating Netflix early in the collections process constitutes a
16 cost savings, it is true that removing the significant volume those pieces represent from
17 the cancellation operation improves efficiency in three ways. First, processing on the
18 AFCS takes less time because less volume needs to be processed. Second, it also
19 improves the efficiency of downstream operations such as clearance through the DBCS,
20 which takes less time. Third it cuts down on jams DVD mail may cause. Because
21 processing operations must generally be completed in smaller time windows in today's
22 environment, these advantages have become more important than ever.

1 **4. Please describe the general nature of the First-Class Mail**
2 **single-piece mailstream, including the flow of collection and drop-**
3 **box mail from the lowest level through the postal system.**
4

5 When a customer deposits a single piece of First-Class Mail into a collection box
6 the following occurs. Volumes are extracted from a collection box by a Postal Service
7 letter carrier, customer services (retail) operation or contract employee. The mail is
8 prepped at the delivery unit in accordance with local mail preparation standard
9 operating procedures. The various mail separations are consolidated for dispatch in a
10 single vehicle to a centralized mail processing facility. There, upon arrival, consolidated
11 volumes go through a "culling" unit where the individual containers are split and routed
12 to down flow operations based upon mail type, class, shape and depth of sort. For
13 letters, mixed volumes are routed through the dual pass rough cull and AFCS operation
14 for identification and initial sortation. Subsequent sortation occurs on one of several
15 mail processing equipment platforms depending on various factors including weight,
16 shape, indicia and mail preparation (barcode/non-barcode, FIM, packaging). High
17 density volumes for a single destination address (e.g., the local water utility's bill
18 payments) can be placed into an individual handling unit such as a tray or tub, for
19 operational purposes and then routed to subsequent consolidation and dispatching
20 operations for transit.

21 Local mail generated from the automation equipment platforms mentioned above
22 is subsequently processed to delivery point sequence, carrier route, or firm sort.
23 Processed volumes are dispatched to local delivery units for delivery by a customer
24 services retail associate, letter carrier or pickup by a customer.

25 Outbound mail is routed to a consolidated dispatch unit for transit to a

1 subsequent facility that performs delivery point sequence or other sorts as described
2 above.

3 Flat volumes prepared from collection mail by the delivery unit in a flat tray are
4 routed directly to an Automated Flat Sorting Machine (AFSM 100) for primary
5 processing

6 Local mail separated by the AFSM 100, and destined for the same service area,
7 is processed to a carrier route sort and dispatched to a local delivery unit for delivery.

8 Outbound mail, not destined for the service area, is routed to a consolidated dispatch
9 unit for transport to a subsequent facility that performs a carrier route sort for pickup by
10 a customer or is dispatched to local delivery units for delivery by a customer services
11 retail associate, letter carrier or pickup by a customer.

12 Mixed volumes of flats, letters and small parcels are processed through the dual
13 pass rough cull where flats are extracted for subsequent processing on the AFSM 100.

14 Challenges occur often, such as seasonal events. On those occasions, we
15 institute procedures that help us maintain service levels during peak periods. Such
16 procedures may alter handling of single piece First-Class Mail. One notable seasonal
17 event was the recent 2010 Census mailing. Another example is elections, when mailed
18 ballot materials may be isolated for future downstream or upstream handling. Tax
19 season is another example where single piece First-Class Mail addressed to a single
20 customer is separated from other mail as close to origin as possible. In such
21 circumstances, the fewer number of times each mailpiece is touched generates greater
22 overall efficiency for the operation.

1 **5. Are you familiar with respective DVD rental companies who**
 2 **send and receive DVDs as single piece First-Class Mail? Please**
 3 **identify all such companies and estimate the relative proportions of**
 4 **DVD mail that each represents.**

5
 6 Yes, I am familiar with a several DVD mailers, three of whom utilize the Postal

7 Service within their supply chain. Here are the relative volumes we found.

8 • Netflix (>97%) • Blockbuster (2%) • GameFly (<1%)

9 **6. How is Netflix, Blockbuster, and GameFly mail processed in**
 10 **the field?**

11
 12 Based on observation in processing facilities where I have worked, I have
 13 observed mostly Netflix and a smaller number of Blockbuster envelopes in the mail; I
 14 have seen very few GameFly mailpieces or those of other DVD companies being
 15 processed anywhere. GameFly pieces are invisible, due to their relatively low volume
 16 and anonymous design. In San Diego, the low volume of GameFly mailpieces is
 17 insufficient to warrant assignment of a unique stacker or holdout for their flat shaped
 18 returns. The mailpieces are mixed in flat tray containers with other flat mailpieces
 19 destined for ~~Los Angeles~~ ^{Long Beach} and then processed as previously described, and ultimately
 20 separated for delivery to GameFly. In other locations, especially ones closer to their
 21 processing centers, there may be enough volume to allow GameFly mailpieces to be
 22 captured and segregated from other ~~Los Angeles~~ ^{Long Beach} flat mail. I understand that some
 23 nearby plants may assist the host plant by holding out Gamefly pieces, but only if the
 24 volume warrants it.

1 **7. GameFly mails at rates for two-ounce, First-Class Mail flats.**
2 **By contrast, Netflix sends and prepays for DVD mail returned to it by**
3 **its customers at the single-piece, one ounce rate for letters. Please**
4 **describe any differences in handling and processing these two**
5 **customers' mail.**

6
7 Netflix pieces are processed in the letters mailstream, while GameFly's are
8 processed and handled in the flats mailstream. On the outbound trip, such pieces
9 would converge only with a carrier or in a delivery receptacle. On the return trip, both
10 could appear together in collection mail and would be separated either by manual
11 culling of Netflix pieces or by the AFCS. Once separated by manual culling or the
12 AFCS, GameFly pieces would stay in the automated flats mailstream, while Netflix
13 pieces would either get moved in trays or stay in the automated letters mailstream.
14 Letters are processed using various types or generations of letter-sorting equipment
15 and flats are sorted using flat sorters. Both letter and flat sorting systems process to the
16 finest possible sort. Because GameFly's pieces are returned as postage due, they must
17 undergo a procedure to account for the postage due fees before the pieces are
18 released to GameFly. Netflix pieces, if culled, would be tendered via caller service in
19 sleeved trays; if processed through the DBCS, pieces would be containerized in the
20 same way and tendered at the same caller service location.

21 **8. Please explain why a particular mailer might choose to use a**
22 **First-Class Mail flat, as opposed to a First-Class Mail letter.**

23
24 According to the Domestic Mail Manual, the physical characteristics of the piece
25 may require that the piece be mailed as a flat. The physical dimensions of length (more
26 than 11.5 inches long), width (more than 6 1/8 inches tall), thickness (more than 1/4 inch
27 thick) and weight (more than 3.3 ounces) mean that a piece would not qualify as a
28 letter. Other physical characteristics such as rigidity and uniform thickness play a part

1 in determining the processing category of a mailpiece.

2 Beyond these dimensional requirements, the business needs of the mailer would
3 drive the class and shape. A Periodicals mailer, or Standard Mail direct marketer, who
4 chooses a flat versus a letter would do so to target its customer, or to meet customer
5 expectations. Postage prices, which are also driven by shape, can influence mailers'
6 decisions since letters cost less. A commercial mailer may be aware of differences in
7 automation technology used by the Postal Service to process letter versus flat mail, and
8 choose one or the other accordingly. GameFly makes this claim, asserting that it avoids
9 damage to its mailpiece contents by using flats. Yet GameFly has never used letter
10 shaped pieces for its DVDs, and I understand its breakage rate is quite similar to Netflix'
11 breakage rate. So whatever else is true, GameFly has always chosen flats for its
12 business model, a choice that any mailer is free to make as one strategy in a business
13 where some breakage in the mail is routinely incurred.

14 From a practical standpoint and to the best of my knowledge, most DVDs are
15 currently mailed as letters. And many are easily recognizable as mailpieces containing
16 DVDs. I also understand loss prevention is an issue for some DVD mailers, which is
17 why a DVD mailer might choose to "hide in plain sight" and opt for a less visible or
18 conspicuous mailpiece. A less conspicuous mailpiece that adds cardboard to protect
19 the contents in the somewhat less rigorous path through flats automation could well
20 explain use of a flat rather than a letter for mailing DVDs.

1 **9. What factors or criteria determine how DVD return mail is**
2 **processed, including possible culling and manual or machine**
3 **processing? Do managers at the local level evaluate DVD return mail**
4 **involving particular mailers to determine what processing it**
5 **receives?**

6
7 What is relevant for DVD mailers is relevant for all mailers. Earlier in my
8 testimony, I referenced a Census mailing, tax returns and voter ballots as examples
9 where culling at the initial collection point may add to operating efficiencies. When
10 significant volume for a particular addressee is identified in the collection volumes from
11 delivery units, carriers or collection operations, the possibility of prepping it into a letter
12 tray or flat tray (tub) arises. Doing so helps avoid downstream handling costs by
13 processing facilities, since the containerized returns can be dispatched directly to the
14 destination delivery point. The Postal Service acknowledges that service requests
15 made by mailers can also influence local decisions, particularly for local mailers. The
16 Postal Service need to optimize processing efficiency extends to ensuring that
17 automation technology operates at expected rates of throughput to meet operational
18 goals. In general, mailpiece shape and weight dictates most operational decisions. As
19 an example, Blockbuster's mail is prepared as letters which are then processed within
20 the letter automation environment, while GameFly's volume is prepared and usually
21 processed within the flats automated environment.

22 It is quite possible that mail, which appears to be identical, can be handled in
23 different ways. Let me provide an example. In my service area, a mailer uses flat rate
24 boxes to ship its product. Flat rate boxes are typically processed on our automated
25 parcel sorters. In this instance, the product is extremely dense with the result that
26 packages can each weigh more than 40 pounds. Because of this weight, we have

1 worked with the mailer to ensure the packages are prepared and presented for mailing
2 under specific time and place conditions so that it cannot be confused with other, similar
3 appearing flat rate boxes. Through these mailer specific guidelines, we are able to
4 isolate the packages for processing in the most efficient manner; and thereby also
5 ensure the safety of our employees who are not surprised by the weight and are
6 accordingly better prepared to handle these pieces prior to lifting. While on the surface,
7 the flat rate boxes appear identical, the contents require very different handling.
8 Without such tailored operating procedures, we risk the safety and health of our
9 employees, and also damage to mail processing equipment.

10 **10. Please assess the relative importance of these factors:**
11 **(1) Volume; (2) Visibility; (3) Physical mailpiece characteristics.**

12
13 Any or all three of these attributes can lead to the identification and possible
14 separation from an automation mailstream of similar high volume mail. Visual cues are
15 used by employees while mechanical separation (by automation) enables, for example,
16 separation of flats and letters at the AFCS. Volume and visibility are likely the most
17 important factors enabling separation of like pieces for direct dispatch. When a
18 mailpiece is easily identifiable in significant volume, removing mailpieces from the
19 collection mailstream and subsequent cancellation operations reduces downstream
20 handling that otherwise would require multiple processing (automation and non-
21 automation) steps. When more groups of similar mail are captured and extracted from
22 other mail volume the overall clearing of all mail can often be completed sooner. As
23 mentioned above with the flat rate box example, sometimes the physical characteristics
24 of mailpieces encourage a nonstandard type of handling that is more effective and
25 efficient.

1 **11. In making decisions affecting processing of DVDs, are local**
2 **managers influenced by the identities of particular mailers or**
3 **recipients?**

4 As witness Seanor explains, we encourage input from customers, and joint
5
6 attention to detail can lead to efficiency gains for both the mailer and the Postal Service.
7 But the identity of a mailer itself does not play a role. Postal operations personnel are
8 well aware first of all that operational imperatives can and must drive decisions, and
9 that's exactly what has been happening in the last few years as immense costs have
10 been eliminated from mail processing. Second of all, operations personnel are quite
11 aware of the need to treat customers fairly. We hope that this case provides a lesson
12 that is driven home to the rest of the mailing community; we collaborate extensively in
13 making decisions, and there can be a lot of give and take in that process which, taken
14 out of context, may at first blush look a little odd. But in the end, we make decisions in
15 operations for the reasons that improve our business performance.

16 **12. How do DVDs get damaged in the mailstream?**

17 How DVDs get damaged, whether in mail processing or in handling at either end
18 of a trip through the mail, is not always evident because of the nature of DVDs and how
19 they are packaged. While I understand that older Postal Service Engineering tests
20 found damage occurring in letter automation equipment, both DVDs themselves and
21 how mail processing equipment is set up and maintained have continued to evolve
22 since that testing took place. Witness Lundahl explains that DVD manufacture can
23 decrease the likelihood of damage; Netflix has used this information to create more
24 flexible, less brittle DVDs for its own mailing. Witness Lundahl also explains how
25 attention to processing equipment can help to minimize breakage. Since DVD mailers

1 have their own processing equipment in addition to what the Postal Service uses to
2 process DVDs, both mailers and the Postal Service are in positions to capitalize upon
3 that knowledge and drive down DVD damage even more. But for more detail about how
4 DVDs get damaged, I defer to Mr. Lundahl who has studied this topic from an
5 engineering perspective.

6 The facts of this case also illustrate how DVD damage is something of a moving
7 target. Over time, successive GameFly mailpiece designs have helped diminish
8 breakage (and theft), while Netflix experience also shows diminishing breakage over
9 time. GameFly uses a heavier mailpiece that provides additional protection to a DVD
10 compared to other DVD mailers; GameFly also uses flats automation, which, as noted,
11 can be gentler to DVDs than letter processing. Yet despite quite different business
12 models, both GameFly and Netflix today report quite similar overall breakage rates. So
13 we know that damage can be impacted by the physical characteristics of the DVD, how
14 DVDs are packaged (material, design, thickness, rigidity, and size), processing path and
15 number of times processed; but I leave to Mr. Lundahl any more specific explanations of
16 how DVD mail can be damaged during processing.

17 **13. Are you aware of any other ways that DVDs can be damaged**
18 **other than during machine processing?**

19 Yes. The one national point of guidance for DVD processing focused upon
20 minimizing damage that occurred when trays or tubs of DVDs were stacked improperly,
21 essentially by crushing DVDs at the bottom. More specifically, stacked flat trays (tubs)
22 of DVDs must not nest within one another without lids or sleeves. For that matter,
23 DVDs are handled by humans outside the mailstream, which necessarily implies that
24 some breakage occurs accidentally. I also understand that DVD breakage can be
25

1 cumulative; a modest flaw that still permits a DVD to play can increase the potential for
2 automated processing to worsen that damage. DVD mailers clearly understand that
3 breakage during transport from company to customer, and back from customer to
4 company is possible such that today some breakage is a cost of doing business.
5 Please refer to the testimony of Rob Lundahl, USPS-T-4, for more specific information.

6 **14. To what extent do local managers factor the potential for**
7 **breakage of the DVDs into a determination of whether to provide**
8 **manual processing of return mail?**
9

10 Managers do not factor the potential for DVD damage into processing decisions
11 for the simple reason that their actions cannot have much impact upon breakage, which
12 occurs regardless of how DVDs are processed and which is usually not visible from the
13 outside of a mailpiece. Managers' primary focus is on efficient clearance of all available
14 mail in the current processing window. Managers may consider the potential for DVD
15 mail to cause machine jams, which delays processing of mail. But to my understanding
16 jams do not necessarily equate to breakage.

17 More generally, Postal Service packaging requirements go a long way to
18 elimination of damage incurred during mail processing. Nonetheless, insurance is
19 available for mailers who want protection for mailpiece content, with the availability of
20 insurance dependent upon the quality of the packaging. Yet postal officials care a great
21 deal about avoiding damage to any mail for the simple reason that customers do not like
22 breakage, whether they are mailers or recipients. Consequently, local managers will
23 factor damage potential and safety into their general decisions about how to process
24 mail, as exemplified above in the discussion about heavy weight flat rate boxes. Mail
25 processing personnel necessarily build up experience with mailpieces of many types.

1 Managers also pay attention if they are made aware that excess breakage is occurring
2 locally, but their focus would be upon eliminating the anomaly, not changing how DVD
3 mail is processed.

4 The Postal Service does not routinely track damage to mail that it is unable to
5 observe unless mailers/recipients report that information. A facility can report an
6 irregularity in the Electronic Mail Improvement Reporting (eMIR) system. Any mailpiece
7 that is regularly causing damage is identified and entered into the eMIRs application for
8 action and resolution by responsible parties (both postal personnel and mailers are
9 notified). Further examples of issues that may be recorded include Periodical and
10 Standard Mail flat bundles that have poor strapping, which can lead to bundle breakage.
11 Poorly prepared bundles can separate and burst open at the point of induction, causing
12 damage and delay of mail service. Postal generated reports often relate to mail
13 preparation and mail makeup irregularities. But reports of DVD mail damage are difficult
14 to associate with the multiple automated mail systems described above, including the
15 Dual Pass Rough Cull, AFCS, DBCS, and AFSM machines. Generally, the Postal
16 Service, and more specifically plant personnel, would be unaware of damage issues
17 unless identified by the recipient or mailers. Postal employees, of course, are not
18 allowed to open processed mail, look for and act upon damage found.

19 **15. In mail processing decisions, what is the role of damage to**
20 **mail versus damage to machines and disruption of operations (delay,**
21 **maintenance costs, etc.)?**

22 All of these factors are considered together when making mail processing
23 decisions. However, as explained above, damage to DVD mail is typically not visible
24 which makes it difficult to account for. Witness Lundahl's testimony, USPS-T-4, does
25

1 touch on types of maintenance that can help avoid damage to DVD mail. But
2 maintenance of mail processing equipment is important to machine up time, so
3 maintenance is scheduled and performed regularly. Management's primary
4 responsibility is to sustain efficient processing of the mail by maintaining machine
5 performance while minimizing damage to the mail; this is why it is imperative to have
6 physical mailpiece characteristics match that of automation capabilities, particularly
7 when a mailer is claiming automation prices. The sometimes awkward fit between mail
8 processing equipment designed before DVDs existed lies, in one sense, at the heart of
9 this docket. Discussion among personnel regarding what, if anything, to do that would
10 improve the fit between DVD mail and processing equipment was a matter of active,
11 ongoing debate, as GameFly's direct case documents. Newer mail processing
12 equipment, such as the AFCS 200 better accommodates DVD mail.

13 **16. Do you notice a consistent amount of breakage among DVD**
14 **mail processed on automated letter machines, regardless of the type**
15 **of DVD (video v. game) or mailpiece?**
16

17 As previously noted, damage to DVD mail is difficult to discern. Information from
18 customers (especially Netflix) shows some breakage, but it is minimal and a known cost
19 of using the mail to conduct a DVD rental business. I understand, based on reports
20 provided by Netflix and the information provided during a recent Postal Forum meeting
21 with Gamefly that the breakage rates are comparable. If excessive breakage is
22 identified, we do try to identify the source and eliminate any problem identified.

23 **17.. Are mailers aware that DVD damage can occur in mail**
24 **processing?**
25

26 Yes, I would say that low damage rates are common knowledge. Rates around
27 one percent have been reported recently by Netflix, and more recently by GameFly. As

1 such, it is a known cost of doing business through the mail, at least given the packaging
2 DVD round trip mailers use. More elaborate and protective packaging should be able to
3 eliminate breakage altogether, although postage would likely increase. I am informed
4 that Postal Service Engineering developed packaging for DVDs transported through the
5 mail, but for what I expect are their own good business reasons, no mailer is currently
6 using that option.

7 **18. What role does theft play in mailer decisions to mail DVDs?**

8
9 Mailers choose to use the mail, or not, for their own business reasons. Theft of
10 mail has long been recognized by the law, which is why criminal sanctions for theft have
11 been on the books for centuries. Mailers must make business decisions based on their
12 particular needs. I am informed that GameFly changed its mailing envelope to one that
13 is not distinctive after being informed that its previous envelope was being targeted by
14 thieves. I also understand that GameFly's theft rate is higher than its breakage rate. So
15 one can conclude that GameFly is aware of theft, howsoever that fits into its business
16 decisions. I do know that the mailers identified in this particular case have provided
17 updates to the Postal Service regarding this issue through their loss prevention
18 representatives during Postal Forums meetings, Service Request Activity Detail reports
19 filed with their Business Service Network representative or via direct communication
20 with a particular facility. If the customer is experiencing high loss in a particular area
21 generally the mailer will involve the Inspection Service or Office of Inspector General
22 special agents for assistance.

1 **19. What role does theft prevention play in local mail processing**
2 **decisions?**

3
4 None. Processing of DVDs does not vary because DVDs—and everything else
5 in the mail—can conceivably be stolen. Anti-theft measures such as Inspection Service
6 line of sight cameras or lookout galleries, restricted security access to facilities,
7 background checks of all postal employees, and a zero-tolerance policy for pilfering are
8 in place throughout every operation in every postal facility. Employees are aware that
9 theft of mail is grounds for removal from the Postal Service and other possible legal
10 ramifications.

11 **20. What, if any, role has theft played in processing decisions**
12 **involving Netflix, Blockbuster, GameFly mail?**

13
14 In an effort to reduce loss (and breakage) during transport, I am aware Netflix
15 requested that their product be sleeved by the return facilities prior to dispatch, although
16 this was not a recent request. Theft may occur from within the Postal Service but also
17 by mailers' contractors and personnel. However I understand that GameFly chose to
18 make its DVD package less conspicuous in an effort to reduce theft and encourage
19 automated processing (thereby avoiding manual handling) of their mailpieces; with the
20 belief and anticipation that less manual handling of their mailpieces would help curb
21 identification of the envelope as containing gaming discs.

22 **21. What actions can a DVD mailer take to reduce theft?**

23
24 DVD mailers can and do provide any information that assists in identifying the
25 point of loss, such as IMb or CONFIRM tracking information, to postal management, the
26 Inspection Service or the Office of the Inspector General.

27
28

SUPPLEMENTAL TESTIMONY

1
2
3 **22. Since the Postal Service filed your direct testimony, have you had an**
4 **opportunity to review GameFly's testimony in its interrogatory responses**
5 **and in the cross-examination of its CEO, Mr. Hodess?**
6

7 Yes.

8
9 **23. In light of that testimony, do you have anything to add?**
10

11 As part of my review of the July 28 hearing transcript and GameFly's

12 interrogatory responses, I considered Mr. Hodess' discussion when questioned by
13 Postal Service counsel about GameFly's contention that the Postal Service had denied
14 manual processing for GameFly's discs, or had refused to provide treatment similar to
15 that provided to Netflix. Tr. V/893-897, 930-940. Particularly in light of Mr. Hodess'
16 inability to cite specific events or individuals who were consulted, I could not find any
17 evidence to support this allegation in Mr. Hodess' responses or related GameFly
18 responses to discovery requests. Based on my experience, I believe that no denial of
19 manual processing occurred. In response to any request for manual handling by
20 GameFly, a local manager should have explained the Postal Service operations
21 approach of allowing local managers discretion to process mail using the most efficient
22 method, according to particular local circumstances. This practice recognizes that the
23 mail of each individual mailer, including Netflix, will not necessarily receive the same
24 processing at every location. Accordingly, a refusal to commit to a national policy of
25 manual processing is not a denial of manual processing; any mailer who seeks manual
26 processing nationally must deal individually with each local processing facility.
27 In this regard, my general conclusion that GameFly has not been denied manual
28 processing is supported by reference in Mr. Hodess' cross-examination to processing of

1 GameFly mail in at least one location in South Florida. Counsel asked Mr. Hodess if he
2 was aware of the manual processing of GameFly mailpieces in that area, and Mr.
3 Hodess replied that he was not.

4 Because this practice is not one which has been employed by the plants where I
5 have worked, I contacted the Plant Manager; Manager, In Plant Support; and Senior
6 Operations Support Specialist for the Fort Lauderdale plant where this practice had
7 been observed. I asked them questions about how disc mailers are handled in
8 collection operations at delivery units during the 010 operation at the plants, and how
9 pieces are dispatched to their destination.

10 To summarize our discussion, the Fort Lauderdale staff said that most disc mail
11 is culled when and where it is identified. This could happen in collection operations in a
12 delivery unit where the disc mail is segregated from other mail and dispatched in a
13 separate container to the plant, or the culling could occur at the plant. The staff said
14 that the process is not a result of a SOP, but has evolved over time, in part because of a
15 unique equipment configuration at the location. An extended culling belt was attached
16 to the Loose Mail Distribution System for an unrelated reason. The extended belt
17 allows more opportunity for disc mailpieces to be identified and removed.

18 This process was developed independently by delivery and plant personnel in an
19 effort to improve the local operations. The staff explained that the same process
20 applies to all disc mailers. According to the local managers, the disc mail is culled
21 principally to reduce jams and damage to mail or equipment, and generally to enhance
22 the effectiveness and efficiency of local operations. The local managers also added
23 that the endorsement on the GameFly pieces to process on the flat sorting machine was

1 another motivation to cull the pieces. Once culled, the pieces for each company are
2 separated, placed in a tray or tub and dispatched for delivery, either to the Fort
3 Lauderdale caller service section or for transportation to other locations. It should be
4 noted that if there is insufficient volume for an individual company to fill a tray or tub, the
5 pieces are placed in a tray or tub with other mail already prepared for the intended
6 destination. Mail remains segregated only if the volume warrants it.

7 In my opinion, this is an example where observant managers have responded to
8 local conditions by developing a process that expedites the handling of the disc mail
9 flowing through the mail at their location. These processes may be in place in other
10 locations with similar situations. They would not necessarily be in place in locations
11 where operating conditions are different.

12 My overall conclusion is that GameFly's contention that it has been "denied"
13 manual processing, or that, in effect, it has been forced to choose a particular mode and
14 classification of mailing because it has not been "offered" manual processing, is no
15 more than an unfounded inference drawn by GameFly in order to be able to make its
16 legal arguments in this complaint. While I do not comment on any of the legal aspects
17 of its argument, I can conclude that its factual assertions are not supported by the
18 minimal information that it has been able to offer, and that, based on my experience as
19 an operations manager at more than one location, GameFly presents an inaccurate
20 representation of the facts.

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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Complaint of Gamefly, Inc.

Docket No. C2009-1

DESIGNATION OF WRITTEN CROSS-EXAMINATION
OF UNITED STATES POSTAL SERVICE
WITNESS LARRY J. BELAIR
(USPS-T-2)

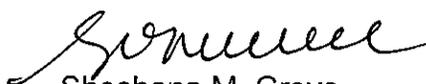
Party

Interrogatories

GameFly, Inc.

GFL/USPS-T2-1-18

Respectfully submitted,



Shoshana M. Grove
Secretary

INTERROGATORY RESPONSES OF
UNITED STATES POSTAL SERVICE
WITNESS LARRY J. BELAIR (T-2)
DESIGNATED AS WRITTEN CROSS-EXAMINATION

Interrogatory

Designating Parties

GFL/USPS-T2-1	GFL
GFL/USPS-T2-2	GFL
GFL/USPS-T2-3	GFL
GFL/USPS-T2-4	GFL
GFL/USPS-T2-5	GFL
GFL/USPS-T2-6	GFL
GFL/USPS-T2-7	GFL
GFL/USPS-T2-8	GFL
GFL/USPS-T2-9	GFL
GFL/USPS-T2-10	GFL
GFL/USPS-T2-11	GFL
GFL/USPS-T2-12	GFL
GFL/USPS-T2-13	GFL
GFL/USPS-T2-14	GFL
GFL/USPS-T2-15	GFL
GFL/USPS-T2-16	GFL
GFL/USPS-T2-17	GFL
GFL/USPS-T2-18	GFL

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-1. Please produce copies of all documents that you received in connection with your work in this case.

RESPONSE:

Please see the public versions of Volume V of the transcript of the oral cross-examination of David Hodess (July 28, 2010), the Joint Statement of Undisputed and Disputed Facts (July 20, 2009), Direct Testimony of Nicholas F. Barranca on behalf of the United States Postal Service (July 7, 2010), Direct Testimony of Troy R. Seanor on behalf of the United States Postal Service (July 7, 2010), and Direct Testimony of Rob Lundahl on behalf of the United States Postal Service (July 8, 2010). These documents are all available on the Postal Regulatory Commission website. Please also see the Memorandum of GameFly, Inc., Summarizing Documentary Evidence (April 12, 2010). This document is filed under seal with the Postal Regulatory Commission.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-2. Please produce copies of all documents that you reviewed in connection with your work in this case.

RESPONSE:

Please see the response to GFL/USPS-T2-1.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-3. Have you ever had a discussion with any employee of GameFly? If so, please identify the employee(s) and state the date, location and substance of the discussion.

RESPONSE:

Yes, I met with Dave Barthel and Don Judge at the April 2010 National Postal Forum in Nashville. Other Pacific Area employees attended the meeting, including some district managers from the Pacific Area. The meeting addressed GameFly's request that all GameFly outgoing and return pieces receive processing on the flat sorting machines, to allow GameFly access to the Confirm Service scans.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-4. Please produce all Standard Operating Procedures ("SOPs") that have governed the processing of Netflix DVD mailers at each Area, District, P&DC or other Postal Service facility where you have worked.

RESPONSE:

The Postal Service produced all responsive documents in response to earlier discovery requests. Please see GFL527-534.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-5. Please produce all Standard Operating Procedures ("SOPs") that have governed the processing of the DVD mailers of any DVD rental company at each Area, District, P&DC or other Postal Service facility where you have worked during the period that you worked there.

RESPONSE:

The Postal Service produced all responsive documents in response to earlier discovery requests. Please see GFL527-534.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-6. On page 1, lines 20-22, of your testimony (USPS-T-2), you state:

Under the leadership of the Postmaster General and the Deputy Postmaster General, we have cut costs saving millions of workhours while improving efficiency and maintaining service to the American people.

Please confirm that automation has been an important factor in any cost and workhours savings.

RESPONSE:

Confirmed.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-7. On page 4, lines 21-23 of your testimony, you state:

Some return pieces never get segregated, so those residual pieces (usually letter shaped) are processed with the rest of First-Class single piece mail...

Please specify the mail processing paths in detail for Netflix pieces that are not segregated or culled. Include in your description whether any of these pieces are processed in automated streams until they are finalized, whether any of these pieces are processed in manual streams after the 010 operation, and the approximate percentages of these pieces that are not culled that are processed in manual and in automation streams.

RESPONSE:

Please see pages three through seven of my testimony.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-8. On page 5 of USPS-T-2, you testify that culling of Netflix mailers can improve efficiency in several ways. Please produce all analyses, studies, memoranda and other documents quantifying the cost savings assertedly allowed by from [sic] culling Netflix mail, and value of culling for meeting service standards.

RESPONSE:

I have not prepared any studies quantifying the cost savings, and I am not aware of any studies prepared by anybody else.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-9. Please provide any studies, analyses or other document that you have prepared, or of which you are aware, that compare (a) the costs of processing Netflix mail or any other letter DVD mail by segregating it as described on page 4 of your testimony with (b) the cost of processing letter DVD mail in the automation stream. For each study, analysis or other document responsive to this question, please also provide the author or authors and the period over which the study was performed.

RESPONSE:

I am not aware of any studies comparing the costs.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-10. Is Netflix mail fully machinable? Or does it create jams or perform unfavorably in mail processing automation at a higher rate than average letters?

RESPONSE:

It is my understanding that the Netflix pieces were determined to be machinable under the current standards. The pieces can cause jams and may not run as well as other mail prepared with different characteristics.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-11. Do Netflix mail pieces pose safety or health risks to employees when processed by machine?

RESPONSE:

No, postal safety practices require that machinery be shut down or turned off when maintenance is performed on the machine, which would include clearing jams.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-12. Do Netflix mail pieces damage mail processing equipment?

RESPONSE:

Any time a machine jams, there is the possibility of damage to the equipment.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-13. On page 6 of your testimony, lines 17 through 20, you cite a local water utility's bill payments as an example of high-density mail to a single destination that could be placed into a tub. Would such mail avoid automation processing? If so, please provide any studies or analyses demonstrating that such treatment is a more efficient method of processing mail than using automation equipment.

RESPONSE:

Such mail could avoid automated handling. If the pieces were culled and retained at the office where they are delivered, they would avoid the transportation costs associated with sending the pieces to an upstream processing site, as well as the machine processing cost. A situation such as this would only occur occasionally and for a limited period of time, perhaps a few days. I am not aware of any studies of this practice.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-14. Please produce the data underlying the relative volume figures on page 8, lines 7-8, of your testimony (USPS-T-2).

RESPONSE:

I asked one of my managers to review the containers of mail prepared for Netflix, Blockbuster and GameFly at the end of the tour one day. There were one hundred twenty trays of Netflix pieces, three trays of Blockbuster pieces and less than a full tray of GameFly pieces.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-15. Please refer to page 11 of your testimony (USPS-T-2).

- (a) At how many delivery points does the IRS receive tax returns?
- (b) At how many delivery points does the U.S. Census Bureau receive census forms?

RESPONSE:

- (a) IRS has ten 3-digit ZIP Codes dedicated to their use, and one thousand thirty-six delivery points.
- (b) Census uses thirty-nine delivery points. Some of those delivery points had several different ZIP+4 codes assigned to their Business Reply Mail pieces, so if you were to count the number of ZIP+4 codes as delivery points, the number would be higher.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-16. On page 13, lines 9-10, of USPS-T-2, you refer to "immense costs" that have been eliminated as a result of local processing decisions.

(a) Please quantify the contribution that manually processing Netflix return mail has made to these cost reductions.

(b) Please produce source documents and workpapers sufficient to verify your assumptions and analyses.

RESPONSE:

(a) I am not aware of any studies or analyses that identify the specific contribution to these cost reductions as a result of processing decisions involving Netflix DVD mail.

(b) I am not aware of any documents responsive to this discovery request.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-17. This question refers to your statement on page 15, lines 18-20, of USPS-T-2, where you state:

[I]nsurance is available for mailers who want protection for mailpiece content, with the availability of insurance dependent upon the quality of the packaging.

(a) Please confirm that DVD return mailers are typically mailed back to the DVD rental company as PRM or BRM.

(b) Please confirm that DVD rental companies cannot buy insurance from the Postal Service for DVD mailers returned as PRM or BRM.

RESPONSE:

(a) Confirmed.

(b) Confirmed.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-18. This concerns the DVD packaging developed by the Postal Service Engineering and referenced in your testimony, USPS-T-2, at 3-4.

- (a) What were the breakage rates of DVDs mailed in this packaging?
- (b) How many DVD rental companies have used the mailer?
- (c) Why is no DVD rental company currently using the mailer?
- (d) Please produce all communications, studies, analysis and other documents sufficient to verify your answers to parts (a)-(c).

RESPONSE:

- (a) The Postal Service did not implement the DVD packaging for live mailing, and thus no data on the breakage rate exists.
- (b) None.
- (c) Please see response to part (a).
- (d) Please see responses to parts (a)-(c).

1 COMMISSIONER BLAIR: Mr. Mecone, would you
2 please provide two copies of the written cross-
3 examination of Witness Belair to the Reporter, and
4 they are to be received into evidence and to be
5 transcribed. And is there any additional written
6 cross-examination for Witness Belair?

7 MR. LEVY: David Levy for GameFly.

8 COMMISSIONER BLAIR: Mr. Levy.

9 MR. LEVY: Yes, Commissioner Blair. GameFly
10 has two additional or several additional designations.

11 CROSS-EXAMINATION

12 BY MR. LEVY:

13 Q Mr. Belair, do you have two copies of a
14 packet marked "Witness Belair" on top, and then has
15 two lines of interrogatory answers marked --

16 A I do.

17 Q Have you had a chance to review the
18 questions and answers?

19 A Yes, I have.

20 Q And those are in fact your answers to
21 GameFly Interrogatory P-2-21 and 26 through 28?

22 A Yes, it is.

23 Q Do you have any changes or corrections you
24 wish to make?

25 A None.

1 Q If you were asked those same questions today
2 would your answers be the same?

3 A Yes.

4 MR. LEVY: With that, Commissioner Blair, I
5 am going to approach the witness and take the two
6 packets, and hand them to the Reporter, and ask that
7 they be transcribed into the record, and admitted into
8 evidence.

9 COMMISSIONER BLAIR: Any objection from
10 counsel?

11 MR. MECONE: No objection.

12 COMMISSIONER BLAIR: Mr. Levy, please
13 proceed, and the reporter will include this material
14 at this point in today's transcript.

15 (The documents referred to
16 were marked for
17 identification as Exhibit No.
18 USPS-T-2 and was received in
19 evidence.)

20 //

21 //

22 //

23 //

24 //

25 //

WITNESS BELAIR (USPS-T-2)

DESIGNATIONS OF WRITTEN CROSS EXAMINATION

GFL/USPS-T2-21

GFL/USPS-T2-26 through 28

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO SECOND DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-21. Please produce all studies, reports, analyses, guidelines, handbooks, SOPs and similar documents (whether or not the [sic] have been produced to you until now) concerning the methods of handling DVD mailers at the Fort Lauderdale plant referenced in USPS-T-2 at 20-22.

RESPONSE:

Please see Appendix-GFL/USPS-T2-21. The standard operating procedure's instructions for handling Netflix and Blockbuster DVDs apply to all DVD round trip mail; language suggestive of limitations to specific DVD mailers, and letters only, are words of description rather than limitation. GameFly mail is handled in conformity with the instructions.

APPENDIX-GFL/USPS-T2-21

SOUTH FLORIDA DISTRICT

MAIL PREPARATION GUIDE

June 2008

Version 08.2

NOTE – CHANGES HAVE BEEN MADE TO THE FOLLOWING SECTIONS:

EMPTY EQUIPMENT – PAGE 4, ITEM 6 (ADDED)
NETFLIX, BLOCKBUSTER DVD's – PAGE 8 (ADDED)
METERED LETTERS & FLATS PLACARD COLOR – PAGES 5, 6, (CHANGE)

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NETFLIX and BLOCKBUSTER DVD's

1. NetFlix and Blockbuster DVD's collected must be separated, faced and placed in a letter tray. An EMM letter tray is preferable.
2. The Netflix/Blockbuster trays should be placed in the Blue Box Collection Mail container on top of the Blue Box collection mail.

Ensure the **Blue Box Collection Mail 010** placard is used.

This placard is to be WHITE in color.

PRIORITY MAIL

Except for Overnight Priority Mail, all other Priority Mail is separated according to shape, using one of the three categories, or the "3" holdout.

Overnight Priority

1. Priority Mail Outsides and Parcels for 330, 331, 332, 333, 334 and 349 are to be placed into a separate MTE containers from the other Priority mail.
2. Priority Flats are to be placed into separate flat tubs for 330, 331-332, 333 and 334 & 349 and placed on top of Overnight Priority MTE containers. Overnight Priority Mail must not be mixed with other Priority Mail or placed in other mail type MTE.
3. Mail in this container is dock transferred and goes directly to the L&DC Processing Center in Miami.

The OVERNIGHT PRIORITY placard is to be utilized for the outside of the MTE container.

The individual 330, 331-332, 333 and 334 & 349 placards are to be utilized for the flat tubs inside the MTE container.

These placards are ALL to be LIME GREEN in color.

Priority Mail – Flats

1. All non-Overnight Priority Mail Flats and Delivery Confirmation pieces are to be placed in flat tubs.
2. When placed in flat tubs, Priority Flats should be faced.

Ensure the **Priority Mail – Flats** placard is used.

APPENDIX-GFL/USPS-T2-26

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO SECOND DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-26. Please produce a schematic diagram of the "extended culling belt" and other equipment described on page 21 of USPS-T-2, the facility where the equipment is located, and the other mail processing located within 100 feet of the "extended culling belt." The diagram should have sufficient detail, and sufficiently accurate scale, to reveal the relative size and positioning of the "extended culling belt" and associated equipment with the other equipment and the facilities housing them.

RESPONSE:

Please see Appendix-GFL/USPS-T2-26.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO SECOND DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-27. Please explain why physical or economic factors have prevented other postal facilities from adopting the Fort Lauderdale method of processing DVD mailers. Produce documents sufficient to verify your response.

RESPONSE:

According to Fort Lauderdale P&DC Management, adding the extended culling belt in Fort Lauderdale was a pilot project implemented with no capital costs and less than two hours of labor costs. The project was initiated by local maintenance personnel in an attempt to achieve better performance on downstream automation equipment by manually removing non-automation compatible mail from the mail stream.

Each Postal Service mail processing facility is unique in size, shape, layout, column spacing, and physical structure. A unique cost would be incurred if another facility adopted the Fort Lauderdale process. I understand that the Postal Service has no documents addressing the efficiency impact of the Fort Lauderdale disc processing method.

RESPONSE OF UNITED STATES POSTAL SERVICE WITNESS LARRY J.
BELAIR TO SECOND DISCOVERY REQUESTS OF GAMEFLY, INC.

GFL/USPS-T2-28. Please produce all data, studies, analyses, reports and similar documents concerning the performance and effectiveness of the processes in the Fort Lauderdale plant described on pages 21-22 of USPS-T-2.

RESPONSE:

As previously stated, I understand that the Postal Service generated no data, studies, analyses or reports concerning the performance and effectiveness of the Fort Lauderdale process.

1 COMMISSIONER BLAIR: We have received one
2 request for oral cross-examination of Witness Belair
3 from GameFly. Does any other participant wish to
4 cross-examine Witness Belair? Mr. Costich?

5 MR. COSTICH: No, Commissioner Blair.

6 COMMISSIONER BLAIR: Mr. Levy, please
7 proceed with your cross-examination.

8 CROSS-EXAMINATION (Continuing)

9 BY MR. LEVY:

10 Q Thank you, Commissioner Blair. Mr. Belair,
11 if you would go to page 15 of your testimony. Now,
12 you contend at several places in your testimony that
13 avoiding DVD breakage plays no role in Postal Service
14 decisions on how to process DVD mailers; is that
15 correct?

16 A That's correct.

17 Q And an example of that statement is on line
18 10 of page 15, where you state that "Managers do not
19 factor the potential for DVD damage into processing
20 decisions" and then the sentence continues?

21 A That's correct.

22 Q I am going to mark as GameFly Cross-
23 Examination Exhibit 3, GFL-CX-3, and Mr. Field is
24 going to hand you a document that is a U.S. Postal
25 Service specific area of standard operating procedure,

1 dated March 1, 2005.

2 It runs from Bates-number GFL-527 through
3 534, and it has already been entered into the record
4 at Transcript Pages 313 to 320, but since I wanted to
5 discuss it here, I am going to do that again. Have
6 you seen this document before, Mr. Belair?

7 A I have.

8 (The document referred to was
9 marked for identification as
10 Exhibit No. GFL-CX-3 and was
11 received in evidence.)

12 BY MR. LEVY:

13 Q This was a standard operating procedure
14 covering the Postal Service's specific area?

15 A Your point was?

16 Q I'm sorry, this was a standard operating
17 procedure adopted in 2005?

18 A At the time, yes.

19 Q And it covered the Postal Service's specific
20 area?

21 A That it did.

22 Q And that included the specific area of San
23 Diego?

24 A That it does.

25 Q Now, this is the only standard operating

1 procedure -- this document is the only standard
2 operating procedure that has governed the processing
3 of DVD mailers in the facilities where you worked
4 during your career; is that correct?

5 A Actually, this document was produced prior
6 to my arrival into the specific area.

7 Q Have there been any other SOP that has
8 governed the processing of DVD mailers in the
9 facilities where you worked?

10 A None that I am aware of.

11 Q Now, you made several times a reference to
12 was or past tense, and you are alluding to the fact
13 that the SOP was rescinded?

14 A That it was.

15 Q And it was rescinded in December of 2007?

16 A Approximately.

17 Q The Postal Service's current processing
18 practices for in-bound for Netflix pieces in the
19 specific area are still substantially similar to those
20 described in the SOP; isn't that correct?

21 A It depends.

22 Q You can't give me an unqualified yes or no?

23 A It depends on the facility.

24 MR. LEVY: I am going to mark as GFL-Cross-
25 Examination Exhibit 4, and Mr. Fields is going to pass

1 it out, what is a three-page document that appears to
2 be the Postal Service's or is the Postal Service's
3 response to GameFly Interrogatory 106.

4 (The document referred to as
5 Exhibit No. GFL-CX-4 was
6 marked for identification.)

7 MR. LEVY: I am going to read Part C of the
8 question.

9 "Please also refer to the following portion
10 of the Postal Service's response to GFL/USPS-18, 'The
11 Postal Service expects that the amount of manual
12 processing of Netflix's mail is likely at least as
13 large as was set forth in the OIG report, though no
14 specific percentages are available.'"

15 "Please confirm that current processing
16 practices for Netflix's in-bound pieces in these two
17 areas are substantially similar to those described in
18 the Pacific and Eastern Area SOPs. If not confirmed,
19 please explain fully and reconcile which USPS response
20 to GFL/USPS-18." Do you see that?

21 A I do see that.

22 Q And the answer was confirmed?

23 A That it is.

24 Q Have you ever seen this document before?

25 A No.

1 Q Would you go back to Exhibit 3, the SOP.
2 And I want to refer you to the second paragraph on
3 page GFL-527, which is the first page of the document.

4 And in that second paragraph there is a
5 sentence which reads, "The Netflix's business model
6 also requires minimal breakage during transport of
7 these returned items. These returned DVDs can be
8 subject to breakage if improper fed through our
9 automated processing machinery." Do you see that?

10 A I do see that.

11 Q And then it continues, "The objective of
12 this SOP is to maximize processing efficiency, while
13 minimizing potential breakage of Netflix's mailings,
14 outgoing and return." Now, this SOP does not reflect
15 a single-minded policy. It is simply maximizing
16 efficiency doesn't it?

17 A Repeat that?

18 Q This SOP does not reflect a single-minded
19 policy of simply maximizing efficiency does it?

20 A As stated in here, and as you had indicated
21 in the second sentence, these returned DVDs could be
22 subject to breakage if improper fed through our
23 automated processing equipment.

24 Q And then the SOP continues with a number or
25 procedures that are aimed at minimizing breakage;

1 isn't that correct?

2 A That is correct.

3 Q And I want to refer you to the very last
4 sentence on that page, which carries over on to the
5 following page, page 528. The introductory phrase is
6 to minimize jakes and DVD breakage. Do you see that?

7 A I do see it.

8 Q When you go to page 528 of the document, the
9 second page, and the second paragraph, which begins,
10 "And Netflix believes". Do you see that?

11 A I do see that.

12 Q And I will read the entire sentence, or more
13 of the sentence. "As Netflix believes that stacking
14 weight is also a contributor to damaged DVDs,
15 mailhandlers will plead the extended managed mail
16 letter phrase EMM and stack them into", and then the
17 sentence continues. Now, that is talking about
18 breakage as well isn't it?

19 A It is.

20 Q Now, would you go to page 14 of your
21 testimony, and line 20; page 14, line 20. On that
22 line, you state, quote, "The one national point of
23 guidance for DVD processing focused upon minimizing
24 damage that occurred when trays or tubs of DVDs ere
25 stacked improperly, essentially by crushing DVDs at

1 the bottom."

2 What national point of guidance was that
3 that you were referring to?

4 A In regards to the way trays or tubs are
5 stacked, there is the potential for breakage in the
6 event that these tubs are not lidded. There are
7 fitted lids that can go on top of 775 tubs, and in the
8 event they are put into a rolling stockage PC, there
9 is the potential that GameFly DVDs, and Netflix DVDs,
10 and Blockbuster DVDs, the potential for breakage.

11 Q But I want to focus on the phrase "the one
12 national point of guidance." Were you referring there
13 to a document?

14 A No particular document, sir.

15 Q There was not an SOP embodying that
16 guidance?

17 A Not a particular SOP authority, no. That
18 was left up as or indicated that the evidence that was
19 provided, the SOP by specific area, and that was
20 previously in place and has been removed due to the
21 fact that area operations left that to a local
22 management decision as to how to handle DVD
23 processing, and as such should not be an area of
24 policy, similar to what it would be for mail prep
25 guidelines at a local level.

1 Q You said that the SOP again is not in
2 effect.

3 A Not that I am aware of.

4 Q But its practices are still generally
5 followed?

6 A It depends on the individual facility, in
7 the area of my responsibility, some of which the
8 information that is outlined in the SOP is in place,
9 and some of which is not. An example of that would be
10 775 tubs are currently used out in the San Diego
11 Margaret Sellers facility.

12 If a DVD is identified, such as the Netflix
13 DVD, and it is culled versus process, and the origin
14 source is the customer service operation, operational
15 facility, it can be placed either in a 775 tub and/or
16 letter tray, just above on the EMM tray or not, and
17 that product is then routed to the respective down
18 flow facility, which would be Santa Ana.

19 I can speak on behalf of the Margaret
20 Sellers facility in San Bernadino.

21 Q I'm sorry, but could you repeat that last
22 sentence? I did not hear what you said? You said
23 there was some facility and you named a name before
24 it.

25 A Yes, the in-bound product line at that point

1 once it is identified and distributed is routed at the
2 end of the operating tour at approximately 0001 from
3 the Margaret Sellers facility on a daily basis to the
4 Santa Ana facility.

5 That would be consistent with Blockbuster
6 handling in regards to the product that is
7 traditionally at over 98 percent within my area of
8 responsibility processed through automated equipment
9 in accordance with what the customer has paid for in
10 his mailings.

11 Q So the Postal Service's answer to GFL-USPS-
12 106 is incorrect to that extent?

13 A Clearly stating that the processing
14 practices, processing versus culling, are two
15 different things within the entirety of the system in
16 which we handle mail.

17 Q So the processing practices are still
18 consistent with the SOP?

19 A It depends on the facility. I just gave an
20 example in regards to the Margaret Sellers facility.

21 Q So with respect to processing, the
22 Interrogatory Answer to 106 was incorrect?

23 A Substantially similar is confirmed. Not
24 exact.

25 Q Oh, so notwithstanding the differences that

1 you just described, you would agree that it is
2 substantially similar?

3 A It depends on the locality and the
4 individual processing facility and customer service
5 unit, and in the kind of density of the product line
6 relative to the individual DVD supplier.

7 Q I'm sorry, but now I am confused. Are there
8 subsets of the Pacific area where the processing of
9 Netflix's in-bound pieces is no longer substantially
10 similar to that described in the Pacific SOP?

11 A I just outlined one, that being under my
12 area of my responsibility at the Margaret Sellers
13 facility, a processing and distribution facility.

14 Q So to that extent, GFL-106 answer to Part C
15 is incorrect?

16 A Substantially similar versus exactly, and
17 the same processing, but different things, but
18 confirmed and substantially similar.

19 Q So it is still substantially similar as you
20 define the term to the Pacific SOP everywhere in the
21 Pacific region as far as you are aware?

22 A Within most facilities that I visited.

23 Q Are there any facilities in the Pacific area
24 where in your opinion the processing of in-bound
25 Netflix pieces is not substantially similar as

1 described in the Pacific area SOP?

2 MR. HOLLIES: Objection, asked and answered.

3 MR. LEVY: The problem is that I am getting
4 two answers, or what appear to be two answers. In
5 response to some questions, it sounds like he is
6 saying that they are substantially similar, and in
7 response to other questions, it sounds like the
8 witness is saying that they are not substantially
9 similar, and I am trying to pin down the witness on
10 what appears to be an inconsistency in his answers.

11 COMMISSIONER BLAIR: Mr. Mecone, do you want
12 to answer?

13 MR. MECONE: It sounds like the question is
14 being worded the same each time. I don't know if he
15 can ask it in a different way.

16 COMMISSIONER BLAIR: I will allow the
17 question.

18 MR. LEVY: Could I ask the reporter to read
19 the question back?

20 (Whereupon, the record was read back.)

21 BY MR. LEVY:

22 Q The Postal Service uses that phrase in its
23 answer, and if you don't have an understanding, then
24 give a definition of what you understand the term to
25 mean before you answer the question.

1 MR. MECONE: Objection. I believe the
2 Postal Service answered that there was no mention of
3 substantially similar. If you could point to where
4 that appears, please.

5 MR. LEVY: "Question: Please confirm that
6 current processing practices for Netflix's in-bound
7 pieces in these two areas are substantially similar to
8 those described in the Pacific and Eastern area SOPs."

9 And the answer is, "Confirmed to Part C."

10 MR. MECONE: The words "substantially
11 similar" were part of the question and not part of the
12 Postal Service's answer, and so I think if the
13 witnessed asked for your definition as it was used in
14 your question.

15 BY MR. LEVY:

16 Q The Postal Service answered the question
17 without any qualification about the meaning of the
18 phrase, didn't it? It simply said confirmed, correct?

19 A It says confirmed.

20 Q Now, I take it that you have not consulted
21 with the Postal Service with what they had in mind
22 when they prepared that answer?

23 A No.

24 Q Do you have an understanding of the phrase,
25 your own understanding of the phrase "substantially

1 similar"?

2 A My own understanding?

3 Q Yes.

4 A I guess that would be referring back to my
5 question of what you are defining as substantial.

6 Q Okay. Let me go to a different line. Other
7 than the practices that you have just described, do
8 you have any specific examples of how the processing
9 of Netflix's DVD differs from what was prescribed by
10 the Pacific area SOP?

11 A Yes, as I previously stated, in my area of
12 operations, the preparation of the product line,
13 within my area of responsibility is some of the
14 preparation is done consistently with what is outlined
15 in the operating instruction here, the previous
16 operating instruction under Pacific Area guidelines.

17 But it also is done direct in conflict, too,
18 with what is outlined in here with regards to the fact
19 that some of the product line is put in the 775 tubs
20 from the origin of the customer service delivery
21 operation unit.

22 So it is not specifically prepared and/or
23 processed in accordance with these guidelines, but in
24 observation opponents of that are consistent with --
25 operations but there are different -- there is

1 potential for differing preparation and processing in
2 my area of responsibility from what I've observed in
3 other facilities in the Pacific Area since the removal
4 of this SOP at an area level.

5 Q Other than putting mailers directly into 775
6 tubs have you noticed any significant difference in
7 the way Netflix's mailers are processed compared with
8 the Pacific area SOP?

9 A The process or culling?

10 Q Well, let's just take process first.

11 A As far as processing, it is slightly
12 different, depending upon the individual facility
13 based upon their equipment set, and in regards to also
14 what type of product line they process in the
15 facility.

16 For example, that would be a facility that
17 has no originating mail processing, and it would be
18 different in that facility as it would be in a
19 facility that does originating processing.

20 Q And how would it be processed differently in
21 that situation?

22 A If there are no AFCS operations in a
23 facility, and there has been mail in a processing that
24 has been consolidated in another facility, and it is
25 prepared differently. The complexities of the

1 organization, as you are aware of, it is a very
2 complex organization, with upwards of nearly 500
3 facilities and annexes in the mail processing
4 facilities throughout the country, and approximately
5 32 thousand delivery units.

6 Q Any other differences in the processing
7 compared with the SOP that you have observed?

8 A I have observed the mail being prepared and
9 culled in a lot of delivery units in smaller trays,
10 half-trays, and non-EMM trays. I have observed that
11 product line not being sleeved and sent off to the
12 respective down flow facility.

13 Q How frequently have non-sleeving occurred?

14 A I don't have a study to substantiate the
15 frequency.

16 Q Well, you have observations?

17 A Observations.

18 Q And based on your observations what
19 percentage of the time were the trays not sleeved?

20 A I don't have an exact percentage for you,
21 sir.

22 Q Do you have a rough percentage?

23 A Just general observations as of this past
24 week when I have been in my operational capacity the
25 product line has been boarded to Santa Ana.

1 Q Can you give me an approximate percentage?

2 A As far as sleeved or unsleeved?

3 Q Yes.

4 A Not an approximate percentage. It is not
5 100 percent, I can tell you that, given the fact that
6 a portion of the product line was put in 775 tubs, and
7 a portion was put into EMM trays, and a portion was
8 put into half-trays.

9 Q And you can't give a numerical value to
10 those portions even in rough terms?

11 MR. MECONE: Objection, asked and answered.
12 The witness has said that he can't give a percentage,
13 and opposing counsel is asking for speculation, and I
14 don't think that would help the record out here.

15 MR. LEVY: There are two different
16 objections here. The first is that it is asked and
17 answered, and I don't think it has been. The previous
18 question was about sleeving, and this question is
19 about the portions of putting pieces into three
20 different kinds of containers.

21 Second of all, calling for speculation. All
22 the witness has to do is to say that he doesn't know,
23 and that is the answer.

24 COMMISSIONER BLAIR: I will allow the
25 question.

1 THE WITNESS: As far as percentage wise, I
2 do not have an exact percentage for you. The number
3 that I can give you is less than 100, and greater than
4 one.

5 BY MR. LEVY:

6 Q Greater than zero percent and less than 100
7 percent?

8 A Less than 100 percent, and greater than one
9 percent.

10 Q Other than what we have discussed have you
11 personally observed any other difference in the
12 processing of Netflix's DVD mail compared with the
13 Pacific SOP?

14 A Yes, I've seen the product line processed
15 through the AFCS operation, in addition to the 271
16 originating DBCS operation on the returned product
17 line, as I've seen the originating product line
18 processed on DBCS also.

19 Q Can you give a percentage weighting to the
20 percentage of volume that is processed on the kinds of
21 equipment that you just mentioned?

22 A Approximately two percent of the product
23 line is processed through an AFCS, and approximately
24 15 percent is processed through a DBCS, just some
25 general analysis I've had my staff complete.

1 Q And the residue is processed on -- the
2 remaining percentage is processed on what?

3 A The remaining percentage is not processed.
4 It is culled.

5 Q Culled. Any other differences that you have
6 observed between the processing today and the
7 processing prescribed in the Pacific SOP?

8 A Within my facilities that is the
9 observations that I have, the analysis that I have.

10 Q Now, I think in response to a previous
11 question, you drew a distinction between processing
12 and culling?

13 A Yes.

14 Q Have you observed differences in culling
15 between what occurs today and what was prescribed by
16 the Pacific area SOP?

17 A Yes. As I had previously mentioned, some of
18 the product line that I have observed has been
19 culled --

20 Q I'm sorry, but I am having trouble hearing.

21 A As I have previously stated, my observations
22 have been that the product of Netflix has been
23 prepared within 775 tubs, or flat tubes in the postal
24 window, in addition to half-trays.

25 Q Just for the record what are the approximate

1 dimensions of a 775 tub?

2 A Approximately 12 inches in length, and
3 approximately 8 inches in diameter, and a foot in
4 height.

5 Q Did the 775s have lids on them?

6 A Coming in from the customer service
7 operations, no.

8 Q Do they have lids going out?

9 A Some.

10 Q Do you have a percentage?

11 A From what I have observed as of recently
12 about 50 percent.

13 Q Would you go to your testimony. I'm sorry,
14 page 15, page 15, line 10. Now, I think that I
15 previously asked you about this sentence on 10 that
16 managers do not factor the potential for DVD damage
17 into processing decisions, and then the sentence
18 continues. Do you see that?

19 A Yes.

20 Q Now, I want to contrast that with the
21 sentence that begins on line 20 of the same page,
22 "Yet, postal officials care a great deal about
23 avoiding damage to any mail for the simple reason that
24 customers do not like breakage, whether they are
25 mailers or recipients. Consequently, local managers

1 will factor damage potential and safety into their
2 general decisions about how to process mail", and then
3 the sentence continues. Do you see that?

4 A Yes, I do.

5 Q Can you reconcile those two sentences?

6 A I would be glad to. Up on -- between lines
7 10 through 12 up there, the line level operational
8 managers in the mail processing facilities are
9 concerned about their operational efficiencies and
10 meeting their budgetary needs, along with providing
11 high levels of service to the customer, be it Netflix
12 or GameFly, or for any mailer that utilizes the Postal
13 Service for their means.

14 COMMISSIONER BLAIR: Could the witness pull
15 his microphone closer so we could get a better hearing
16 of what you are saying.

17 THE WITNESS: Yes. In short, what I just
18 said is that local line level operational managers in
19 their mail processing facilities are concerned with
20 providing premier levels of service, the highest
21 levels of service that we can to all customers, be it
22 small or large, in addition to meeting their budgetary
23 opportunities and challenges that they have.

24 In regards to breakage the determining
25 factors for breakage could be inclusive of the actual

1 mail processing equipment design. The mail processing
2 equipment design, of which most of the line level
3 operational managers around the country have no
4 influence over the design of the actual equipment.

5 So, as such, when mail pieces go through a
6 piece of automated equipment, such as a DBCS, there is
7 potential for breakage on that type of equipment.

8 By design standards the line level
9 operational managers do not have the decision as far
10 as changing the design standards either of the mail
11 piece and/or of the mail processing equipment.
12 However, as consequently stated here, local managers
13 will factor damage potential and safety into their
14 general decisions about how to process mail.

15 An example outside of the DVD realm would be
16 flat bundles that are inducted into the mail
17 processing environment, and when they come across an
18 APPS environment or SPBS environment, automated
19 processing parcel sorter, or small parcel bundle
20 sorter environment.

21 And the purpose of that as far as damages
22 that it could incur additional labor costs on behalf
23 of the organization in the event the mail pieces are
24 improperly prepared through design. An example of
25 that would be if a bundle of flats that contained

1 approximately 30 flats within a bundle was to break at
2 the point of induction at the opening unit, it would
3 cause subsequent handling costs to the organization.

4 As such the local manager would be concerned
5 in that context in regards to the potential for
6 breakage of that particular mail piece, and that is to
7 my point here.

8 Q So local operating officials who run plants
9 can take into account breakage in their processing
10 decisions?

11 A They can take into account the potential for
12 breakage if it is adversely impacting their
13 operations, as far as for efficiency purposes and
14 labor costs, and/or the safety and welfare of their
15 employees.

16 An example of that that I articulated in
17 here, and as it is further stated, not just pertaining
18 to DVDs, but is relative to a party's flat rate boxes.
19 My experiences within San Diego is that we have
20 general customers that use that product line, the flat
21 rate product line, and one box of the same dimension
22 can weigh as little as a half-a-pound, and can weigh
23 up to in excess of 40 pounds.

24 We have vendors that are capitalizing on the
25 fact that it is flat rate, and they mail things such

1 as magnets, and that box can pose a potential safety
2 hazard, and even though it looks nearly identical in
3 nature, can pose a safety hazard to our employees if
4 it is not properly identified, and/or damage to our
5 automated equipment.

6 As such, local decisions on behalf of an
7 operational manager, if they are aware of that, they
8 may seek alternative processing methods to ensure the
9 safety of their employees, and/or the lowest cost way
10 to process that product line, which may include manual
11 processing.

12 Q So when local managers make operating and
13 processing decisions, they are allowed to consider
14 breakage if it affects the Postal Service's costs, or
15 the employees' safety, but not if the breakage merely
16 hurts the customer?

17 A If it hurts the customer?

18 Q Damage to merchandise inside.

19 A Yes, if it is damaged due to the fact that
20 the mailer improperly prepared their product or
21 designed their products as it runs through either
22 automated or mechanized equipment, no, that would not
23 be something that they would make a decision upon.

24 Again, that would be something that the
25 mailer, based upon their business needs, and what

1 their intent is, and the guidelines of the EMM and how
2 they induct mail within our mailing processing
3 environment, would make those determinations.

4 Q Does the choice between automated letter
5 processing and manual culling and processing of DVDs
6 have any effect on DVD breakage?

7 A Repeat that?

8 Q Does the choice between automated letter
9 processing of DVD mailers, and manual culling and
10 processing of DVD mailers have any effect on the rate
11 of DVD breakage?

12 A As I indicated that depends upon the mail
13 type that a mailer decides to mail with, be it with
14 their packaging and/or the content within their
15 packaging.

16 Q Can the choice between automated letter
17 processing and manual culling and processing have an
18 effect on the breakage of Netflix's DVDs?

19 A Could you please clarify the choice that you
20 mean by that question?

21 Q The Postal Service's choice.

22 A Can it have an effect?

23 Q Yes.

24 A Specific to Netflix?

25 Q Yes, my question is about Netflix since you

1 said it varied by the mailer. So, I am narrowing the
2 question to Netflix now.

3 A Repeat the question one more time then.

4 Q Does the Postal Service's choice of
5 processing Netflix on automated letter processing,
6 versus manual culling and processing, have an effect
7 on Netflix's DVD breakage?

8 A It potentially could. It depends on the
9 mode of transit in regards to if it is an inbound or
10 outbound, and it depends on the piece of automated
11 equipment.

12 Q Okay. Let's limit our question to inbound.
13 Limit the question to inbound. Do you understand that
14 limitation?

15 A As far as the limitation of the breakage or
16 the limitation of the question?

17 Q The limitation of the question.

18 A I do.

19 Q Can you answer the question then with that
20 limitation?

21 A In regards to the inbound Netflix
22 processing, the decision to run it on automated
23 equipment versus non-automated equipment, and/or
24 manual culling, there is the potential for breakage if
25 it is manually culled.

1 There is the potential for breakage if it is
2 run on automated equipment. The exact percentages, I
3 have not seen a study on that between the
4 differential, and I can only testify to the fact that
5 I know their approximate breakage rate for Netflix.

6 Q You have no idea whether manual processing
7 of inbound Netflix pieces has a higher or lower rate
8 of breakage than automated letter processing of
9 Netflix's inbound pieces?

10 A I have been advised that the potential for
11 culling the product line by Netflix from a Netflix
12 representative could result in breakage, and to what
13 percentage I have not been advised, nor have I been
14 advised of specific percentages to the breakage on a
15 piece of automated equipment, to the total breakage of
16 product line which they receive from the Postal
17 Service on their returned product.

18 Q I am not sure that I heard an answer to my
19 question. You have no idea of whether automated
20 letter processing of inbound pieces creates more or
21 less breakage than manual culling and processing of
22 inbound Netflix pieces?

23 A I do not have specific knowledge as far as
24 the actual breakage rates associated with machinery
25 versus non-machinery in the preparation and/or

1 processing of the product line. I just know the
2 approximate figure that I receive from an ongoing
3 basis from that particular customer that you are
4 referencing to that supplied that information.

5 Q You said that you don't have specific
6 knowledge. Do you have general knowledge of which
7 method is more destructive for inbound Netflix pieces?

8 A No.

9 Q None at all?

10 A As far as percentages, no.

11 Q As far as relative frequency, whether one is
12 higher than the other, you don't know?

13 A No.

14 Q Do you think that the provisions of the
15 concerns of the Pacific area SOP for breakage with
16 respect to Netflix breakage were misguided?

17 A Can you be more specific?

18 Q Do you recall that there are several
19 references in this document to minimizing potential
20 breakage of Netflix's mailings?

21 A There are several references to that, sir.

22 Q And the techniques that are identified or
23 prescribed in this SOP for minimizing breakage
24 involved various kinds of manual culling and
25 processing, correct?

1 A Correct.

2 Q So this SOP appears to reflect a belief that
3 manual culling and processing can reflect Netflix's
4 breakage, correct?

5 A That it can reflect its breakage?

6 Q This SOP appears to reflect a judgment by
7 the authors of the SOP that manual culling and
8 processing can reduce breakage of Netflix's DVDs,
9 correct?

10 A It has the potential to lead to a reduced
11 potential of reduced breakage from what is articulated
12 in the document that is no longer in practice, yes.

13 Q Now, going back to the role of efficiencies.
14 On page -- in several places of your testimony, you
15 talk about efficiency being the most important factor
16 considered by Postal Service managers in deciding
17 whether to call DVD mailers; is that correct?

18 A Efficiency is the major component in the
19 determination of how the processing methods that an
20 individual unit level will process.

21 Q Did you say a major or the major?

22 A A major.

23 Q So you are not saying that it is the most
24 important factor?

25 A It is a major, one of the most important

1 factors.

2 Q It could be outweighed other factors?

3 A It could be by another processing manager
4 and/or plant manager, yes.

5 Q But another processing manager or plant
6 manager, would he properly order processing that was
7 not the most efficient?

8 A It is highly unlikely that someone would do
9 something intentionally that would be inefficient.

10 Q Okay. So other than by mistake, processing
11 decisions in your view are made on the basis of
12 efficiency as the most important factor?

13 A Efficiency in services is a factor in our
14 decisions also. It is the basic principle that we
15 manage by, and that service is up and costs are down.

16 Q Service?

17 A Service up, meaning that we have every
18 intention of continuous improvement on any given
19 product line, be it DVD processing, standard
20 processing, parcel processing. Our intent as
21 operational managers is to improve service on a
22 continuous basis, and at the same time of reducing
23 costs associated with the processing of those product
24 lines, and which would be constituted as improving
25 efficiency.

1 Q Is breakage of the contents of a mail piece
2 an element of service?

3 A It could be, as I articulated with the flat
4 processing, and in the example where a bundle of flats
5 is inducted within the processing environment, or
6 improperly prepared with substandard wrapping, and it
7 breaks, it could cause a potential with a delay in
8 service due to associated and additional handling
9 potential. That's an example.

10 Q Would you go to page three of your
11 testimony, line 14. There you say that the pieces are
12 processed in the most efficient manner possible.

13 A Which line item are we on, sir?

14 Q Page 3, line 14.

15 A Line 14.

16 Q Do you see that?

17 A I do see it.

18 Q And the phrase "most efficient" encompasses
19 the concept of minimizing costs?

20 A Yes.

21 Q Would you go to page five of your testimony,
22 line 14 --

23 A -- where it articulates cost and speed.

24 Q Do you see the sentence that begins on line
25 14, the last three words, "while it may?" Do you see

1 that?

2 A Yes, I do.

3 Q And continuing through line 22, there are
4 several references to efficiency?

5 A Line 22, you said?

6 Q Yes. I can read it, if you like.

7 A No, I'm with you.

8 Q Do you see several references to efficiency?

9 A I do.

10 Q Again, this concept of efficiency includes
11 the concept of minimizing costs?

12 A Minimizing costs and improving services are
13 the ultimate result.

14 Q And again on page 13, lines 14 to 15, "but
15 in the end, we make decisions and operations for the
16 reasons that improve our business performance," do you
17 see that?

18 A Which line item, sir?

19 Q Fourteen to 15.

20 COMMISSIONER BLAIR: Can you repeat the page
21 number, please?

22 MR. LEVY: I'm sorry, page 13, lines 14 and
23 15.

24 THE WITNESS: Yes, I see it.

25 BY MR. LEVY:

1 Q In that sentence, the phrase "business
2 performance" is one element of business performance on
3 minimizing costs?

4 A Yes.

5 Q And, finally, on page 15, lines 13 -- will
6 you go to lines 13 and 14? I'll read the sentence.
7 "Manager's primary focus is on efficient clearance of
8 all available mail in the current processing window."
9 Do you see that?

10 A I do.

11 Q And, again, the phrase "efficient" is one
12 element of efficient intended there, the minimization
13 of costs?

14 A Yes.

15 Q Now let's talk about costs. Do you know how
16 much costs the Postal Service saves by culling the
17 Netflix DVDs from automated letter processing?

18 A I'm unaware of any formalized study that
19 would indicate the cost of actually culling the
20 product line out?

21 A Do you have a general notion of what the
22 average cost of an automated sort is?

23 A An automated sort?

24 Q Yes.

25 A Of what type of product line, sir?

1 Q A Netflix DVD?

2 A A Netflix DVD, general knowledge of the
3 cost, I think it varies by a study that's been
4 completed, sir.

5 Q Do you know what the average cost of an
6 automated sort of a Netflix DVD mailer is?

7 A Average cost of a Netflix, no, not
8 specifically Netflix.

9 Q Do you know what the average cost of sorting
10 -- of an automated sort of any DVD mailer is?

11 A Of any DVD mailer, average cost, no.

12 Q Now, Netflix has its own five-digit zip
13 codes, doesn't it?

14 A As far as the return?

15 Q Yes.

16 A Yes.

17 Q So, Netflix return should not require DPS
18 sorted; correct?

19 A Correct.

20 Q So, a Netflix P should require only two
21 sorts; correct?

22 A It depends.

23 Q When would it require three?

24 A It may not require three. It may only
25 require zero sortation.

1 Q Are there ever circumstances that you know
2 of, in which a Netflix piece that is sorted would
3 require more than two sorts?

4 A Please define a sortation, sir. This is on
5 one set of PC equipment, two, or three? Because in
6 the entirety of a system, the potential flow of a
7 Netflix piece could be encountered through an AFCS
8 operation. It could be encountered through a DBCS
9 operation and first pass off the program. Potentially
10 mis-sorted -- there's potential for mis-sort on the
11 DBCS for any mail product type. It could end up down
12 flowing as the core product to a down-flow facility.

13 Q I'm sorry. Again, I'm having trouble
14 hearing you -- a combination of a distant microphone
15 and hearing -- incipient hearing loss.

16 A I'll move a little bit closer here. I
17 apologize for that. There's potential that the mail
18 could be not sorted at all within mail processing
19 automation, as would be the case with Blockbuster
20 and/or Gamefly, also. There's potential that the mail
21 product could be touched once on an AFCS. There's
22 potential at that point, it could down flow to a DBCS.
23 On a one touch, there's potential it could down flow
24 to a second touch on a DBCS -- just not primary run,
25 sir.

1 Q Now, let's talk about the extra cost that
2 the Postal Service may incur by culling Netflix DVDs
3 from automated letter processing. Now, according to
4 the Pacific SOP -- well, let me ask a preliminary
5 question -- no, I'm sorry. According to the Pacific
6 SOP, 775 flat tubs must be set up next to every piece
7 of equipment that may be used to initially cull
8 Netflix returns. Is that still the practice?

9 A Within my area of population, sir, in my
10 four plants, three of which have a potential of
11 receiving inbound DVDs for Netflix, it's not a
12 requirement to have that next to every piece of
13 equipment.

14 Q Are 775 flat tubs set up next to some pieces
15 of equipment?

16 A At the discretion of the individual
17 operators, yes, it is.

18 Q Are other containers set up next to some
19 equipment to receive Netflix returns?

20 A Specific to Netflix, there could be half
21 trays possibly set up.

22 Q Is setting up those containers have costs?

23 A De minimus.

24 Q Do you know what they are, order of
25 magnitude?

1 A No. No particular study done that I'm aware
2 of.

3 Q Pacific SOP says that Netflix returns must
4 be initially culled. Do you know what that means?

5 A Initially culled?

6 Q Yes.

7 A That could be referred to several different
8 things. It could be initially culled at a customer
9 service operation. It could be initially culled
10 within the plant operations, plant entry into the
11 facility.

12 Q Do you know what the cost of that is per
13 piece?

14 A Culling?

15 Q Yes.

16 A I'm unaware of any cost estimates on
17 culling. Again, it would be de minimus, my
18 understandings of a system regards to fixed resources
19 on a delivery unit that would cull it, as they would
20 be making mail separations for many different product
21 lines, sir.

22 Q Did you say "fixed resources?"

23 A Fixed resource, meaning that there are
24 current resources staffed and delivery unit operations
25 that prepare all mail product types, making various

1 splits, again at a local level decision, as far as the
2 mail products coming in, depended upon many different
3 factors, such as shape-based, as far as the crafts of
4 the mail, things of that nature. That would be a
5 fixed resource, sir, at any given delivery, where
6 they're making those splits.

7 Q Just for clarification, you don't mean fixed
8 in a sense of the cost on varying with volume, do you?

9 A Does the cost vary with the volume? The
10 individual --

11 Q When you used the word "fixed," are you
12 using it in the sense of not varying with the volume
13 of mail?

14 A It depends on the mail -- the amount of
15 mail, sir, in regards to, let's say, during a peak
16 season time. That resource may require additional
17 assistance during peak season, which would constitute
18 typically the month of December, where there's heavy
19 parcels, a lot of parcels, and things of that nature.
20 At that point, it could be variable. But an ongoing
21 basis, it is a bid structure position, albeit it as a
22 carrier or a clerk in the delivery unit operation.

23 Q Now are some of the containers that contain
24 Netflix mail sleeved?

25 A Coming from a customer service operation, I

1 have not seen them sleeved.

2 Q Are containers of Netflix mail sleeved
3 anywhere else in the process?

4 A Consistent with other mail products that
5 leave a processing distribution facility, the majority
6 of the containers are sleeved, be it Netflix,
7 Blockbuster, and/or any first-class mail.

8 Q Does the sleeving have a cost?

9 A Minimal cost.

10 Q Do you have an order of magnitude as to
11 mainly what it is?

12 A Again, it's a fixed resource. Upon a
13 dispatch operation, the primary function is the
14 sortation of a full tray and/or a full tub. In many
15 facilities around the country, that sleeving is
16 automated.

17 Q So, it's a free good, in the sense that the
18 resources would be there anyway?

19 A Either the automated resources could be
20 there -- it's capital equipment that's been purchased
21 -- and/or it's labor resources that are due to the
22 fact that in a manual operation, they would be sorting
23 the tray. But, it's consistent with other mail
24 product types that typically are dispatched from an
25 operation in a facility. My point being it's not

1 exclusive to Netflix.

2 Q All right. Is your point that the volume --
3 changes in the volume of Netflix mail wouldn't affect
4 the amount of those resources that have to be
5 deployed?

6 A For sleeving, no.

7 Q It would not affect it?

8 A Not on an annual and cyclical basis. It
9 would be minimal from my experiences and observations.

10 Q There's that much excess capacity?

11 A Not that there's much excess capacity. It's
12 just that the Netflix product line, similar to
13 Gamefly, is not as substantial to the overall mail
14 base. It's a component of it.

15 Q Now, the Pacific SOP also says that loose
16 disks should be collected daily and returned to the
17 closest Netflix processing center. Is that still
18 done?

19 A That would be consistent with any DVD mail
20 processor that I've been involved with. They would --

21 Q Does that have a cost?

22 A -- product back.

23 Q Does that have a cost?

24 A Does it have cost as far as?

25 Q Does the activity of collecting the return

1 of the disks have costs to the Postal Service?

2 A As does any mail product going back to a
3 service center.

4 Q So that's a yes?

5 A It's a yes.

6 Q Now, there's a discussion in the SOP of bio-
7 hazard production system issues.

8 A Which page are you on, sir?

9 Q Page 528. It's a heading in the middle of
10 the page.

11 A Yes. I'm just reading through it now.

12 Q Let me know when you're done reading it.

13 A I'm done reading it.

14 Q Do you have an understanding of what that
15 paragraph means?

16 A General understanding is that with the BDS
17 biological detection system, it takes approximately 90
18 minutes for the sampling cycle to be completed.
19 That's generally whether or not there's a biological
20 impact potentially here, biological threat associated
21 with something similar to Anthrax.

22 Q The second sentence of that paragraph talks
23 about the unique processing of the Netflix return
24 mailer. Do you see that?

25 A I do see it.

1 Q What is the relation of that term with a
2 bio-hazard detection system issues?

3 A Regards to the processing of the BDS, as far
4 as the mail product with BDS?

5 Q Yes.

6 A There's potential, in regards to the mail
7 being culled out, that this product is put into a tub
8 or tray. At that point, if it's down flow to a
9 Netflix facility within that 90-minute period of time,
10 that mail could be isolated and dropped, just as it
11 would be with any collection mail letters that go
12 through the AFCS operation and/or mainly a culling
13 operation.

14 Q Let me ask you a more general question.
15 Given your previous responses, isn't it fair to say
16 that you don't know the cost of processing Netflix
17 mail?

18 A It's my understanding that a study was
19 conducted, Christenson Study, if I'm not mistaken, and
20 that there were cost estimates generated from that.
21 The exact cost, I'm not exact on the exact cost
22 associated with Netflix, Gamefly, and/or Blockbuster.
23 I believe they made some assumptions in there and some
24 cost estimates for processing, not necessarily
25 culling.

1 Q Other than the Christenson Study, which is
2 in the record, you don't have any personal knowledge
3 of what the costs of processing Netflix are?

4 A Not the exact cost, sir.

5 Q Not even the approximate costs?

6 A No.

7 Q Have you seen any studies quantifying the
8 net cost savings from culling Netflix mail?

9 A I have not, sir.

10 Q Have you seen any studies quantifying the
11 value of culling Netflix mail from any service
12 standards?

13 A Any studies, no.

14 Q Now, one of the factors considered in
15 processing decisions for DVD mail is minimizing the
16 rate of jams; is that correct?

17 A Repeat that one again.

18 Q One of the factors considered in processing
19 decisions for DVD mail is minimizing the rate of jams?

20 A With any mail product type processed on
21 automated equipment, the intent is to minimize jams.

22 Q Including for DVD mailers?

23 A Yes.

24 Q DVD mailers can jam automated letter
25 processing equipment?

1 A Just as any other mail type can.

2 Q Now, when a DVD mailer jams a piece of
3 automated letter processing equipment, one result can
4 be that the line is shut down, production line?

5 A If you're referring to DBCS, any other
6 product that's a bulky piece, something that is
7 irregular in shape within a letter, such as candy or
8 things of that nature.

9 Q Okay. My question is not about candy or
10 other irregular pieces. This line of questioning is
11 about DVD mailers.

12 A Okay.

13 Q When a DVD mailer jams a DBCS, it's typical
14 for the DBCS to be shut down, so the jammed piece can
15 be extracted?

16 A As it would be with any other mail piece.
17 That's a safety requirement of a jam, a jam on a
18 machine, either soft jam, hard jam type environment.

19 Q So, the answer --

20 A Not planned event on a DBCS, that's what
21 it's referred to.

22 Q So the answer to my question is yes?

23 A The answer to your question is yes, a jam
24 would require the machine to be stopped. It does stop
25 the machine and at that point, the jam is extracted.

1 Q How long does it typically take to get the
2 operation up and running again?

3 A Sir, that depends on where the jam occurs
4 and how many resources are assigned to a machine.
5 Typically, there are two individuals assigned to a
6 DBCS. A jam can occur at the front end of the
7 machine, near a feed section, which could take
8 anywhere from 10 seconds to 60 seconds to clear,
9 and/or if it's further down in the equipment, such as
10 a gate or at a diverter, it could take upwards of a
11 minute to three minutes.

12 Q What is the --

13 A It depends on the individual operator.

14 Q What is a typical throughput of a machine
15 when it's running properly?

16 A The intended throughput of a DBCS is 39,500
17 pieces per hour, with a jam rate of 1.3 percent.

18 Q Now another consequence of a jam -- having a
19 DVD mailer jam a machine is it can damage the
20 equipment?

21 A There is potential for that.

22 Q Local managers consider jams in deciding
23 whether to cull Netflix DVD mailers from the automated
24 mail stream?

25 A That is a local decision, sir, as you just

1 mentioned.

2 Q And that local decision includes
3 consideration of the jam potential of the DVD mailers?

4 A On an individual equipment, yes. There's
5 many different platforms for letter automation
6 processing with different generations of equipment.
7 Some machines accept the mail more readily than
8 others, based upon the equipment that's been deployed.
9 Again, it comes down to the uniqueness of the
10 respective facility. That's the reason why it's a
11 local manager, local operations decision.

12 Q When the equipment in a local facility is
13 susceptible to jamming by a DVD mailer and the local
14 operator will consider that as a reason to go to
15 manual culling?

16 A Potentially, it would be one factor.

17 Q Now, you are based in the San Diego area,
18 right, Mr. Belair?

19 A At this time, I am.

20 Q There's a big local electric utility there
21 called Semptra?

22 A I've heard of it.

23 Q It used to be called San Diego Gas &
24 Electric?

25 A Okay.

1 Q They've got a lot of incoming bill payments
2 into San Diego, don't they?

3 A I don't know the exact number, sir.

4 Q You get some?

5 A We do get some.

6 Q Do they get culled?

7 A Not that I'm aware of.

8 Q Now, the telephone companies provide
9 service. There are telephone bills that get paid to
10 addresses or lock boxes in the San Diego area?

11 A Repeat that again.

12 Q Does the San Diego area get a lot of
13 incoming bill payment mail from telephone bills?

14 A For telephone bills, I'm unfamiliar with the
15 exact amount on that, sir.

16 Q Okay. But --

17 A Utility payments, in regards to payments by
18 consumers going through the mail, that's something
19 consistent throughout the country.

20 Q And they don't get culled? Automated
21 letters --

22 A That's not necessarily true.

23 Q They don't get culled as much as Netflix
24 DVDs get culled?

25 A I can't say they do or they don't, sir.

1 Q You don't know?

2 A I'm saying that I don't know an exact
3 percentage.

4 Q I didn't ask you for an exact percentage. I
5 asked you to compare the rate of culling -- the amount
6 of culling of utility bills with Netflix DVDs?

7 A There is potential for culling of utility
8 bills in any given locality. Let's say it's a
9 turnaround product line within a delivery unit and
10 maybe for efficiency purposes and turnaround time for
11 that product, if it's within a five-digit, too, the
12 same five-digit, they may make the choice at a local
13 level to cull that product line out.

14 Q Okay. You understand the concept of
15 comparing two things?

16 A Yes.

17 Q Okay. I want you to compare two things.
18 One thing is the amount of Netflix DVD incoming mail
19 that gets culled and the other thing is the amount of
20 incoming utility bills that get culled. Do you
21 understand the two concept's I'm asking you to
22 compare?

23 A Yes.

24 Q Which one gets a higher percentage of
25 culling in your area?

1 A Sir, I don't know of any percentage relative
2 to the utility payments that you're referring to that
3 get culled relative to the Netflix that you're
4 referring to. I can tell you approximately how much
5 of the Netflix gets culled.

6 Q Okay, please.

7 A Approximately 80 percent.

8 Q And does the utility mail get culled at a
9 higher or lower rate than that?

10 A Sir, I do not know.

11 Q You have no idea?

12 A I do not know the percentage of that.

13 COMMISSIONER BLAIR: Mr. Levy, if I could
14 interrupt you for a moment. We've approached the
15 lunch hour and I know that you certainly have detailed
16 line of questioning for this witness. I would ask
17 that if you could estimate how much longer you might
18 have him up here, because I'm going to schedule a
19 break and I wanted to make sure I schedule it at a
20 good point in your cross-examination.

21 MR. LEVY: I actually only have two pages of
22 my 13-page script of notes left and would be willing
23 to break now, if that would suit --

24 COMMISSIONER BLAIR: Can you estimate how
25 much time that would take?

1 MR. LEVY: My wife says I can't. Another 15
2 minutes is my estimate.

3 COMMISSIONER BLAIR: Okay. Why don't we go
4 until about 12:45 and then we can break and come back
5 for redirect.

6 MR. LEVY: Thank you.

7 BY MR. LEVY:

8 Q Mr. Belair, can you go to page 13 in your
9 testimony and go to line 22? On lines 22 to 24, you
10 state, "Witness Lundahl explains that DVD manufacturer
11 can decrease the likelihood of damage. Netflix has
12 used this information to create more flexible DVDs for
13 its own mailing." Just to clarify something that
14 maybe obvious, in that passage, you're summarizing the
15 testimony of Mr. Lundahl; right?

16 A That's in reference to it.

17 Q That quoted passage is not based on any
18 independent research by you?

19 A Not by me, no.

20 Q Can you go to page 18 of your testimony,
21 particularly on line seven of page 18?

22 A On page 18, sir?

23 Q Yes, sir.

24 A Line seven?

25 Q Yes.

1 A What role does theft play?

2 Q Yes.

3 A I'm with you.

4 Q Beginning on line 18 of that page, you
5 discuss Gamefly's responses to DVD theft. Do you see
6 that?

7 A Which line, sir?

8 Q Eighteen. I'm sorry -- strike that
9 question. Have you ever discussed why Gamefly -- with
10 Gamefly, why it pays flats rates rather than letter
11 rates?

12 A Why they pay? I've had conversation and
13 customer meeting specifically at the Postal forum this
14 past year in a group setting, where the representative
15 of Gamefly articulated several different things to us:
16 one, that they have paid for flat processing to get
17 the confirm scan on that, so they can track their
18 product, in addition to, they believe that it would
19 reduce the potential for breakage; two, they confirmed
20 that we are providing service, at least on the Pacific
21 area, for their product line.

22 Q Okay. Now, I'm going to again -- this
23 question is about limited direct communications you've
24 had with Gamefly. Has Gamefly ever discussed with you
25 whether it would be willing to accept letter

1 processing for its DVD mailers?

2 A No, not with me. They specifically --

3 Q I'm sorry, let me finish my --

4 A -- specifically requested -- I'm sorry.

5 Q I'm sorry, you cut off my question. Let me
6 finish it before you answer. Has Gamefly ever
7 discussed with you whether it would be willing to have
8 its DVDs mailed as letters rather than flats, if
9 Gamefly got the same level of manual culling and
10 processing that Netflix gets?

11 A They have not had a discussion with me, in
12 my presence that I'm aware of, sir. And as a point of
13 notice, Gamefly -- the Gamefly product line, in excess
14 of 60 percent of their product line locally in San
15 Diego is culled at the delivery unit as a shape-based,
16 based upon the fact that they are paying for flat
17 rate. That's a local decision. And then at that
18 point, it's run through the automated processing
19 equipment at the request of the vendor and what they
20 paid for, so they can get their confirmed hit. So,
21 the customer is paying for a product line and a
22 service and we're providing that service to them.
23 There are some attributable unattended mail flows that
24 result in approximately 30 percent of the product
25 line, which is, on a scope of what we do on a daily

1 basis in a mail processing facility, approximately two
2 one-hundredths of one percent of my total originating
3 product for one day, approximately 290 pieces that are
4 encountered at my mail processing site, from some
5 general analyses completed by my staff. So --

6 Q Now, my question was about discussion
7 between you and Gamefly. How was what you just said
8 responsive to that?

9 A How is it responsive to it? You had asked
10 whether or not they had asked if we had processed the
11 mail, if we had processed in a letter environment, in
12 regards to what they're paying for relative to flat.
13 They've asked us to process it in a flat environment.
14 I have not been asked whether or not they could
15 receive the same amount of preference that you're
16 indicating Netflix receives, in regards to culling.
17 My point is that that type of --

18 Q Can you limit your answers to my questions?
19 We're going to be out of here faster if you do that.
20 Your lawyer can always ask you redirect, if he wants
21 to follow up. Do you have any direct knowledge of --
22 from Gamefly about the circumstances, in which it
23 would be willing to change the color of its mail
24 piece, make it more visible?

25 A The particular representatives for Gamefly

1 had brought that up in a consultation meeting at the
2 Postal forum, that they had changed the cover of it.
3 Their intent was to reduce theft, is what they
4 explained to us.

5 Q You didn't discuss with them whether they
6 would be willing to change it back to something more
7 garish and visible, if they got automation letter
8 rates with all the manual culling?

9 A No, I have not had that conversation with
10 them.

11 MR. LEVY: Thank you. That's all I have.

12 COMMISSIONER BLAIR: Does anyone else want
13 to engage in cross-examination? Mr. Costich?

14 MR. COSTICH: No, thank you, Chairman.

15 COMMISSIONER BLAIR: Any questions from the
16 bench? Commissioner Langley?

17 BY COMMISSIONER LANGLEY:

18 Q Thank you. I'm just curious, who makes the
19 decisions at the plants? At what level is it decided
20 whether to do manual processing, culling out of these
21 envelopes?

22 A At a plant level, typically, it's the
23 operational managers within a plant. As far as if
24 we're dealing specifically with DVDs, it would be at
25 the operational level.

1 Q And an annex -- there are different size
2 plants --

3 A Facilities.

4 Q -- and processing facilities. Does anybody
5 have to check with anyone else?

6 A Do they have to check?

7 Q I mean, at a smaller -- I have been to the
8 San Diego plant and it's large.

9 A Yeah.

10 Q There are smaller ones.

11 A There are.

12 Q Is there any chain of command or is it just
13 an individual decision at an individual facility?

14 A Typically, it's an individual -- my
15 experience is it's an individual decision at an
16 individual facility. Given the uniqueness of the
17 operations, such as at a smaller facility, they may
18 have potentially some Legacy equipment -- we would
19 call it DVCS equipment sets, such as a phase one DVCS,
20 which may not necessarily accommodate the DVDs, as
21 well, be it Blockbuster, Gamefly, and/or Netflix. So
22 at that local level, typically, the operator can make
23 that final decision, a manual operator, whether or not
24 it's running on their particular equipment set
25 properly.

1 COMMISSIONER LANGLEY: Okay, thank you.

2 COMMISSIONER BLAIR: Any Commissioners like
3 to ask the witness a question?

4 COMMISSIONER ACTON: I have one question,
5 thank you, Commissioner Blair.

6 BY COMMISSIONER ACTON:

7 Q Mr. Belair, had you seen this standard
8 operating procedure memorandum with respect to
9 processing Netflix mailings prior to this proceeding?

10 A I had, sir.

11 Q You had seen it in the context of your job
12 at the Postal Service?

13 A In my former capacity, yes, as the manager
14 of Implants Porta Pacific area.

15 Q Have you ever seen a standard operating
16 procedure memo of this ilk issued in connection with
17 Gamefly?

18 A Not related to Gamefly, no; specifically to
19 Gamefly, I have not seen something similar of that
20 nature. Did I understand your --

21 Q Yes, you did. Are memos of this type issued
22 on a reasonably regular basis with respect to other
23 Postal customers?

24 A This particular document was produced again
25 prior to my arrival and the leadership change within

1 Pacific area. When it was identified, it was removed
2 from service due to the fact that we wanted to allow
3 the local level field operations group to make those
4 types of decision, be it with the DVD mailer and/or
5 with any other mail type product.

6 Q But have you seen a memorandum of this
7 nature with respect to processing directions for a
8 mailer other than Netflix?

9 A Not necessarily a mailer, but mail, yes.
10 Headquarters will produce standard operating
11 procedures for mail types such for Hazmat mail product
12 types and/or in regards to aviation security. They
13 have very detailed SOPs. I don't handle those product
14 lines. But to an individual mailer, no.

15 COMMISSIONER ACTON: Okay. Thank you, very
16 much.

17 COMMISSIONER BLAIR: Commissioner Hammond?

18 COMMISSIONER HAMMOND: I have no questions.
19 Thank you.

20 COMMISSIONER BLAIR: Okay. At this point,
21 then, I would like to ask Postal counsel if you would
22 like to have some time for redirect and how much time
23 do you estimate and how much redirect to you estimate
24 at this time?

25 MR. MECONE: First, I want to clarify

1 whether there's going to be a closed session, are
2 there questions for closed session?

3 COMMISSIONER BLAIR: No.

4 MR. MECONE: I would like 15 minutes, if
5 possible.

6 COMMISSIONER BLAIR: At this point, why
7 don't we reconvene at 2:00 and then that way, it will
8 give you some time -- additional time, more than 15
9 minutes. And we can break and grab a bite to eat, as
10 well.

11 MR. MECONE: Okay, thank you.

12 COMMISSIONER BLAIR: So, we'll reconvene at
13 2:00 and we'll see the witness at that point. Thank
14 you, Mr. Belair, I appreciate it.

15 (Whereupon, at 12:42 p.m., the hearing was
16 recessed, to reconvene at 2:00 p.m. this same day,
17 Tuesday, October 5, 2010.)

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1 A F T E R N O O N S E S S I O N

2 (2:05 p.m.)

3 COMMISSIONER BLAIR: We understand you had
4 some time with your witness. Are you prepared to
5 engage in redirect?

6 MR. MECONE: Yes, thank you.

7 COMMISSIONER BLAIR: I would remind the
8 witness that he is still under oath, as well.

9 REDIRECT EXAMINATION

10 BY MR. MECONE:

11 Q Earlier, Gamefly counsel asked you a couple
12 of questions about the Postal Service institutional
13 response to GFL/USPS-106C. In your view, is the
14 Postal Service institutional response incorrect?

15 A Can you repeat that? I'm sorry.

16 Q I'm referring to the Postal Service
17 institutional response to GFL/USPS-106C. I can read
18 the question for you, if that's easier.

19 A That would be.

20 Q The question is, "please refer to Pacific
21 Area DVD SOP.pdf and Eastern Area SOP number 05-05-4."
22 And then Part C reads, "please also refer to the
23 following portion of the Postal Service's response to
24 GFL/USPS-18. The Postal Service expects that the
25 amount of manual processing of Netflix mail is likely

1 at least as large as was set forth in the OIG report.
2 Those specific percentages are available. Please
3 confirm that current processing practices for Netflix
4 inbound pieces in these two areas are substantially
5 similar to those described in the Pacific and Eastern
6 area SOPs. If not confirmed, please explain fully and
7 reconcile with the USPS response to GFL/USPS-18." And
8 the Postal Service answer was confirmed.

9 A Yeah. In regards to that question, we had
10 spent some time earlier on it. That's Mr. Levy's
11 questioning on it. Yes, it is consistent that of the
12 Postal operations, approximately 80 percent of the
13 product is culled at the origin unit customer service
14 operation in San Diego.

15 Q So, in your view, is that -- is the Postal
16 Service answer incorrect?

17 A It's not incorrect.

18 Q Why is Netflix mail handled in the way
19 described in that question?

20 A Several different reasons. There are
21 several factors as to why Netflix, as is Gamefly,
22 culled in the opening unit operations and/or at the
23 door of a unit operations within the organization,
24 specifically in San Diego. Number one, it's relative
25 to the density of the mail product. The mail product

1 is, on some of the localities, equates to in excess of
2 one full tray or one full tub on a daily basis. It's
3 readily identifiable, number two, based upon the
4 composite of the material and the coloring of the
5 material. As such, that product is extracted at the
6 point of source on the entirety of the system, at the
7 front of the system, for the bases of saving work
8 hours thereafter. So, the conversation with regards
9 to automated processing versus culling, is it more
10 efficient to cull the product at the front end of the
11 product, it's my understanding that it is from our
12 observations due to the fact that it is extracted at
13 the front end of the process and requires less touches
14 by labor resources and/or automated equipment from
15 that point forward. As such, it reduces the overall
16 costs associated with that through reduction in labor
17 hours, potential labor hours associated with handling.

18 That is consistent with Gamefly handling in
19 San Diego, in regards to basic analysis done after
20 approximately 300 pieces a day that is being generated
21 out of one of our facilities. An excess of 60 percent
22 of that product is culled in place due to shape-based
23 characteristics as a flat and redirected in the
24 automated environment thereafter, at the request of
25 the customer for what they're paying for. And

1 approximately 30 percent of that product, through
2 unattended flows, is handled manually, through manual
3 processing.

4 Q Moving on to another topic, Commissioner
5 Langley asked you some questions about the decision-
6 making process in the local plants. In order for
7 those decisions -- the managers to make those
8 decisions in the local plants regarding the handling
9 of mail, is it necessary to know the cost measurements
10 of particular pieces of mail?

11 A In an operation's level, as far as the costs
12 associated, what it cost to process a product, that is
13 not something that's typically discussed and/or taken
14 into consideration of how a product is handled.
15 However, what is taken into consideration primarily is
16 the work hours associated with how we handle products
17 and the number of times in which we handle the
18 product, be it with a DVD, letter, flat, parcel, and
19 whatnot throughout the mail processing environment.

20 The budgetary process -- we go to the cost
21 side of this, the budgetary process within the
22 organization is top down. It's very methodical, as
23 far as how it's brought down from a headquarter's
24 level, to an area level, to a field level, actually
25 down to a line level. So, your question regards to

1 who make decisions in regards to handling, why would
2 it be on a local level, big facility to small, the
3 ultimate accountability -- and there is significant
4 accountability within the organization, on a day-to-
5 day basis, accountability for good performance and
6 accountability for performance at substandard, and
7 relative to budgetary performance, that is a major
8 thing that is reviewed on a day in and day out basis
9 and on a frequent basis thereafter, in the performance
10 of an individual manager, individual supervisor, up to
11 the executive rank and file.

12 Within Pacific area, there's a very specific
13 structure that's been developed over the past three-
14 and-a-half to four years on a leadership -- former AVP
15 Michael Daly and the current AVP Durrell Puta for
16 approximately 10 years in various capacities. And
17 coming out to Pacific area, there's been a cultural
18 transformation. That calls for transformations in
19 regards to the organizational structure as set forth,
20 a very rigid structure, that has accountability. That
21 structure encompasses performance reviews from a
22 district aspect with the area staff, in regards to
23 budgetary performance and work hour performance, which
24 can determine how well you are performing or not
25 performing, and relative to the assigned budget.

1 For an example, in San Diego, as a senior
2 plant manager, I'm accountable for approximately three
3 million work hours a year. Given the constraints on
4 the organization, we do everything at a local level
5 within our scope and ability through various web
6 metrics, observations on the floor, using leads,
7 studies, to eliminate all available waste, unnecessary
8 work hours, and costs through labor resources, to
9 ensure we're providing the most efficient environment
10 possible. Related to DVD processing, from an end-to-
11 end process, not just specific to mail processing, we
12 accept that from an end-to-end processing with the
13 density that is generated in some of our five-digit
14 localities, with the visibility that that product
15 provides. It is more cost-effective, in our mind, in
16 what our basic analysis has been, by reducing the
17 amount of times that product is touched. It also
18 reduces the cycle time associated with the turnaround
19 time on that, consistent with the Gamefly, as
20 Blockbuster.

21 The accountability, further continued, there
22 are year-end performance review, midyear performance
23 reviews, ongoing performance reviews with line level.
24 I hold direct performance updates or performance
25 management with my staff. I have approximately 200

1 EAS management employees under my direct oversight of
2 that. All of them have performance reviews on an
3 ongoing basis, approximately once a month. It also
4 comes through day-to-day operational management. The
5 web-based applications we have give us specific
6 metrics that we see. We have conference calls on an
7 ongoing basis with the area staff and with the local
8 staff, to discuss mail conditions, mail flows, any
9 exceptions, in addition to budgetary performance and
10 service performance, of which we take considerable
11 pride in Pacific area in the San Diego district. The
12 performance has been demonstrated over the last 12 to
13 24 months, which Pacific area is a leading provider of
14 service in many different product lines, including
15 two-day, three-day service, priority service.
16 Honolulu is one of the top providers in the MPA
17 performance on an ongoing basis. They set the
18 benchmark for the rest of the country as a district.
19 And I've worked with that group in my former capacity
20 as the manager of Implants support.

21 So, the ongoing accountability, it is
22 definitely present within the organization. There's
23 no question about it. That ongoing accountability, as
24 far as the budget, the local level is allowed to make
25 decisions, what's most efficient for them relative to

1 their unique situation. If that situation is depended
2 upon an operator potentially culling a piece of mail
3 because it's more efficient for them to do so, because
4 of a particular piece of equipment they have available
5 to them, that is allowed for them to make that
6 decision, in most situations. Other guiding
7 principles that they go by, there are guiding core
8 values in which we work with. And, again, as I stated
9 earlier, it's to reduce all available costs and
10 opportunities using the opportunity models that are
11 available to us, to encourage at the local level to
12 seek those opportunities, extract that waste out of
13 our processing system, to allow us to reduce our
14 overall cost.

15 An example of that, San Diego plants within
16 the fiscal year of 2010, approximately 440,000 less
17 usage from what they had demonstrated in 2009. That
18 equates to over a \$1.2 million in savings -- much more
19 than that actually -- and within the Pacific area, it
20 reduced, just over the past three-and-a-half years,
21 approximately three-quarters of a billion dollars.
22 It's not a number that -- it's a very large number,
23 something that's contributed very positively to the
24 organization and reducing the overall cost.

25 At that same time, we've improved the

1 service significantly. That came through
2 accountability. It came through the identification of
3 opportunity at the lowest level within the
4 organization, and encouraging and enabling those
5 resources to do so. In the event that an operational
6 manager is not performing to the level they need to,
7 there is a situation within situational leadership
8 that we do employ with the Pacific area and San Diego
9 district, to enable those resources to perform better.
10 There's a formalized process that goes along with
11 that. The vital opportunities are identified, past
12 opportunities, be it in a delivery unit, mail
13 processing operation, or specific operation within a
14 plant. Some of the basic structure that is in place
15 relative to budgetary performance and why at a local
16 level, they're allowed the latitude to do things
17 differently in some localities versus having a
18 standardized way of going about it, because at the end
19 of the day, they're held accountable for their
20 budgetary performance and service performance.

21 Q Also related to cost measurement, Gamefly
22 counsel asked you a question regarding your knowledge
23 of the cost of different mail and not handling. And
24 in response, you referred to the Christenson Study.
25 Would you like to elaborate at all on the significance

1 of the Christenson Study to your -- in that context?

2 A In regards to the Christenson Study, I'm
3 aware of the study, the general principles of the
4 study, the focus of the study, and some of the
5 shortcomings of the study. A particular note, the
6 study in the field is not applied in the field, as far
7 as from an operational aspect. The average cost of a
8 particular piece of mail and how it's handled is not,
9 again as I've previously stated, something of
10 particular interest to the field level, nor has it
11 been deployed as such, to my understanding, at least,
12 to my responsibility and in counsel throughout the
13 organization.

14 It has some -- the measuring of what it did
15 measure is not necessarily the discussion of what has
16 been today, what I've been presenting and how the
17 handling of Netflix, in addition to Gamefly. It did
18 not take into account the actual culling at a customer
19 service operation, being that it did not do a cost
20 average of that process. It made a guesstimate, did
21 not actually do a study upon that. In addition, I
22 believe it only sampled approximately 15 facilities
23 overall and developed 15 independent cost averages
24 within the respective facilities. And to apply that
25 really across a national average is inconsistent with

1 what -- it is inconsistent with what is needed in
2 actually demonstrating cost averaging. So, it's
3 specific to a locality.

4 Q Moving on to another subject, Commissioner
5 Acton asked you about the Pacific SOP. He had a
6 couple of questions. Just to first to clarify, is
7 that SOP still in effect?

8 A No. That SOP was rescinded.

9 Q Do you know why it was rescinded?

10 A Yes. The SOP, once it was identified by,
11 again, the new leadership within Pacific area, was
12 identified that doing our outside reviews, there
13 wasn't a necessity to have mail prep standardization
14 overall amongst multiple product lines. So, in going
15 into a particular facility, such as SAC or Los Angeles
16 or San Francisco, is there a necessity on mail prep
17 coming from a delivery unit needs to be standardized.
18 Consideration was given and it was determined that it
19 would be best that it was not standardized due to the
20 locality uniqueness relative to the mail processing
21 platforms, in addition to their mail bases and things
22 of that nature. As a result of that, this SOP, being
23 that it was specifically geared towards mail
24 preparation, it would be more effective at a local
25 level for them to make a decision relative again, do

1 they have the density to warrant doing something of
2 this nature. Some five-digits do not. It would be
3 more cost ineffective to do so. When looking for --
4 if you're going through, let's say, 10,000 pieces of
5 collection mail coming in, if it's not readily
6 identifiable, such as Gamefly, as by their design, and
7 it doesn't have the volume to warrant it, it would be
8 having to go through that product day in and day out,
9 trying to identify it, would not be necessarily as
10 cost effective, resulting in additional work hour
11 savings.

12 So, it was rescinded upon the discovery by
13 the new leadership team. And in addition to that,
14 allowed for the local to make that determination, but
15 maybe some of the principles that were residing within
16 the context of the SOP to continue and other things to
17 change.

18 Q Were you personally involved with that
19 decision to rescind the SOP?

20 A As far as the decision, no. As far as the
21 implementation, yes.

22 Q Commissioner Acton also asked about the
23 existence of SOPs that apply to mailers, other than
24 Netflix. Are you aware of any other SOPs or other
25 practices that dictate different treatment for

1 particular mailers?

2 A Yeah. Given the nature of our business, in
3 that we deal with thousands of customers, and each
4 locality is slightly different, there are
5 circumstances of which we work with mailers for their
6 advantage, but also to our advantage, in providing
7 cost-effective premier service really and reducing
8 costs associated with handling their product, in
9 addition to providing them timely service on a
10 consistent basis.

11 An example of that, in my personal
12 experiences, I meet with customers, along with my
13 district manager, on an intermittent basis. Valasses
14 Corporation, a very large corporation, came and
15 approached us in regards to a major mailing that they
16 were undergoing, asked us what they could do to
17 facilitate the product, as far as -- from end-to-end
18 acceptance, through processing, through transportation
19 -- what they could do to facilitate, making sure they
20 had timely service. In addition, if there's anyway
21 that they could help us assist in reducing costs. We
22 came to agreements on making basic splits, as far as
23 the mailer is actually making those splits for us, and
24 how they're preparing that product. In addition to
25 that, there was a parcel. They didn't necessarily

1 need it in a sack. That added more labor costs to the
2 organization at the point of induction and opened an
3 apps operation. As such, they were preparing that
4 product in what would be called a "postal pack,"
5 cardboard pack where we could reduce the cost and time
6 associated with giving that product into our system
7 process and transported on to the next operation.
8 That's one example.

9 The organization also uses what's called a
10 CSA, a customer supplier agreements on a product
11 that's entered into the origin operations. The
12 mailers may come to the organization at a local level
13 and request to have mail entered at a slightly later
14 time than the critical entry time in a mail processing
15 environment. With that, the mailer may be required to
16 make additional splits, as was the situation with
17 Valasses. So, those agreements are entered into on a
18 regular basis at a local level. They go through
19 review, typically on an annualized basis from my
20 experience.

21 So, yes, there are several examples in which
22 we do work with mailers and they are given -- I don't
23 want to say exceptions -- are given deviations from
24 what the normal standard would be, in regards to how
25 we handle their product lines. And that's throughout

1 the organization that that takes place on a regular
2 basis.

3 COMMISSIONER BLAIR: Thank you. Is there
4 any re-cross at this point? Mr. Levy?

5 MR. LEVY: Yes, Commissioner Blair.

6 RE-CROSS-EXAMINATION

7 BY MR. LEVY:

8 Q Mr. Belair, I want to follow-up. You had
9 some comments about the Christenson Study?

10 A I did.

11 Q And you indicated there were several -- that
12 you believe that there were several shortcomings or
13 limitations in it?

14 A From what they acknowledged in the study,
15 from what I had read.

16 Q Have you read the study in its entirety?

17 A In its entirety, no, but portions of it.

18 Q When did you last read it?

19 A Over the last week.

20 Q Do you have any experience in cost modeling?

21 A I do not.

22 MR. LEVY: That's all I have. Thank you.

23 COMMISSIONER BLAIR: Mr. Costich?

24 MR. COSTICH: No questions, Commissioner
25 Blair.

1 COMMISSIONER BLAIR: All right. Any
2 questions from the bench?

3 (No questions from the bench.)

4 BY COMMISSIONER BLAIR:

5 Q I just have one quick one regarding the SOP
6 that was in discussion earlier today and was the
7 subject of the questioning by Postal counsel. You
8 said that was rescinded. This is the SOP that was
9 issued on March 1, 2005, SOP number 05-05-4?

10 A The one I have in hand, yes.

11 Q When was that -- when did that rescission
12 take place?

13 A Approximately 2007.

14 Q And who issued it?

15 A As far as the name? Or office? Or --

16 Q Under whose authority was it issued?

17 A The original SOP, my understanding of it,
18 was drafted by the former leadership team of Pacific
19 area prior to the arrival of Mr. Daly, the incoming
20 area vice president, and the manager of operation
21 support, Gerald Quarter, along with myself, as the
22 manager of Implants Support. The document was resided
23 on whether application associated with my functional
24 department and it had been distributed prior to our
25 arrival within the area.

1 COMMISSIONER BLAIR: Okay, thank you. If
2 there is no additional cross-examination, Mr. Levy,
3 was there anything that you wanted to bring about in
4 closed session with this witness? I don't recall any
5 testimony being offered or any confidential
6 information being sought from this witness.

7 MR. LEVY: No, Commissioner Blair.

8 COMMISSIONER BLAIR: Thank you. Well, then,
9 Mr. Belair, you are excused for the moment -- not for
10 the moment, for the day.

11 THE WITNESS: Thank you.

12 COMMISSIONER BLAIR: So, we appreciate your
13 testimony and we appreciate your contributions to the
14 record here today.

15 (Witness excused.)

16 COMMISSIONER BLAIR: And that is it for the
17 hearing today. We have one presiding officer ruling
18 that is still outstanding and I believe it is supposed
19 to be answered by this Friday. And I understand that
20 there may be a need for additional hearing with one of
21 the witnesses called today, as well, but I think that
22 will be something that may -- that will have to be
23 resolved following receipt of the information sought
24 in appeal. So at that point --

25 MR. MECONE: We were not aware of another

1 potential hearing for one of the witnesses today.

2 COMMISSIONER BLAIR: It depends on the
3 responses that the Postal Service submits to the
4 Commission on this Friday. So, I think that that
5 decision will be made after we receive those
6 responses.

7 MR. MECONE: Could you please clarify which
8 witness?

9 COMMISSIONER BLAIR: I think it's going to
10 be Mr. Lundahl.

11 MR. MECONE: All right, thank you.

12 COMMISSIONER BLAIR: So, at that point, we
13 appreciate your participation here in the hearing
14 today and this concludes the hearing. So, thank you,
15 very much. We will resume on October 14, to receive
16 the testimony of Postal Service witnesses Barranca and
17 Seamar. Thank you.

18 (Whereupon, the hearing was recessed, to
19 reconvene on Thursday, October 14, 2010.)

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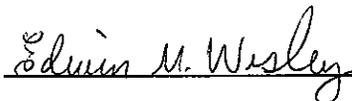
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REPORTER'S CERTIFICATE

DOCKET NO.: C2009-1
CASE TITLE: Complaint of Gamefly, Inc.
HEARING DATE: October 5, 2010
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Postal Regulatory Commission.

Date: October 5, 2010

_____

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