

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

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

MARKET TEST OF EXPERIMENTAL PRODUCT)
MARKETING MAIL MADE EASY)

Docket No. MT2011-3

Comments of the Public Representative
(February 4, 2011)

I. INTRODUCTION

A. Executive Summary

In this docket, the Postal Service seeks the Commission's approval to provide a market test of Marketing Mail Made Easy (MMME), pursuant to Section 3641 of Title 39, United States Code. MMME would allow qualifying mailers to enter saturation mail at the destination delivery unit with a simplified address, so long as the mailing covered at least one carrier route, was paid for at the time of entry, and did not exceed 5,000 pieces per DDU per day. MMME participants would not be required to pay annual permit and mailing fees. The Postal Service believes MMME would make saturation advertising mail available to small and medium business that currently do not use the mail to advertise their products or services to nearby customers. The Public Representative recommends the Commission disallow MMME because it does not constitute a significantly different product from saturation mail with simplified addressing

entered at city DDUs, would disrupt the market for provision of existing saturation mail services provided by MSPs, and does not serve a documented public need.

B. Background and Rationale for Marketing Mail Made Easy

On January 10, 2011, the Postal Service filed a notice that sometime after February 27, 2011 it intends to perform a market test of an experimental product – Marketing Mail Made Easy (“MMME”), pursuant to Section 3641 of Title 39, United States Code. Notice of the United States Postal Service of Market Test of Experimental Product – Marketing Mail Made Easy, filed January 12, 2011 (Notice). Notice at 3.

To be eligible to participate in MMME, the mailer must enter a Standard Mail Flats mailing, comprised of flats weighing no more than 3.3 ounces per piece, that is entered and paid for at the destination delivery unit (DDU) and delivered to every delivery point on at least one carrier delivery route in the DDU.¹ Mailers would pay the rate for Standard Saturation Mail entered at the DDU of 13.4 cents per piece. They would be allowed to use simplified addresses in accordance with the simplified address requirements of saturation mail, and would not be required to pay permit or mailing fees.² Mailers using MMME would have a daily limit of 5,000 pieces entered per DDU, so long as at least one carrier route in the DDU receives a saturation mailing. The Postal Service describes likely MMME participants as small and medium-sized mailers that serve small, local, markets, and do not currently use Postal Service to deliver advertising mail. Id. 3, 5

The Postal Service identifies the cost and complexity of current mail preparation for small and medium businesses, and their relatively small trading areas, as they do not use the Postal Service to deliver advertising mail. Id. 2 The Postal Service contends that allowing them to use simplified addressing will reduce the complexity of mail preparation, while waiving permit and mailing fees will reduce their annual costs for saturation mailings by \$370 per participant. Id. 2

¹ There are additional labeling requirements. See e.g., Domestic Mail Manual (DMM), 602.3.2.1, Conditions for General Use of Simplified Addresses for Saturation Mail.

² Notice at 3.

II. Evaluation of the Proposed Market Experiment

A. Statutory Requirements to Conduct a Market Experiment

Section 3641 of Title 39, United States Code establishes the criteria the Postal Service must satisfy in order to offer an experimental service. Among requirements such as describing the nature and scope of the market, limiting the market test to two years, staying below an annual revenue limitation of \$10 million, the Postal Service must also show that:

- the proposed experimental product is a unique Postal Service product, namely that it is a significantly different product from the viewpoint of mail users;
- the proposed experimental product will not create an unfair competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (i.e., it will not cause market disruption); and
- the proposed experimental product is correctly identified as either market dominant or competitive.

B. The Evidence Supporting MMME as a Unique Product is Weak

The Postal Service argues that MMME is significantly different from the viewpoint of mailers because participants would face requirements that are “significantly restricted in terms of weight, entry, and payment options compared to current postal products.” For example, MMME participants would be limited to local mail entry and payment, must meet the appropriate Saturation Mail density requirement, and would face a low, daily volume, limit. Id. 5

The Public Representative submits that the Postal Service’s has not supported its contention that MMME mail is *uniquely different* from service that recently made DDU-entered saturation mail using simplified addressing available on city routes. Postal Bulletin 22300, December 16, 2010, at 46 Table PR-1 below gathers data on the number of DDUs, the number of routes per DDU, and the volume of saturation mail entered at the DDU. It shows that the existing product mentioned immediately above, will have daily volumes of approximately 5,000 pieces or less if less than one-half of the

mail has a simplified address, and entry is concentrated in only 7 percent of the nation’s DDUs.

Table PR-1

	Category	Magnitude	Source
1	Total DDUs	24,300	Dietrich Direct Marketing, http://www.dietrich-direct.com/Mailing-Logistics.htm , viewed 1/25/2010
2	Saturation Flats entered at the DDU	5,671,842,573	Docket No. ACR2010, USPS-FY10-18, ECR Unit Costs.XLS, and substitute pieces for weight in pivot table in tab “ECR Wgt.”
3	Saturation flats per DDU	233,409	L2/L1
4	Saturation DDU flats per day (302)	773	L3/302
5	Simplified Address Saturation Flats if 1/2 are Simplified	386	L4/2
6	Simplified DDU flats per Day if entry is concentrated at 7%of DDUs	5,521	L5/(.07)

This table is not dispositive, but it casts doubt on the notion that Saturation Mail entered at the DDU with a simplified address serving city routes is a significantly different product than MMME. Both products require DDU entry of Saturation Mail using simplified addresses. Neither product differs with respect to labeling requirements. Nor do they differ with regard to density or unloading requirements. DMM 346.2.6.9

C. The Introduction of MMME Could Disrupt the Business of Mail Service Providers

The second statutory criterion the Commission must consider as it evaluates the Postal Service’s proposal for a market test of MMME mail is whether “the introduction or continued offering of a product [introduced under a market test will] create an unfair or otherwise inappropriate competitive advantage for the Postal Service.” Section 3641(b)(2)) of Title 39, United States Code

There are currently many Mail Service Providers (MSPs) who provide presorting, labeling, list management, and transportation services to mail entry locations in most metropolitan areas. With the exception of being required to ensure that each mailpiece bears the addressee's name and delivery address, including the correct ZIP Code or ZIP+4 code, and pay annual mailing and permit fees; the postal component of an MSPs' product does not significantly differ from MMME.

MSPs serve a wide range of customers, including small and medium business³ that have a local and relatively small geographic market, to global companies seeking targeted advertisement with sophisticated diagnostics, which among other things, can provide information on the likely response time from each mailing, so that the appropriate number customer service representatives can be made available for peak demand periods. MSPs who have already invested in technology and services that allow them to establish mailing lists with accurate addresses are able to exclude delivery locations that have requested the non-delivery of advertising mail or pandering advertisements.

Their business model is based upon the aggregation of mail from small to large mailers into more deeply sorted saturation mailings that would not have been possible otherwise, and selling diagnostic services allowing "in-time customer service staffing," as mentioned above. MSPs would lose some of their agglomeration economies if these customers migrated to MMME. MSPs would be at a competitive disadvantage if they were to attempt to retain these customers by using MMME, as the Postal Service implies. Notice at 5 If an MSP were to try to retain MMME eligible customers, they could only offer the service to customers whose combined total saturation mail per DDU was 5,000 or less. In addition, they would have to segregate each MMME-eligible mailer's mail in order to provide the type of simplified address they desire. In addition, the costs of providing accurate address labeling and diagnostic services could not be recovered from their MMME customers, raising these costs for their remaining

³ The Small Business Administration defines a business in the Directory and Mailing List Publishers, NAICS Code 511140, as small if it has 500 or fewer employees. See, <http://www.sba.gov/content/table-small-business-size-standards>, SBA Size_Standards_Table.xls.

customers. Lastly, unless the postal carriers match each MMME mailing with “Do Not Mail” and “Do Not Pander” delivery information, customers who have opted out of advertising and pandering mail, will be harmed by receiving against their wishes.

During discussions with MSP Representatives, the Public Representative learned that many of them have substantially fewer than 500 employees devoted to mailing, labeling, and transportation. This would be the closest market identified in the Small Business Administration “size” database, and so would qualify them as small businesses.

MMME is also likely to give the Postal Service an unfair competitive advantage against saturation bundles entered by MSPs at the DDU. As the Flat Sequencing System (FSS) is implemented, it will become the fourth bundle. The Postal Service will have an incentive to reduce the number of bundles exceeding four at the DDU. Since MSP mail pieces are labeled, they may be sent back to an FSS processing site, and delivery-point sequenced as part of the fourth, FSS, bundle. This could possibly delay the delivery of MSP bundles entered at the DDU by a day. If there are multiple saturation bundles from USPS and MSPs ready for delivery from the DDU on the same day, the Postal Service has an incentive to select the delivery of these bundles to its advantage.

The Commission should also keep in mind that the legislative criteria for market disruption or harm to existing customers, is not limited to the disruption that would occur during the experiment phase, which is likely to be temporary, but rather whether the “continued offering” of the once experimental product will bring market disruption. Section 3641(b)(2) of Title 39, United States Code. It is difficult to tell the extent to which the Postal Service’s segmentation strategy will draw customers away from existing MSPs. But there can be no doubt that this is the intention.

D. The Market for the Entry of Saturation Mail is not Competitive

The Public Representative agrees with the Postal Service that the market for the entry of saturation mail is not competitive and that the Postal Service has the ability to raise the price for saturation mail entered at the DDU with a simplified address

substantially above its costs without losing customers to competitors for a significant time period – usually one year. Notice, at 6

III. The Postal Service does not Offer Evidence that MMME is Likely to Benefit the Public and Meet an Expected Demand

As a general policy concern, the Public Representative urges the Commission to consider whether MMME is likely to benefit the public and meet an expected demand. The Postal Service has not supplied any data showing that reduced payment and addressing requirements will appeal to small and medium businesses. It refuses to say whether it has performed research on, or has had conversations with, the target population to learn if it desires a product like MMME, whether it currently uses a Mail Service Provider (MSP) instead of using the mail, whether it makes no saturation mailings because of the complexity of labeling mail and paying for the needed permits, or whether it would switch from using an MSP to the Postal Service if MMME.⁴

The Commission should also consider MMME costs to participants and the Postal Service that are not enumerated in the Notice. Participants will not be free of all preparation requirements. They must place approved indicia on each mail piece, register with the Postal Service so that their mailing data can be tracked, present approved documentation of the number of active deliveries by route, as reported by the USPS Delivery Statistics File, physically pay for the mailing, and submit a sample mailpiece along with documentation at time of mailing. Id. 3 In addition, there will be costs imposed on the Postal Service that are avoided by MSPs who enter saturation mail for delivery. MSP mailings have been checked against Computerized Delivery Sequence (CDS) Lists, which generally provide cleaner mail and exclude delivery to locations that have entered a “Do Not Mail” list.⁵ An early filer, Consolidated Graphics,

⁴“The purpose of this market test is to enable a period of quantitative and qualitative data gathering and analysis to prove or disqualify this new product’s future viability and any unanticipated impact on the marketplace. (*Response of the United Postal Service in Opposition to Motion of the Public Representative for Issuance of Information Request, February 2, 2011, at21*)

⁵ The Postal Service identifies the savings associated with using CDS as: cleaner mailing lists; reduced handling of mail due to the elimination of non-deliverable mailpieces; and more timely and consistent delivery. See e.g., <http://www.usps.com/ncsc/addressservices/otherservices/addrseq.htm>.

also mentions costs such as the need to “label the mail with the simplified address, count out all the pieces, bundle them with facing slips, take them down to the USPS and stand in those very long lines at the BMEU.” Consolidated Graphics Comments, at 1. In addition, it is not clear how the mailer will pay at the DDU. Mail must have approved indicia on its mail, which could be paid in cash or through an advance deposit account. DMM 604.5.1.6 An advance deposit account would involve additional time and effort by the mailer, but cash payment will impose additional costs on the Postal Service.

IV. Data Collection

The Postal Service provides a list of data it intends to collect during the market test, including:

- number of customers,
- total volume sent,
- average size of mailing,
- volume of mail entered by location,
- proportion of mail entered by day of the week, and
- shape of mail being entered.

Given the possibility for unfair competitive advantage in relation to MSP, the existence of non-enumerated costs, the possible negative impact of MMME on customers who are on “Do Not Mail” and “Do Not Pander” lists, and the possibility that the Postal Service will cannibalize its own mail, the Public Representative recommends that the Postal Service should also collect the following data if the Commission approves MMME.

- the initial implementation cost of MMME, by DDU,
- the annual costs to maintain the MMME, by DDU,
- whether carriers will avoid MMME delivery to delivery locations that have requested to be on Do Not Mail and Do Not Pander lists.
- the number of delivery locations on these lists, by DDU participating in the MMME test, if carriers do not take these lists into consideration,
- a record whether each MMME mailing would have been mailed from an MSP, along with the volume of each such MMME mailing, in the absence of MMME, and,
- a record of the cannibalized volume of mail by product and rate element, in each MMME mailing, that would have been mailed had MMME not been available.

V. Conclusion

The Public Representative recommends the Commission disallow MMME mail because it does not constitute a significantly different product from saturation mail with simplified addressing entered at city DDUs, would disrupt the market for provision of existing saturation mail services provided by MSPs, and does not serve a documented public need.

The Public Representative believes that once the product is offered, even on a limited and temporary basis, it would be difficult to deny its permanent provision, even if it is possible to collect the proper data to determine whether or not the Postal Service has disrupted the market in question. Disallowing MMME is the option most in the public interest, and is the option that most logically follows from the application of Section 3641(b)(2) of Title 39, United States Code. However, if the Commission does approve MMME, the Public Representative recommends that the Postal Service collect data the additional data enumerated immediately above.

Respectfully submitted,

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