

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

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Market Test of Experimental Product
First-Class Tracer

Docket No. MT2012-1

ORDER APPROVING MARKET TEST OF FIRST-CLASS TRACER
(Issued December 9, 2012)

I. INTRODUCTION

On November 7, 2011, the Postal Service filed a notice, pursuant to 39 U.S.C. 3641(c)(1), announcing its intent to initiate a market test beginning on or about December 7, 2011, of an experimental market dominant product, First-Class Tracer (Tracer).¹ The market research test will consist of providing customers a means to track the transportation and processing of single-piece First-Class Mail. *Id.* at 1. The Commission finds that the market test meets the requirements of 39 U.S.C. 3641.

The Postal Service proposes a market test in which mailers will gain information on the transportation and processing of their First-Class Mail letters using a tracing tool that consists of a barcode label, tracing number, and QR Code. *Id.* at 2-3.

¹ Notice of the United States Postal Service of Market Test of Experimental Product First-Class Tracer, November 7, 2011 (Notice).

II. PROPOSAL

The Postal Service is authorized to “conduct market tests of experimental products.” *Id.* at 2. A product may not be tested, however, unless it (a) is significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test; (b) will not result in undue market disruption, especially for small business concerns; and; (c) is correctly characterized as either market dominant or competitive. 39 U.S.C. 3641(b)(1)-(3).

The Postal Service asserts consumers have continuously looked for ways to track First-Class single-piece letters through the postal system. Notice at 2. It proposes the instant market test of Tracer as a means of providing commercial mailers and individual consumers a tool through which to gain information on the transportation and process of their First-Class Mail letters. *Id.* Though Tracer does not provide delivery scan information, the Postal Service sees the market test as a way to leverage product design, development, and distribution of resources with minimal competitive impact. *Id.* at 1.

The test is limited to single-piece First-Class Mail. *Id.* at 2. Pursuant to section 3641(c)(1)(B), the Postal Service proposes to offer Tracer to individual mailers and businesses in two packages, a five-label pack or ten-label pack at 50 locations around the Washington, DC metropolitan area in retail locations that already carry gift cards. *Id.* at 3. Sales will be revenue generating, and the Postal Service will test different prices in different test locations. *Id.* Expenses incurred will be considered research and development costs incurred in connection with new product development. *Id.* Businesses involved in production and distribution of the product will be compensated in accordance with existing contract terms. *Id.* at 1.

Depending on early test results, the Postal Service may offer alternative packaging quantities and change sale channels. *Id.* at 3. The Postal Service states that the duration of the market test will not exceed 24 months, unless the Postal Service requests an extension from the Commission. It does not anticipate that the experimental product will generate annual revenues in excess of \$10 million. *Id.* at 4-6.

The First-Class Tracer is a barcode and involves a three-step process for tracking mail. *Id.* at 2-3. First, the mailer affixes the Tracer barcode label to a single-piece of First-Class Mail. Second, the mail is scanned and sorted by existing mail processing equipment. *Id.* at 2. The labels will not receive a delivery scan. *Id.* at 2, Third, the customer keeps a portion of the label that consists of a tracing number and a QR code, which enables him or her to go to the USPS.com website and check the status of the respective piece of First-Class Mail by entering the tracing number at the Track and Confirm section of USPS.com, or by scanning the QR code with a mobile device. *Id.* at 2-3.

The Postal Service asserts that its proposal satisfies the criteria of 39 U.S.C. 3641, contending that Tracer is unique since it has never offered a transportation tracing product for its First-Class Mail. *Id.* at 4-5; *see also* 39 U.S.C. 3641. The Postal Service also contends that the experimental product will not create an unfair or inappropriate competitive advantage for it or any mailer. Notice at 4. Finally, the Postal Service characterizes the experimental product as market dominant, because it involves First-Class Mail letters. *Id.* at 6; *see also* 39 U.S.C. 3641(b)(3).

The Postal Service contends the benefits of the market test include: letter visibility, increased mail volume, and revenue generating. See Notice at 2, 6. In addition it asserts that the product should contribute to the financial stability of the Postal Service.

The Notice also outlines the Postal Service's data collection plan, including plans to collect volume and revenue data. *Id.* at 6-7.

III. COMMENTS

The Commission noticed the filing and gave interested persons the opportunity to submit comments on whether the Postal Service's filing is consistent with the policies of 39 U.S.C. 3641 in Order No. 959.²

Comments were filed by the Public Representative.³ No comments were submitted by other interested parties. The Public Representative does not challenge the Postal Service's assertion that the experiment satisfies the requirements of 39 U.S.C. 3641. However, the Public Representative urges the Commission to: (1) clarify the scanning process and specify what, if any, scans will be guaranteed; (2) clarify the basis for Tracer's prices to ensure there is a justifiable correlation between the product's cost and the pricing; and (3) provide accurate data collection in the form of a report outlining the costs incurred and profit generated by the experimental Tracer before granting the Postal Service request to execute the market test. PR Comments. at 4-5.

IV. COMMISSION ANALYSIS

Based on a review of the record, including the Postal Service's filing and the Public Representative's comments, the Commission concludes that the proposed market test meets the requirements of 39 U.S.C. 3641. The Postal Service has developed an experimental product design to increase visibility of First-Class Mail through the mailstream.

Significantly different product. The experimental product is easily distinguishable from existing products. Tracer only applies to First-Class Mail, a market dominant product. It operates in a three-step process, involving the affixation of a barcode label to a single-piece of First-Class Mail; the scanning of this barcode; and the customer's

² Notice and Order Concerning Market Test of Experimental Product, November 9, 2011, (Order No. 959).

³ Public Representative Comments in Response to Notice of Market Test of Experimental Product—First-Class Tracer, November 28, 2011 (PR Comments).

use of the barcode to check the status of the respective First-Class piece. Notice at 2-3.

No existing product (or product offered in the prior 2 years) has these characteristics. Additionally, Tracer will only be available at retail outlets, differentiating it from the Postal Service's Confirm service that is limited to commercial customers. It is important to note that Tracer does not provide delivery scan and confirmation information, further distinguishing it from delivery-oriented postal services such as Delivery Confirmation and Certified Mail. Accordingly, the Commission finds the experimental product satisfies 39 U.S.C. 3641(b)(1) since it is "significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test."

The Public Representative is concerned that the Postal Service does not provide sufficient clarity of the Tracer scanning process and cannot assure customers how and if such scanning will in fact occur.

The Postal Service provides a somewhat abbreviated description of the nature and scope of the market test. *Id.* at 2. In marketing the experimental product, presumably the Postal Service will elaborate on the nature of the services and the accompanying benefits to mailers to encourage use of the service. A more in-depth examination of the service would be appropriate if the Postal Service were to propose to make First-Class Mail Tracer a permanent product.

Market disruption. The Postal Service does not anticipate that Tracer will disrupt the market by creating an unjust competitive advantage for the Postal Service or any mailer. It is unlikely that Tracer will cause harm to small businesses, as this offering will enable small businesses to track their single-piece First-Class Mail.

While not dispositive, it is at least noteworthy that no small business (or representative of the industry) filed in opposition to the planned experimental product. The Commission finds that the record contains no indication that the experimental product will "create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer." 39 U.S.C. 3641(b)(2).

Market dominant classification. The Commission finds that Tracer is properly categorized as market dominant. 39 U.S.C. 3641(b)(3). As the Postal Service notes, the qualifying First-Class Mail to which Tracer is affixed is a market dominant product. Notice at 4, 6.

Revenue and Duration Limitations. The Postal Service states that the Tracer market test will not last longer than 2 years, unless it later requests an extension of the test time or to make it a permanent product. The Postal Service does not anticipate that revenues for Tracer will exceed the \$10 million annual limitation. The Commission accepts the Postal Service's general estimate of the potential market. If the actual results exceed expectations, the Postal Service may request an exemption from the dollar limit. See 39 U.S.C. 3642(e)(2).

The experimental product offers consumers a choice they currently do not have. Customers who perceive value in the new offering will purchase Tracer. While the experimental product may benefit consumers by offering them a new unprecedented method for tracking First-Class Mail through the postal system, there is no requirement that consumers purchase Tracer.

The Public Representative raises concerns about the pricing of First-Class Tracer, asserting it must bear some relationship to the Postal Service's costs rather than just to what customers will pay. PR Comments at 5. Tracer is an experimental product. The Postal Service indicates it intends to test various prices in different markets. Notice at 1. Issues raised by the Public Representative may be more appropriately addressed if and when the Postal Service requests to offer Tracer as a permanent product.

Data collection plan. The Postal Service proposes a data collection plan to report: (a) volume sold at each retail location and (b) total revenue generated per test location. *Id.* at 6-7. It states it is prepared to report the data collection results to the Commission. *Id.*

In addition to the foregoing, the data collection plan shall also identify the attributable and total costs incurred in conducting the market test (including

administrative and ancillary costs). If it proposes to make First-class Tracer a permanent product, the Postal Service should be prepared to provide details related to the service, e.g., number of scans per letter, the availability of scan data, and contract arrangements regarding the production and distribution of the product.

Data collection reports are due within 40 days after the close of each fiscal quarter.

V. ORDERING PARAGRAPHS

It is ordered:

1. Based on the record before it, the Commission finds that the proposed First-Class Tracer product market test is consistent with 39 U.S.C. § 3641.
2. The Postal Service shall file the results of the market test data collection in this docket, as described in the body of this Order, within 40 days of the end of each fiscal quarter.

By the Commission.

Ruth Ann Abrams
Acting Secretary