

CONFIDENTIAL

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

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Mailing Online Service )

Docket No. MC98-1

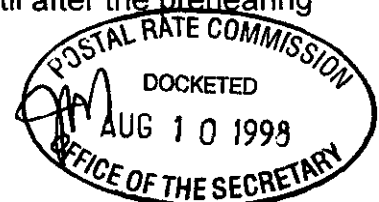
OFFICE OF THE CONSUMER ADVOCATE RESPONSE IN SUPPORT  
OF MOTION BY MASA TO EXTEND TIME FOR PREHEARING  
STATEMENTS AND CONTINUE PREHEARING CONFERENCE  
AND MOTION TO RESCHEDULE ALL PROCEDURAL DATES ESTABLISHED  
IN COMMISSION ORDER NO. 1216  
(August 10, 1998)

On August 6, 1998, Mail Advertising Service Association International ("MASA") filed a motion to extend the time for prehearing filings from August 12, 1998, until August 21, 1998, and to defer the prehearing conference until August 25, 1998 (11 days later than its currently scheduled date of August 14<sup>th</sup>). The Office of the Consumer Advocate ("OCA") hereby supports the general objective of pushing back the two most imminent procedural dates and further moves to augment MASA's effort by rescheduling every procedural event established in Order No. 1216 to a date approximately one month later.

MASA lays out a convincing set of reasons for pushing back the prehearing filings and prehearing conference by 9, and 11 days, respectively:

- "the substance of the Request raises substantial and difficult questions that must be addressed in a considered and deliberate manner out of fairness to the parties."<sup>1</sup>
- many critical interrogatory responses will not be received until after the prehearing filings and prehearing conference dates have passed.<sup>2</sup>

<sup>1</sup> MASA motion at 2.



- there would not be a great need for urgency if the Postal Service had filed its Request in a more timely manner; and the timing of its Request was within its sole control.<sup>3</sup>

To this list, OCA wishes to add what we judge to be an even more significant fact—at the time the Request was filed, the Postal Service believed it had made sufficient progress on the technical details of the Mailing Online service offering that it would be prepared to begin the market test on September 1, 1998.<sup>4</sup> The expansion of the service to new areas and new customers has been more complicated, apparently, than the Postal Service had initially anticipated. In response to interrogatory OCA/USPS-T1-11a., witness Garvey stated: “Although the original schedule for the expanded test called for a September 1, 1998 start date, technical development delays have caused that date to be changed to October 1, 1998.”<sup>5</sup> Despite the expedition so urgently pled in its initial filing, the Service is unable to meet its self-imposed timetable. It would be a violation of due process to hold the OCA and other intervenors, and the Commission, to dates initially set when September 1, 1998, was the frame of reference. The start-up of the market test is one of the most important stages in the development of Mailing Online service. If the start-up date must be pushed back one month, at a minimum, so should all other dates that relate to it.

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<sup>2</sup> Id. at 3. It must be noted that, like MASA, OCA is awaiting many vital interrogatory responses that will not yet have been provided by either August 12<sup>th</sup> or August 14<sup>th</sup>. E.g., responses to OCA interrogatories submitted to witness Garvey on August 4, and August 6, 1998; responses to OCA interrogatories submitted to witness Stirewalt on August 4, 1998; responses to OCA interrogatories to witness Rothschild submitted on August 4, August 5, and August 6, 1998; and responses to OCA interrogatories submitted to witness Plunkett on August 7, 1998.

<sup>3</sup> MASA motion at 3.

<sup>4</sup> USPS-T-1 at 5. See also, Request at 3.

<sup>5</sup> Accord, witness Garvey's response to interrogatory DBP/USPS-T1-3a.

Moreover, OCA has serious reservations about implementation of the market test even on October 1, 1998. The Postal Service's motion for expedition contemplates a recommended decision by the Commission on the *experiment* by the end of November, 1998.<sup>6</sup> In addition, the Postal Service frames a vague request "that the Commission recommend interim fees as a market test" which "would remain in effect only until a recommended decision on the experimental service was issued . . . ."<sup>7</sup> It appears that the Postal Service may be planning to proceed with its market test (now scheduled for October 1, 1998), without authorization and approval from the Commission, in the form of a recommended decision issued under Commission Rule 164. OCA believes that the Postal Service is obliged to issue a clear, unambiguous statement whether it intends to begin the market test on a date certain, even if a Commission-recommended decision on the request for a market test has not yet been issued by that date.

Wherefore, OCA supports MASA's motion for deferral of the prehearing filings and prehearing conference. However, in view of the Postal Service's difficulty in meeting its initial timetable, OCA moves that the prehearing filings and prehearing conference be rescheduled to September 11, 1998, and September 16, 1998,

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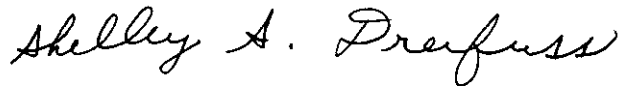
<sup>6</sup> Motion of USPS for Expedition, and for Waiver of Certain Provisions of Rule 161 and Certain Provisions of Rule 64(h), July 15, 1998.

<sup>7</sup> *Id.* at 3.

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respectively. Furthermore, OCA respectfully requests that the Presiding Officer direct the Postal Service to state whether it will hold off on any implementation of the market test until such time that it has received a recommended decision of the Commission authorizing such implementation.

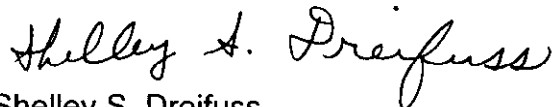
Respectfully submitted,



Shelley S. Dreifuss  
Attorney  
Office of the Consumer Advocate

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.



Shelley S. Dreifuss  
Attorney

Washington, D.C. 20268-0001  
August 10, 1998