

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

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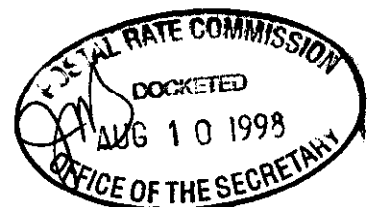
MAILING ONLINE SERVICE

Docket No. MC98-1

RESPONSE OF UNITED STATES POSTAL SERVICE TO
DAVID B. POPKIN MOTION TO EXTEND DEADLINE AND
MAIL ADVERTISING SERVICE ASSOCIATION INTERNATIONAL MOTION
TO EXTEND TIME FOR PREHEARING STATEMENTS
AND CONTINUE PREHEARING CONFERENCE
(August 10, 1998)

On July 30, 1998, David P. Popkin filed with the Commission a Motion to Extend Deadline, seeking an unquantified extension of time to respond to items 3, 4, and 5 of the nine set forth in PRC Order No. 1216, at 8. On August 6, 1998, Mail Advertising Service Association International (MASA) moved for a nine-day extension of time to respond to any portion of Order No. 1216, and for an eleven-day continuance in the date for the prehearing conference. This pleading opposes those motions.

The Postal Service seeks in its Request, and the schedule set forth in Order No. 1216 recognizes the need for, expedition in this proceeding. Expedition necessarily requires that participants accelerate their review of often-complex matters beyond what they would prefer. Accordingly, motions of the type filed by Mr. Popkin and MASA are not necessarily a surprise. However, no other participants apparently believe procedural relief is necessary, and neither Mr. Popkin's nor MASA's motions identify any circumstances distinguishing them from other participants and thus justifying the requested relief. The burden of reviewing and processing material is shared by all in



these proceedings, including the need to file 60 percent of interrogatory responses on Mondays.¹

At its heart, however, this case is quite straightforward. The Postal Service seeks authorization to market test and experiment with Mailing Online service by simply marking up its readily calculated costs for an electronic means of inducing short run mailings, typically from customers who have not previously had access to automation discounts. The unprecedented approach of pairing up the market test and experimental rule sets constitutes a fair and appropriate means of matching up the necessity for Commission proceedings, participants' exercise of their due process rights to inquire into the substantive and procedural determinations for Mailing Online made by the Postal Service, and the realities of launching an economically efficient postal service into the fast-changing electronic world. The Postal Service accordingly requested an expedited recommendation of a market test service, with a later recommendation for an experiment.

The form, terms and conditions of the market test are well-defined, simple to apply, and of short duration. The form, terms and conditions of the experiment are more flexible, and allow additional time for participants and the Commission to make known their interests and preferences. While the market test has been designed to permit logical, controlled growth into the experiment, the Postal Service fully expects the Commission to give the market test service, and experimental service, independent and appropriate review commensurate with the standards set forth by the applicable rules.

¹ Mr. Popkin's outstanding interrogatories were among those due on Monday, August 10. Six sets of those (including re-directs) were filed early on Friday, August 7, and emailed to Mr. Popkin. Hence, he will have close to a week to review them before the prehearing conference.

Ultimately, parties' concerns will again get a full hearing if and when the Postal Service determines to seek a recommended decision to make Mailing Online a permanent service, following the experimental period.

The Postal Service opposes MASA's motion to continue the hearing.² In light of the summer vacation season (*cf.* MASA Motion at 4), the August 14 date set forth in Order No. 1216 is one that many have carved out of their summer schedules in order to assure their availability. Also, several issues are ripe for discussion sooner, rather than later. These include: a shared understanding of the electronic level of document exchange; the fact that the Postal Service has had to postpone the beginning of the market test to October 1, 1998 (several interrogatory responses have noted this); and one informal request for a Mailing Online site visit.³ Accordingly, the prehearing conference should proceed as scheduled.

Turning to the merits of the respective motions, Mr. Popkin shows no basis for relief. To his credit, he intervened and filed discovery requests promptly. He already has answers to most of his interrogatories, and is well positioned to formulate timely responses to Order No. 1216. In keeping with the discussion above, if the Presiding Officer concludes there is any basis for procedural relief, Mr. Popkin should share in it

² In a somewhat cryptic footnote, MASA hints that it will challenge "the propriety of invoking the market test rules." MASA Motion at 4, n. 1. The relief requested by MASA's motion, however, is for extension of certain filing deadlines and the prehearing conference. The Postal Service thus assumes that MASA will more fully articulate its concerns about the market test rules in a later pleading, to which the Postal Service will respond fully. Suffice it to say at this point, though, that MASA's characterizations of both the requirements of Rule 161 and the Postal Service's Motion for Waiver of certain of those requirements are inaccurate. Further, it is not at all clear why MASA needs additional time to formulate the arguments it alludes to in its footnote.

³ While one might question the benefits of a site visit to a virtual product, a virtual visit may well be appropriate.

together with all participants, that relief should not affect the date for the prehearing conference or the schedule for consideration of the market test, and the relief should be of short duration.

As for MASA, the fact that its first interrogatory responses are not due until the date for the prehearing conference is of its own making, since response dates are governed by the date discovery requests are filed. The Postal Service is, however, sensitive to MASA's concern – expressed in its interrogatories to Mr. Garvey – that Mailing Online seems to hold the potential for competing with its members for businesses.⁴ The Postal Service believes that the answers to MASA's interrogatories should alleviate this concern. In summary, it is this very concern that has guided, in major respects, the design of Mailing Online, as a service aimed at customers whose short-run print jobs have not generally been handled by companies typical of MASA's membership. The economics of the printing industry generally mean that for job sizes above 5,000, other printing technology provides a more economic approach. Digital printers are ideally suited to the short print runs at which Mailing Online is aimed, and the digital printing industry supports Mailing Online because it sees the service as increasing overall demand for that particular technology. For those MASA members who do not possess the necessary digital printing technology to permit them to compete for a Mailing Online contract, the introduction of small-business mailers to the benefits of direct mail advertising should create a spillover effect that also generates new demand for larger scale printers and lettershops. For these reasons, while the Postal Service can appreciate MASA's concerns, it also believes that solid answers are available to

⁴ Awareness of this potential concern is why the Postal Service met at least three times with MASA prior to filing this case. At those meetings, the Postal Service shared its plans for Mailing Online as the service was developed.

address those concerns and that the concerns are not a reason to delay the proceedings, but rather to proceed with them.

Accordingly, as with the response to Mr. Popkin's motion, the Postal Service urges that any procedural relief the Presiding Officer determines may be appropriate should be shared together with all participants, that relief should not impact the date for the prehearing conference or the schedule for consideration of the market test, and the relief should be of short duration.

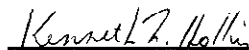
WHEREFORE, the Postal Service opposes Mr. Popkin's and MASA's motions for procedural relief, and if the Presiding Officer determines that some relief is appropriate, that it be limited in accordance with the discussion above.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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August 10, 1998

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

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