

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

VALASSIS NSA

Docket No. MC2012-14

VALASSIS NSA

Docket No. R2012-8

RESPONSE OF THE UNITED STATES POSTAL SERVICE
TO CHAIRMAN'S INFORMATION REQUEST NO. 2
(MAY 18, 2012)

Chairman's Information Request (CHIR) No. 2 was issued on May 11, 2012.

The request sought answers no later than May 18, 2012. Attached are the Postal Service's responses to questions 1 -12.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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May 18, 2012

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1. Please refer to the definition of "Eligible Mailer" provided in the "Mailing and Volume Commitments" provision in the proposed Mail Classification language (Attachment C), which limits eligibility to a "Standard Saturation Flat mailer who has the demonstrated capability to provide a broad multi-market shared mail program, as evidenced by shared mail volumes of at least 400 million pieces annually mailed to 50 percent of existing SCF areas."
 - a. Other than Valassis, how many mailers currently would satisfy these eligibility criteria set forth in Attachment C?
 - b. Please provide the rationale for the requirement that an eligible mailer must have a minimum annual shared mail volume of at least 400 million pieces.
 - c. Please provide the rationale for the requirement that an eligible mailer must mail annually to 50 percent of existing SCF areas.

RESPONSE:

a-c. A Negotiated Service Agreement (NSA) is specific by customer. This NSA is aimed at providing a right-priced saturation shared mail program for national durable and semi-durable goods retailer advertisers that are not currently using the mail for their general-distribution advertising. To achieve this goal, the Postal Service believes the mailer must have a recognized name, entre to national advertiser marketing departments in addition to the and scope of operation to efficiently meet the needs of the advertisers.

A Standard Saturation Flat mailer who has shared volumes of 400 million pieces annually mailed to 50 percent of existing SCF areas has the capabilities to provide a broad multi-market shared mail program" for those national advertisers. As the NSA states, Valassis, by virtue of having those characteristics, has demonstrated its ability to satisfy the needs of the targeted advertisers. Based on existing Postal Service data, no other mailers that have shared mail program volumes of 400 million pieces annually mailed to 50 percent of existing SCF areas are currently identified. However, to the

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extent that other mailers can demonstrate the same abilities to quickly satisfy the needs of those targeted advertisers, the USPS would be willing to discuss a similar NSA.

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2. At page 6 of the Notice, the Postal Service states that the new shared saturation mail programs shall be limited to the carriage of advertising of “durable and semi-durable goods retail providers with a physical retail outlet presence in 30 or more states.”
 - a. Please provide examples of retail providers whose advertisements will and will not qualify. In addition, please respond to the following questions:
 - b. Define “durable and semi-durable goods.”

RESPONSE:

a. Retailers whose advertisements will qualify include national retail goods chains that primarily offer goods such as hardware, building supplies, appliances, tools, furniture, electronics, clothing, and other durable and semi-durable goods. Grocers and pharmacies are examples of retailers whose advertising will not qualify.

b. Durable and semi-durable goods are goods that typically have a useful life of three or more years. Non-durable goods include consumables and goods that have a lifespan of less than three years. Examples include food, cosmetics, cleaning supplies, drugs, and sundries.

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3. Compare the language in the Notice to Section IV.D of the actual NSA between Valassis and the Postal Service at Attachment B, and to the "Mailing and Volume Commitments" provision of the proposed Mail Classification Schedule language in Attachment C. The Attachment B and C language both state that new mail programs under the agreement are "limited to the carriage of advertising of national retail advertisers, defined as retailer providers primarily offering durable and semi-durable goods...." (Emphasis added.)
- a. Explain what is meant by "primarily."
 - b. Would a national retailer of goods such as Walmart, which sells groceries in many of its stores, be considered a "retail provider primarily offering durable and semi-durable goods"?
 - c. How will the Postal Service enforce this provision and what standards will it apply in doing so?
 - d. Are retailers that do not meet the criteria of durable/semi-durable goods and physical presence in at least 30 states completely excluded from the program?
 - e. Would a national grocery store chain that sells snow shovels during the winter be considered a "national retail advertiser"?
 - f. Would a retail durable goods business that operates through local franchises be considered a "national retail advertiser"?
 - g. Are realtors and auto dealers considered to be selling 'durable goods'?

RESPONSE:

- a. Primarily means more than half, as measured by sales.
- b. Yes. See response to Question 3a above.
- c. See Response of the United States Postal Service to Chairman's

Information Request No. 1, Question 4. Both parties have a strong incentive to ensure the standards are met, particularly since inclusion of ineligible advertising in a mailing could jeopardize eligibility for rebates on the mailing.

- d. Yes.
- e. No.
- f. Yes, but only if advertising is conducted at a national level and the

business has a retail presence in at least 30 states.

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g. Realtors are not selling their own goods but act as agents on behalf of the actual buyer or seller, and thus are not retail providers. An auto dealer might qualify, but only if it has dealership locations in at least 30 states.

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4. Consider an insert that includes more than one advertiser, such as a package that is stapled or bound together, or a preprint bearing ads from two advertisers.
 - a. Would such a multi-advertiser item count as one or as multiple "advertising inserts" for purposes of the "Eligible Mail" definition in the proposed Mail Classification language (Attachment C)?
 - b. Is there any minimum percentage of the ads in such a multi-advertiser item that must be of "durable or semi-durable" goods in order to qualify for the new program?

RESPONSE:

a. Piggyback advertisements by companies that would not otherwise independently qualify will not be allowed. In some instances, retailers include in their advertising circulars pages that are paid for by product manufacturers, such as a department store circular that includes promotions by a cosmetics company. These would be allowed only if (1) the product is sold, as advertised, by the department store, and (2) the advertisement is an integral part of the department store's advertising circular. Such a circular is not considered a "multiple-advertiser" item, and will count as one advertising insert for purposes of the "Eligible Mail" definition.

b. The advertising content of each circular will be determined by the retailer, subject only to the limitations described in a. above.

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5. Please refer to the provision in the "Mailing and Volume Commitments" provision in the proposed Mail Classification Schedule language (Attachment C) that provides that Valassis "must initiate new shared saturation mail programs within 90 days" under the NSA in "markets where it has maintained an existing Standard Mail Saturation mailing program on at least a monthly basis during the 2 years preceding execution of this NSA."
- a. Please provide the rationale for the requirement that Valassis have made mailings in markets on a monthly basis for the past two years.
 - b. Does this provision require Valassis to initiate within 90 days a new program in every market in which it has maintained an existing shared Saturation mail program? Please explain.

RESPONSE:

a. See response to No. 1 above. As noted, this is an agreement with a particular mailer, Valassis, which reflects its and the Postal Service's mutual intention to establish a favorable rate that will promote new mail volumes. The conditions included in the contract are intended to memorialize the parties' understanding of a promising segment of advertising that will help achieve the general objective of creating new mail volume at reasonable rates. This particular requirement demonstrates Valassis is currently established in a market and has the operational expertise to meet the requirements of the contract and satisfy the national retailer's advertising distribution needs. Additionally, it allows the Postal Service to assess anything Valassis introduces as new volume versus volume that has been migrated from preexisting volume.

b. No. The requirement, as stated in section IV.G. of the Agreement (Attachment C to the Request), is simply that "Valassis must initiate mailing Contract Pieces under this agreement within 90 days following the Effective Date of this agreement...." This could be satisfied by initiation of mailings in a single market within the required timeframe. The clause in the cited classification language concerning "markets where [Valassis] has maintained an existing" Saturation mailing program is

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merely a limitation on the markets where it can initiate new programs under this NSA,
not a requirement that it must initiate programs in all such markets.

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6. Please refer to the Notice at page 4 and the "Mailing and Volume Commitments" provision in the proposed Mail Classification Schedule language (Attachment C) where it is stated that Valassis must "maintain its preexisting shared mail program for the duration of this agreement."
- a. What does it mean to "maintain its preexisting shared mail program"?
 - b. Must Valassis maintain the current average weight of the mailpieces in its existing shared mail program in each of its markets in which it initiates a second mailing pursuant to the NSA?
 - c. Must Valassis maintain the current frequency of the mailings in its existing shared mail program in each of its markets in which it initiates a second mailing pursuant to the NSA?
 - d. Must Valassis maintain the current average number of advertising inserts in its existing shared mail program in each of its markets in which it initiates a second mailing pursuant to the NSA?

RESPONSE:

a. In any market where Valassis initiates a mailing program under this NSA, it must continue mailing its preexisting shared mail program at the same frequency as before for the duration of the agreement. The contract language is designed to create the expectation that Valassis would maintain a presence in existing markets so that its current shared mail volume levels would not decline.

b. No. However, Valassis can not transfer advertising inserts from its existing program into the new program initiated under this agreement.

c. Yes.

d. No. However, Valassis can not transfer advertising inserts from its existing program into the new program initiated under this agreement.

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7. Please refer to the "Statement of Supporting Justification" (Attachment E to the Notice). At page 5, it is stated that the "new saturation shared mail programs contemplated by this agreement are viewed as an alternative and supplement to existing distribution channels." What are the "existing distribution channels" to which this refers?

RESPONSE:

This refers to non-postal general distribution print channels, which may include private carriers or newspaper delivery. It also refers to broadcast and other electronic distribution alternatives being explored by some of the targeted retailers.

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8. Please refer to the Notice at page 6 and to the "Mailing and Volume Commitments" provision in the proposed Mail Classification Schedule language (Attachment C) which states that Valassis is to "give the Postal Service 30-day advance notification of its initial mailing date and schedule and its desired in home delivery date."
- a. Has the Postal Service provided Valassis with any assurances, promises, or commitments to provide that delivery will occur on the desired "in-home delivery date"?
 - b. Has the Postal Service provided, or will it provide, any instructions, directions, or advice to local postmasters regarding the handling and delivery of the new shared mail program on the desired in-home delivery date?

RESPONSE:

a-b. No. The contract does not call for any deviation from the Postal Service's existing procedures. The program must comply with the Domestic Mail Manual ("DMM") and all established service requirements.

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9. Please refer to the "Mailing and Volume Commitments" provision in the proposed Mail Classification Schedule language (Attachment C), second paragraph, which states that Valassis "can not migrate advertising circular business from the USPS solo mail stream into the new saturation shared mail program."
- a. How often must an advertising circular have used the Postal Service solo mail stream in order to be ineligible for the new program?
 - b. How recently must an advertising circular have used the Postal Service solo mail stream in order to be ineligible for the new program?
 - c. Is this eligibility test applied on a market-by-market or on a nationwide basis? For example, assume that an advertising circular uses solo mail this month in a market not served by Valassis. Would it be eligible for the new program?

RESPONSE:

a-b. The intention of the agreement is to encourage new mail volume and not a shift of either existing Valassis volume or other solo mail volume. Any solo mail piece entered into the mailstream in the fiscal year prior to its inclusion into the new saturation shared mail program or current fiscal year is considered migration and is prohibited under the agreement. For example, if a national retailer mailed 100 solo advertising pieces in Fiscal Year 2010 and then dropped to 0 in Fiscal Year 2011, then that company would be eligible for participation in the new saturation shared mail program in Fiscal Year 2012.

c. The test will be applied on a market-by-market basis. Thus, in the example, an advertising circular used this month in a market not served by Valassis would be eligible for the new program in another market currently served by Valassis.

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10. Please refer to the "Eligible Mail Rebates and Thresholds" provision in the proposed Mail Classification Schedule language (Attachment C). Please confirm that the DDU and SCF rates indicated in the 6.5 to 9 ounces and the 9.0 to 11 ounces lines are the net (post-rebate) postage rate, and not the amount of the rebate itself. If not, please explain.

RESPONSE:

Confirmed. The contract schedule reflects the actual postage rate after rebate.

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11. The NSA requires minimum mailpiece dimensions of at least 6.125" by 11.5" by 0.25." Please explain if the 0.25" thickness requirement can be satisfied by folded pieces?

RESPONSE:

Yes.

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12. Are shared mail packages mailed by members of the Advo National Network Extension eligible for rebates under the proposed NSA?

RESPONSE:

The Advo National Network Extension is now called the Allied National Network Extension. Members of that network will not be eligible for rebates under the NSA.