

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Complaint of GameFly, Inc.

Docket No. C2009-1R

REPORT OF SETTLEMENT COORDINATOR

(Filed May 6, 2013)

On April 16, 2013, the Commission issued an Order Convening Settlement Conference, which among other items scheduled a settlement conference in an attempt to resolve the issues on remand in the Complaint of GameFly, Inc., appointed a settlement coordinator, and established a deadline for the settlement coordinator to report on any progress towards settlement.¹

The settlement conference convened on April 23, 2013, and was attended by representatives of GameFly, Inc., the Postal Service, and the Public Representative, along with the settlement coordinator. The Postal Service and GameFly outlined their respective positions on settlement, and discussed the settlement suggestions put forth in the Commission's Order. Original ideas concerning potential short- and long-term solutions were also explored.

At the conclusion of the settlement conference, the Postal Service and GameFly were encouraged to continue discussions on their own, with the settlement coordinator offering any assistance that the parties thought might be helpful. The representatives were provided time to confer with others within their organizations on ideas presented at the settlement conference. A deadline was established to inform the settlement coordinator of a potential settlement offer prior to the filing of this report.

¹ See Order No. 1700, Order Convening Settlement Conference, April 16, 2013.

The Commission has stated “time is of the essence” to identify a mutually agreeable remedy. It is encouraging that there are proposals for operationally-based solutions that may become available in the future to address the general issue of mailing DVDs. However, the parties were not able to reach agreement on an operationally-based solution at this time. Price-based solutions were also considered, but again no agreement was reached at this time. Therefore, it does not appear that the Postal Service and GameFly will mutually agree upon a resolution to the issues on remand within any predictable timeframe. A settlement at this time appears unlikely.

Respectfully submitted,

James Waclawski
Settlement Coordinator

901 New York Ave. NW, Ste. 200
Washington, DC 20268-0001
202-789-6826, FAX 202-789-6861
james.waclawski@prc.gov