

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

COMPETITIVE PRODUCT LIST                    )  
ADDING ROUND-TRIP MAILER                )                Docket No. MC2013-57

COMPETITIVE PRODUCT PRICES               )  
ROUND-TRIP MAILER (MC2013-57)         )                Docket No. CP2013-75

**APPLICATION OF GAMEFLY, INC.,  
FOR NON-PUBLIC TREATMENT OF  
PORTIONS OF ITS SUPPLEMENTAL COMMENTS  
AND SUPPORTING DECLARATIONS**

**(September 12, 2013)**

Pursuant to 39 C.F.R. § 3007.22, GameFly, Inc. ("GameFly") applies for nonpublic treatment of certain portions of the GameFly Supplemental Comments, the Supplemental Declaration of David Hodess, and the Supplemental Declaration of Sander Glick, each of which GameFly is filing separately today.

(1) Pages 47-48 of the supplemental comments and pages 11-12 of Mr. Hodess' Supplemental Declaration report the results of an internal GameFly survey of customers who cancelled their service. Public disclosure of this information could harm the competitive interests of GameFly by providing its competitors with insight into the preferences of GameFly's customers, allowing those competitors to better target potential GameFly customers by tailoring the competitors' marketing efforts to those preferences. Accordingly, this information

constitutes commercial information which, under good business practice, would not be publicly disclosed, and is exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. §§ 552(b)(3) and (4). The standard protective conditions applied in Commission proceedings under Rule 3007.22 should be sufficient, as should the default nondisclosure period of ten years specified by 39 C.F.R. § 3007.30.

(2) GameFly has also marked as proprietary certain portions of its submissions because they quote or discuss information that the Postal Service has previously designated as proprietary. Specifically:

- Pages 22-24 and 32 of GameFly's supplemental comments and pages 16-18 ¶¶ 41-46 of Mr. Hodess' supplemental declaration discuss the IBISWorld report filed by the Postal Service as library reference USPS-LR-MC2013-57-NP6. The Postal Service marked the document as proprietary and filed it under seal for the stated purpose of protecting the copyright interests of IBISWorld in the document.
- Page 2 ¶ 4 and pp. 5-6 ¶ 13 of Mr. Glick's supplemental declaration discusses certain Permit Reply Mail unit cost data that the Postal Service marked as proprietary and filed under seal in library references USPS-MC2013-57/NP1 and USPS-MC2013-57/NP4. Because Mr. Glick's declaration is derivative of these library references, and the Postal Service has designated the library

reference as proprietary, GameFly is taking the precaution of filing Mr. Glick's declaration under seal as well.

GameFly does not believe that all of the derivative material it is filing under seal today in fact warrants such protection. Accordingly, GameFly plans to move in the next few days to unseal much of the redacted material being filed today. To protect the interests of the Postal Service, IBISWorld and Netflix, however, GameFly believes that the material should remain under seal until they have an opportunity to respond to GameFly's forthcoming motion.

GameFly yesterday evening served both public (redacted) and proprietary versions of copies of its Supplemental Comments, the Supplemental Declaration of Mr. Hodess, and the Supplemental Declaration of Mr. Glick by email upon counsel for the Postal Service (Mr. Daniel J. Foucheaux, Jr., and Mr. John F. Rosato). GameFly also served public (redacted) versions of the documents upon counsel for Netflix (Ms. Joy M. Leong). GameFly consents to the disclosure of the proprietary versions of these documents to the same reviewing representatives that Netflix has previously designated in this proceeding.

GameFly has today filed two copies of the referenced documents under seal with the Commission (along with two CDs containing electronic versions of these documents) and served copies of these documents upon counsel for the Postal Service, Netflix, and the Public Representative. GameFly has also filed a public version of each of these documents with the confidential information redacted.

Respectfully submitted,

A handwritten signature in black ink that reads "David M. Levy". The signature is written in a cursive style with a prominent flourish at the end.

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September 12, 2013