

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Mark Acton, Vice Chairman;  
Robert G. Taub

Competitive Product List  
Adding Round-Trip Mailer

Docket No. MC2013-57

**MOTION OF NETFLIX, INC.  
FOR ACCESS TO NONPUBLIC LIBRARY REFERENCE  
USPS-LR-MC2013-57/NP7 OF THE POSTAL SERVICE  
AND TO NONPUBLIC ANSWER OF GAMEFLY, INC.  
TO CHAIRMAN'S INFORMATION REQUEST NO. 2 AS WELL AS  
NONPUBLIC FILINGS OF THE POSTAL SERVICE DATED SEPTEMBER 12, 2013,  
AND OF GAMEFLY DATED DECEMBER 26, 2013**

(January 23, 2014)

Pursuant to 39 C.F.R. § 3007.40, Netflix, Inc. ("Netflix") respectfully requests  
access to the following nonpublic documents in this docket:

Nonpublic Library Reference USPS-LR-MC2013-57/NP7 of the Postal Service, filed  
on January 17, 2014,

Nonpublic Answer of GameFly, Inc. to Chairman's Information Request No. 2, filed  
on January 17, 2014,

Nonpublic portions of GameFly's Supplemental Comments, GameFly's  
Supplemental Declaration of David Hodess, and GameFly's Supplemental  
Declaration of Sander Glick, filed on September 12, 2013, and re-filed on  
December 26, 2013,

Nonpublic portions of United States Postal Service Response to Comments, filed  
on September 23, 2013.

Netflix is a mailer that would be affected by the Competitive Product classification of the Round-Trip Mailer Product proposed by the Postal Service in this docket. The Motion of Gamefly, Inc. for Opportunity to Comment on January 17, 2014, Responses to Chairman's Information Requests (December 24, 2013) is pending before the Commission, and Netflix needs access to the nonpublic documents in order to determine whether further response on its part is necessary.

Pursuant to Appendix A to Part 3007 of 39 C.F.R., Netflix requests that the following individuals be designated its reviewing representatives:

Joy M. Leong, The Leong Law Firm (legal counsel for Netflix)

Robert M. Mitchell (economic consultant to Netflix)

Corie Wright (Director of Global Public Policy, Netflix)

Both Ms. Leong and Mr. Mitchell have been granted access to nonpublic information in previous cases before the Commission. Ms. Wright is a member of the D.C. Bar and is not involved in competitive decision-making at Netflix. These are the same reviewing representatives that received access to nonpublic library reference USPS-MC2013-57/NP1 in Order No. 1801, issued on August 8, 2013, and to nonpublic library references USPS-MC2013-57/NP3, USPS-MC2013-57/NP4, USPS-MC2013-57/NP5, and USPS-MC2013-57/NP6 in Order No. 1816, dated August 26, 2013.

Disclosure to Netflix's reviewing representatives of the nonpublic information in the documents listed above will not cause commercial injury to any party. The representatives will not use the nonpublic information in any way inconsistent with the purposes authorized

by Appendix A to Part 3007 of 39 C.F.R. A Statement of Compliance with Protective Conditions and accompanying Certifications are attached.

Netflix is authorized to state that Gamefly and the Postal Service have consented to this Motion for Access.

Respectfully submitted,

Joy M. Leong  
The Leong Law Firm  
2020 Pennsylvania Avenue, N.W., Suite 120  
Washington, DC 20006  
(202) 640-2590

*Counsel for Netflix, Inc.*

January 23, 2014

## STATEMENT OF COMPLIANCE WITH PROTECTIVE CONDITIONS

The Postal Service (or a third party) has filed nonpublic materials in Commission Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer, identified as follows:

Nonpublic Library Reference USPS-LR-MC2013-57/NP7 of the Postal Service, filed on January 17, 2014,

Nonpublic Answer of GameFly, Inc. to Chairman's Information Request No. 2, filed on January 17, 2014,

Nonpublic portions of GameFly's Supplemental Comments, GameFly's Supplemental Declaration of David Hodess, and GameFly's Supplemental Declaration of Sander Glick, filed on September 12, 2013, and re-filed on December 26, 2013,

Nonpublic portions of United States Postal Service Response to Comments, filed on September 23, 2013.

The Postal Service (or a third party) requests confidential treatment of the materials listed above (hereinafter "these materials").

The following protective conditions limit access to these materials. Each person seeking to obtain access to these materials must agree to comply with these conditions, complete the attached certifications, and provide the completed certifications to the Commission and counsel for the Postal Service.

1. Access to the materials is limited to a person as defined in rule 5(f), 39 CFR 3001.5, or an individual employed by such person, or acting as agent, consultant, contractor, affiliated person, or other representative of such person for purposes related to the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer. However, no person involved in competitive decision-making for any entity that might gain competitive advantage from use of this information shall be granted access to these materials. "Involved in competitive decision-making" includes consulting on marketing or advertising strategies, pricing, product research and development, product design, or the competitive structuring and composition of bids, offers or proposals. It does not include rendering legal advice or performing other services that are not directly in furtherance of activities in competition with a person or entity having a proprietary interest in the protected material.
2. No person granted access to these materials is permitted to disseminate them in whole or in part to any person not authorized to obtain access under these conditions.

3. Immediately after access has terminated under rule 39 CFR 3007.41 or 3007.51, a person (and any individual working on behalf of that person) who has obtained a copy of these materials shall certify to the Commission:
  - (a) That the copy was maintained in accordance with these conditions (or others established by the Commission); and
  - (b) That the copy (and any duplicates) either have been destroyed or returned to the Commission.
4. The duties of each person obtaining access to these materials shall apply to material disclosed or duplicated in writing, orally, electronically, or otherwise, by any means, format, or medium. These duties shall apply to the disclosure of excerpts from or parts of the document, as well as to the entire document.
5. All persons who obtain access to these materials are required to protect the document by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized disclosure of the document as those persons, in the ordinary course of business, would be expected to use to protect their own proprietary material or trade secrets and other internal, confidential, commercially sensitive, and privileged information.
6. The conditions shall apply to any revised, amended, or supplemental versions of these materials provided in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer.
7. The duty of nondisclosure of each person obtaining access to these materials is continuing, terminable only by specific order of the Commission, or as specified in paragraphs 9 and 10, below.
8. Each person granted access to these materials consents to these or such other conditions as the Commission may approve.
9. Any written materials that quote or contain materials protected under these protective conditions are also covered by the same protective conditions and certification requirements, and shall be filed with the Commission only under seal. Documents submitted to the Commission as confidential shall remain sealed while in the Secretary's office or such other place as the Commission may designate so long as they retain their status as stamped confidential documents.
10. If a court or other administrative agency subpoenas or orders production of confidential information which a person has obtained under the terms of this protective order, the target of the subpoena or order shall promptly (within 2 business days) notify the Postal Service of the pendency of the subpoena or order to allow it time to object to that production or seek a protective order.

## CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer, by the Postal Service, has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name \_\_\_\_\_

Firm \_\_\_\_\_

Title \_\_\_\_\_

Representing \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer, by the Postal Service, has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name JOY M. LEONG

Firm THE LEONG LAW FIRM

Title Partner

Representing Netflix, Inc.

Signature Joy M. Leong

Date 1-22-14

## CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer, by the Postal Service, has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name                    Robert W. Mitchell

Firm                      RMIT Associates

Title                     Principal

Representing          Netflix

Signature              

Date                     January 21, 2014

## CERTIFICATION

The undersigned represents that:

Access to these materials provided in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer, by the Postal Service, has been authorized by the Commission. The cover or label of the copy obtained is marked with my name. I agree to use the information only for purposes of analyzing matters at issue in the matter identified as Docket No. MC2013-57, Competitive Product List – Adding Round-Trip Mailer. I certify that I have read and understand the above protective conditions and am eligible to receive access to materials under paragraph 1 of the protective conditions. I further agree to comply with all protective conditions and will maintain these materials in strict confidence in accordance with all of the protective conditions set out above.

Name Corie Wright

Firm Netflix

Title Director, Global Public Policy

Representing Netflix

Signature Corie Wright

Date 1/21/14