

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
POSTAL SERVICE RESPONSE TO RESPONSE
FILED APRIL 24, 2014**

(April 28, 2014)

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

United States Postal Service Response to Response of GameFly, Inc.,
to April 4, 2014, USPS Reply Comments

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. Netflix needs access to the nonpublic document in order to fully understand the Postal Service’s position and to determine whether further response 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, *inter alia*, nonpublic library reference USPS-MC2013-57/NP1 in Order No. 1801, issued on August 8, 2013; 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; and to the nonpublic portion of the Postal Service Comments in Order No. 2032, dated March 27, 2014.

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 Ave. NW, Ste. 120
Washington DC 20006
(202) 640-2590

Counsel for Netflix, Inc.

April 28, 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 Version of the United States Postal Service Response to Response of GameFly, Inc., to April 4, 2014, USPS Reply Comments

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 Leong Law Kim

Title Partner

Representing Nefflex, Inc.

Signature Joy M. Leong

Date 4/28/14

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