

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

_____)	Docket No. MC2014-21
Market Dominant Product Prices)	
Standard Mail)	
PHI Acquisitions, Inc.)	
Market Dominant Product Prices)	Docket No. R2014-6
PHI Acquisitions, Inc. (MC2014-21))	
Negotiated Service Agreement)	
_____)	

**REPLY COMMENTS OF THE
AMERICAN CATALOG MAILERS ASSOCIATION (ACMA)**

(April 30, 2014)

ACMA is an organization of catalog mailers. Our membership is broad, and includes PHI Acquisitions, Inc. (PHI) and competitors of PHI. We represent the interests of these mailers primarily to the Commission, Congress, and the Postal Service. The effects of postal rates are a matter we focus on specifically. Therefore, ACMA is well positioned to address the Public Representative’s concern that the PHI NSA may cause “unreasonable harm to the marketplace.”

Accordingly, pursuant to Order No. 2049 (April 14, 2014), ACMA submits these Reply Comments, directed at Initial Comments of (a) the Public Representative that the Postal Service should “provide an affirmative showing that the PHI NSA will not cause

unreasonable harm to the marketplace”¹ and (b) Valpak that “the data that have been submitted make no sense.”²

Both commenters express concern about the likelihood of marketplace harm being caused by the instant NSA. Rather than harm, ACMA views this NSA as providing benefits, both for catalogs specifically and the entire mailing system generally. In prior filings, ACMA has documented the favorable demographics underlying catalog marketing, the adverse effects to the catalog business model due to rapidly rising postal rates, the multiplier effect that occurs both at the company level (as a company expands circulation) and across the entire catalog mailing industry (as a larger pool of quality names are available for prospecting by other catalog concerns). ACMA has also discussed the scaled volume plan that is the Postal Service’s business model, which needs volume growth to fund its Universal Service Obligation when costs and deliverable addresses both expand. With whole industries putting forth great efforts to get out of mail, strategic investments in those mailers who have a demonstrated interest in continued mailing and who have shown allegiance to hard copy marketing should be made to provide increased future mail volume so important to Postal Service viability.

¹ Public Representative Initial Comments, Dockets No. MC2014-21 and R2014-6, April 23, 2014 at 15.

² Valpak Direct Marketing Systems, Inc. and Valpak Dealers’ Association, Inc. Further Supplemental Initial Comments on PHI Acquisitions, Inc. Negotiated Service Agreement (“Valpak”), Dockets No. MC2014-21 and R2014-6, April 23, 2014 at 2.

A. No Unreasonable Harm to Competition or the Marketplace Will Be Caused.

Commission Rule 3010.42 requires that: “Whenever the Postal Service proposes [an NSA, it] shall file with the Commission a notice ... that shall include at a minimum ... (h) Details regarding any and all actions (performed or to be performed) to assure that the agreement will not result in unreasonable harm to the marketplace.” In its Notice,³ the Postal Service stated that the NSA, as proposed, “will not cause unreasonable harm to the marketplace” (*id.* at 3). ACMA agrees. Under these conditions, no harm-prevention “actions” are needed.

Further on in its Notice, the Postal Service noted Commission positions that (a) above-cost rates, as here, would not generally cause unreasonable harm in the marketplace, and that (b) full protection of each individual competitor is not required. The Postal Service also noted that it “stands ready to negotiate and implement functionally equivalent deals with similarly-situated mailers ... so that there will be no unreasonable harm to the marketplace from a competitive advantage granted solely to PHI” (*id.*, Attachment E at 3-5). ACMA agrees again, and appreciates that NSAs for similarly situated mailers will be available

In response to Q3 of CHIR 1, asking about Rule 3010.42(f)(3), the Postal Service said it does not expect the contribution to institutional costs “from mailers not party to the Agreement” to change as a result of the NSA’s implementation. The Public Representative finds “no basis for this expectation” and suggests that “[t]he Commission

³ Notice of the United States Postal Service of Filing of Contract and Supporting Data and Request to Add PHI Acquisitions, Inc. Negotiated Service Agreement to the Market-Dominant Product List (“Notice”), Dockets No. MC2014-21 and R2014-6, March 5, 2014.

require the Postal Service to provide an affirmative showing that the PHI NSA will not cause unreasonable harm to the marketplace” (Public Representative at 15). ACMA believes that the requirements of both of these rules have been satisfied. .

The NSA will plainly result in an increase in aggregate volume from PHI and therefore an increase in the aggregate contribution made by that company. This increase, by definition, will alleviate the rate burden upon other catalogers whether or not they can qualify for an NSA. That, in itself, is sufficient to establish that there will be no unreasonable harm to competitors in the marketplace.

Moreover, as suggested above, an evaluation of the proposed NSA should focus as much on the likelihood of marketplace benefit as on the likelihood of marketplace harm. ACMA sees the former to be of considerable moment.

This is the first NSA with a catalog mailer. It represents Postal Service steps to address trends in catalog volumes, to work with the actual computer programs used by a specific mailer to make mailing decisions and thus to recognize and respond to the sensitivity of the associated volumes mailed to postal rates, and to fashion discount tiers that should bring about gain to itself and the mailer. ACMA believes this will be a learning experience for the Postal Service and mailers, that further steps will be taken, and that all catalog mailers will gain. This will lead to a more robust marketplace for all concerned.

No evidence has been presented on the record to indicate a likelihood of unreasonable harm to the marketplace. ACMA believes that any harm would be *de minimis*, certainly not unreasonable, and that the benefits to the marketplace could be substantial. The Public Representative need not be concerned.

B. Valpak's Principal Concern Is That It Fails to Find "Sense" in Certain Changes from an Erroneous Panzar Test to a Corrected Panzar Test.

The "Panzar test" has been used by the Commission to help evaluate the profitability to the Postal Service of an NSA with thresholds and discounts. It is an *ex post* test that can be applied to a projection. In response to Q1 of CHIR 2, the Postal Service submitted a spreadsheet showing the test. In Q1 of CHIR 3, the Commission asked about two erroneous figures in that spreadsheet. In a second spreadsheet, submitted with its response to CHIR-3, the Postal Service submitted the same spreadsheet but with corrected figures.

In a table, Valpak displays figures from the two spreadsheets and focuses on the effect of moving from the erroneous figures to the correct figures. It observes that "the data that have been submitted make no sense" (Valpak at 2).

Comparing figures, Valpak states: "it would appear that (i) increasing the marginal discount ... from \$0.26 to \$0.49 results in increasing the ... rebate ... from \$666,344 to \$1,198,169" (*id.*). It did not. The latter figure (\$1,198,169, a corrected value) comes directly from cell C32 of tab "4_Tier" of spreadsheet PHI_NSA_Financials FINAL_Exigent.xlsx, which the Postal Service provided in response to Q11 of CHIR 1 (response filed April 8, 2014). The value in that cell remained unchanged through CHIRs 2 and 3, and thus no change in it was caused by "increasing the marginal discount ... from \$0.26 to \$0.49." Therefore, Valpak is puzzled that it cannot understand a causal link *that does not exist*.

Also, Valpak contends that "[t]he Postal Service utterly fails to explain how increases in the marginal discount and total rebate paid increases the total net value to the Postal Service" (*id.*). The explanation is apparent. First, as explained above, the

increase in the rebate (“from \$666,344 to \$1,198,169”) simply corrects an error and has nothing to do with the marginal discount. Moreover, the spreadsheet *subtracts* the rebate, so, if anything, correcting the error *decreases* the total net value, not increases it.

Second, and more important, it is intuitive that increasing the marginal discount (from its erroneous level of \$0.26 to its correct level of \$0.49) would increase the total net value. The essence of the Panzar test is its presumption that the additional volume due to the NSA depends on the marginal discount and the elasticity of the mailer. Therefore, an increase in the marginal discount would increase the additional volume, which, when multiplied by the per-piece contribution on that volume, would increase the total net value to the Postal Service. The Panzar test is behaving exactly the way one would expect. Valpak has not discovered a problem.⁴

Another point should be noted. To the extent that the Panzar test is applicable, it calls for a mailer-specific elasticity. In default, an average elasticity for a related category of mail has sometimes been used. In its response to Q1 of CHIR 2, the Postal Service used the elasticity of record for commercial ECR mail. Since the after-rates volume projections show the price sensitivity of PHI’s mailing models to be consistent

⁴ Valpak may be confused about the functioning of the Panzar test. Referring to the Year 1 results provided in the response to Q1 of CHIR 3, Valpak states: “For each year shown ..., the Postal Service does not provide the implied price elasticity ... for (i) Tiers A, B, and C computed individually for the respective marginal change in price and incremental change in volume, or (ii) for the entire year as a whole using average change in price and volume.” Valpak at 3. First, since the spreadsheet referenced covers Year 1 only, the reference to “For each year shown” is puzzling. Second, it is true that the rebate is calculated by building tier upon tier, but it is impossible by construction for the tiers to have different elasticities. Third, it is inconsistent with the theory of the Panzar test to inject any kind of “average change in price [or] volume,” however defined. If Valpak makes a legitimate point in this paragraph, ACMA fails completely to understand it.

with an elasticity higher (in absolute value) than the elasticity for commercial ECR, the results of the Panzar test as applied here should be viewed as a *conservative* estimate. That is, a more appropriate elasticity would show an even higher net value to the Postal Service.

Conclusion.

This first catalog NSA brings an exciting opportunity to start to reverse the contraction of catalog volumes plaguing both the catalog industry and the Postal Service. Properly managed, there is no reason this sector of the mailing industry should not be growing and vibrant. This incentive program will stimulate greater prospecting mailings, the essential requisite to future catalog mail and package volume growth. The benefits outweigh the risks. This Negotiated Service Agreement should be approved.

Respectfully submitted,

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