

UNITED STATES OF AMERICA  
Before The  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Complaint on Post E.C.S.

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Docket No. C99-1

OFFICE OF THE CONSUMER ADVOCATE  
MOTION TO COMPEL RESPONSES TO INTERROGATORIES  
OCA/USPS-19, 20(A-B), 21, 23, 24, 26, 27(B-D), and 28-33  
(September 21, 1999)

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Pursuant to Special Rule 2B,<sup>1</sup> the Office of the Consumer Advocate (OCA) hereby files a motion to compel responses to interrogatories OCA/USPS-19, 20(A-B), 21, 23, 24, 26, 27(B-D), and 28-33.<sup>2</sup> In an Objection filed on September 7, 1999, the Postal Service states a variety of grounds for objecting to OCA's interrogatories. OCA disputes the Postal Service's contentions and asks the Presiding Officer to direct the Postal Service to respond to all of the interrogatories referenced above.

Interrogatory OCA/USPS-19

Interrogatory OCA/USPS-19 poses questions about the Postal Service's registration of the Post E.C.S. domain with Network Solutions. One of the bases for the objection is the allegation that the information contained in the Post E.C.S. registration form is "commercially sensitive." This position is nonsensical since the registration

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<sup>1</sup> Adopted in P.O. Ruling C99-1/3, July 7, 1999.

<sup>2</sup> Although the Postal Service filed an objection to interrogatory OCA/USPS-25, it filed a "response (over objection)" on September 9, 1999. OCA finds the response given adequate and does not include interrogatory 25 in the instant motion to compel.

form (attached to OCA interrogatory 19) is published on the internet for any and all to see. The Postal Service's argument that very public information, such as an internet domain registration form, is "sensitive" and suitable for confidential treatment is unreasonable and must be overruled.

The Postal Service ventures an additional justification for not responding to interrogatory 19—that OCA's questions are not relevant to the issue of the postal character of Post E.C.S. This argument also lacks merit, as the Presiding Officer has previously ruled in Ruling No. C99-1/10 that

ownership, control and location of equipment and other assets used to provide Post E.C.S. service . . . seek information directly related to the operation of the service. Qualitatively, the information could contribute to establishing what Post E.C.S. service is, which is a necessary component of the Commission's inquiry into the "postal" or "nonpostal" character of the service.

Parts A-E of interrogatory 19 fall within that rationale, consisting of questions about the servers used to provide Post E.C.S. service. Likewise, parts F-I pose questions about the relationship between 1) the registrant of Post E.C.S.—Martineau & Associates, and 2) the billing contact—Pierre Martineau, and the Postal Service. Responses to OCA's questions would shed additional light on the "*control . . . of equipment . . . to provide Post E.C.S. service.*"<sup>3</sup>

The Postal Service makes unsupported claims that system security is risked by answering OCA's questions. No reasons or explanations for this contention are advanced. Therefore, the third prong of the objection should be dismissed out of hand.

Interrogatory 20, parts A. and B.

The Postal Service objects to parts A. and B. of interrogatory OCA/USPS-20<sup>4</sup> on the grounds of “commercial sensitivity and privilege,” asserting that “[d]isclosure of any such information would be highly detrimental to the Postal Service by disclosing to competitors valuable information about the market characteristics of Post E.C.S. usage.” The Postal Service’s support for its claims consists only of vague assertions of harm.<sup>5</sup> This feeble support must be weighed against the Commission’s and the participants’ concrete need for relevant information on the percentage of Post E.C.S. transactions that are domestic or international in character. In Order No. 1258, the Commission declared: “if the record identifies an appreciable segment of Post E.C.S. transactions that are wholly domestic, those transactions arguably may be postal services subject to the requirements of Chapter 36.” The ratio sought by OCA in interrogatory 20 will aid in the determination whether there is an appreciable segment of Post E.C.S. transactions that are wholly domestic.

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<sup>3</sup> (Emphasis added).

<sup>4</sup> In parts A and B of interrogatory 20 OCA asked the Postal Service to break down specific communications between the Postal Service and its customers (customer feedback and informal interviews) into domestic transactions (which OCA defined as originating in the U.S. and directed to recipients within the U.S.).

<sup>5</sup> The Postal Service cites Ruling No. R97-1/60 in defense of its position. However, a reader if this ruling should logically reach the opposite of the conclusion articulated by the Postal Service. In Ruling 60 the Presiding Officer reaffirmed an earlier ruling that required the Postal Service to “provide the underlying *factual* data from the ongoing SAI alternate delivery study.” The Postal Service was permitted to redact “the SAI researchers’ and Postal Service’s comments and conclusions on, and analysis and/or interpretation of that data, as well as the company and product names of alternative delivery providers.” In interrogatory 20, OCA has not asked for the names of any Post E.C.S. customers nor for interpretation of or comments on the customer responses. In Docket No. R97-1, the Presiding Officer required the Postal Service to provide extensive factual information, but permitted the Service to withhold interpretive information. Ruling 60 certainly does not stand for the proposition that the Postal Service be excused

Interrogatory 21

The Postal Service objects to interrogatory OCA/USPS-21 on the ground of relevance. In this interrogatory, OCA asks the Postal Service to confirm that the Adobe Acrobat portable document format (PDF) technology available to Post E.C.S. users enables recipients to read any document regardless of the software applications used to create them. A confirmation of this statement is relevant because it demonstrates that Post E.C.S. permits the sender to generate a document that is very similar to documents mailed as hard copy. Unlike many other electronic exchanges of information that depend on compatibility of software resident on sender and recipient computers, Post E.C.S. transmissions written as PDF files can immediately be read on the screen or printed with virtually the same appearance as the original document so long as the recipient has downloaded a free copy of Adobe Acrobat Reader from the internet or obtained a copy by some other method.<sup>6</sup> The ability of a Post E.C.S. user to create a PDF version of a document allows transmission of documents in a manner very similar to the transmission of conventional mail. When a document is sent through the mail, if it is legible, it may be read or viewed without any additional steps taken by the recipient to transform it. In like manner, if a Post E.C.S. user transmits a PDF file, the recipient may open it with the Adobe Reader application so that it is readily viewed

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from making a count of the responses and computing the percentage of domestic and non-domestic transactions.

<sup>6</sup> Gaining access to Adobe Acrobat Reader should never be an impediment to opening a PDF document since the Reader is widely available as free, downloadable software on the internet. The Postal Rate Commission makes available PDF files of documents filed as hard copy at its website—<http://www.prc.gov/>. Cognizant that would-be readers of such documents might need Acrobat Reader to open the PDF files, the Commission provides a link at the bottom of the homepage to adobe.com where the most recent version of Adobe Reader can be downloaded free of charge.

and has the appearance of the original document. The universality of PDF sets it apart from many other types of electronic communications and makes Post E.C.S. essentially equivalent to mail.

Interrogatories OCA/USPS-23 and -24

The Postal Service objects to answering interrogatories OCA-USPS-23 and -24, in which the question is posed whether it would be theoretically possible for Post E.C.S. users to indicate the location of computers generating the Post E.C.S. communication and the location of computers on which the communications are received. The Postal Service unexpectedly contends that the questions posed are not relevant. This contention is flatly incorrect. One of the key jurisdictional issues to be decided in the first phase of the Post E.C.S. proceeding is whether an appreciable segment of Post E.C.S. consists of transactions that are wholly domestic.<sup>7</sup> OCA hopes to establish by means of interrogatories 23 and 24 that the Postal Service could readily determine, simply by adding two simple questions to those answered by Post E.C.S. users, which transactions are "wholly domestic." OCA is concerned that the Postal Service's failure to ask such questions of customers may make it difficult for the Commission to determine whether it is statutorily obligated to exercise jurisdiction over this service.

The Postal Service makes an additional argument that OCA's questions "transcend the scope of ratemaking proceedings." OCA strongly disagrees, but even if the Postal Service ultimately were to prevail in this view, it is premature to foreclose any inquiry into the ease or difficulty of appending such questions to a Post E.C.S.

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<sup>7</sup> See discussion of Order No. 1258, *supra*.

transaction. The Postal Service should be directed to answer interrogatories 23 and 24 at the present time; later, at the time that briefs are filed, the question whether the Commission should recommend the inclusion of such questions can be addressed by OCA and the Postal Service. Furthermore, OCA feels compelled to point out that the Commission is always free to *advise* the Postal Service that such questions should be made part of a Post E.C.S. transaction. In conclusion, the Postal Service should be directed to answer such questions at the present time. The use that can be made of the answers is a matter to be addressed on brief.

Interrogatory OCA/USPS-26

The Postal Service also protests providing an answer to interrogatory OCA/USPS-26, which propounds questions about statements made in the Post E.C.S. Pricing Guide concerning the benefits of the Electronic Postmark <sup>TM</sup> feature of Post E.C.S.<sup>8</sup> The Pricing Guide includes claims that Electronic Postmark <sup>TM</sup> "can stand as legal evidence" and offers "legal protections against tampering and misrepresentations of fact or identity." In its Objection, the Postal Service endeavors to divorce Electronic Postmark <sup>TM</sup> from Post E.C.S. This attempt must fail, however, since Electronic Postmark <sup>TM</sup> is offered as a Post E.C.S. option and is used as a key selling point for the service. While Electronic Postmark <sup>TM</sup> may be offered as an add-on to other electronic services vended by the Postal Service,<sup>9</sup> the fact remains that when Electronic Postmark

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<sup>8</sup> The Pricing Guide is part of an attachment to the Postal Service's response to interrogatory UPS/USPS-11.

<sup>9</sup> This is merely a supposition by OCA. The Postal Service has made no representations that Electronic Postmark <sup>TM</sup> is ever offered in conjunction with any services other than Post E.C.S.

™ is offered in connection with Post E.C.S., it becomes an integral part of the Post E.C.S. transaction.

OCA is of the view that the legal evidentiary stature and legal protections touted in the Pricing Guide are rooted in judicial precedents concerning the use of postmarks on conventional mail. For example, 26 U.S.C. §7502(a), of the Internal Revenue Code, provides that, "the date of the United States *postmark* stamped on the cover"<sup>10</sup> of a "return, claim, statement, or . . . payment" can be used as evidence of "timely filing and paying."

In *U.S. v. Cowley*, 720 F. 2d 1037, 1045 (9<sup>th</sup> Cir. 1983), the U.S. Court of Appeals held that a postmark applied by a Postal Service official was of such an extraordinarily reliable character that it was worthy of its own niche among the hearsay exceptions:

[T]he postmark is hearsay. Unlike most hearsay, however, the postmark is very reliable; there is little risk of misperception or fabrication on the part of the postal official. Even though it does not easily fit into any of the enumerated hearsay exceptions, see Fed. R. Evid. 803(1)-(23), the postmark's circumstantial guarantees of trustworthiness make it a perfect candidate for Fed. R. Evid. 803(24), the so-called 'expanding exception.'

The Postal Service is strongly identified with the practice of postmarking conventional mail. Its marketing claims that an electronically postmarked electronic document constitutes legal evidence and affords legal protections powerfully suggests that the Postal Service markets Post E.C.S. as a service with fundamental mail-like attributes. Review of written Postal Service materials and accompanying oral representations explaining the basis for the Pricing Guide claims may uncover

admissible evidence concerning whether Post E.C.S. functions much like conventional mail, or, indeed *is*, mail.

The Postal Service's also lodges an objection on the ground that these materials are screened from examination by the attorney-client privilege and the attorney work-product privilege. The Service has failed to provide the details necessary to establish the propriety of applying these privileges. Furthermore, the cited privileges cannot be claimed in the circumstances of the instant complaint proceeding.

A review of Ruling No. 9, and statements made by the Presiding Officer in Tr. 1/15, clearly shows that a participant asserting a privilege to escape responding to a legitimate discovery request must submit a Vaughn index or privilege log for examination by the Presiding Officer and interested participants. If Fed. Rule of Civ. Proc. 26(b)(5) is used as a guide, then the party claiming the privilege "shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." The Postal Service has failed to provide a list of documents and oral statements subject to the privilege with an accompanying explanation why a privilege applies. For this failure alone, the Postal Service should be directed to produce all of the information sought in interrogatory 26.

Furthermore, in deciding whether either of the asserted privileges apply, it must be borne in mind that:

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<sup>10</sup> Emphasis added.



[C]ourts commonly look unfavorably upon anything that significantly restricts th[e] scope [of discovery]. Because the attorney-client privilege and work-product doctrine obscure the search for the truth, both should be confined to their narrowest possible limits to minimize the impact upon the discovery process. . . .

[T]he scope of the privilege is narrow, because it is in "derogation of the search for truth. . . ."

The party seeking to invoke the attorney-client privilege bears the burden of establishing all of the privilege's elements. Additionally, the claim of privilege cannot be a blanket claim; it must be established on a document-by-document basis.

*Stern Walters Partners, et. al. v. Kaminky, et. al.*, 1996 WL 115290, \*3 (N.D. Ill. 1996).

Thus, the privileges claimed by the Postal Service must be narrowly applied, and the Postal Service bears the burden of establishing them on a document by document basis. This the Service has utterly failed to do. In *Stern Walters*, the party claiming the privilege made a blanket assertion, neglecting to give "the specific reason that specific documents should be withheld." Also, "the descriptions provided for many of the documents [were] totally inadequate for the court to assess the applicability of the privilege or protection claimed." *Id.* at \*5. In such instances, held the court, "where such determinations cannot be made, such documents will be produced." Applying these principles to the circumstances of Docket No. C99-1 must also result in a Presiding Officer ruling to compel production of the information sought by interrogatory 26.

Moreover, under the work product privilege, the documents must have been prepared in advance of litigation. *Id.* Documents sought by OCA in interrogatory 26 fail this test because they would have been prepared for the purpose of evaluating the validity of the representations published in the Pricing Guide, not for the purpose of

litigating Docket No. C99-1. In sum, the Postal Service has not established the elements requisite to a successful claim of attorney-client or work product privileges. Therefore, OCA asks the Presiding Officer to direct the Postal Service to respond fully to interrogatory 26.

Interrogatories 27, parts B. and C., and -28-30

In parts B. and C. of interrogatory OCA/USPS-27, and in interrogatories OCA/USPS-28-30, OCA asked the Postal Service to agree to reasonable assumptions concerning the propensity of Post E.C.S. account members whose physical address is in the U.S. to initiate their Post E.C.S. communications in the U.S. In defense of its objection that the cited interrogatories call for “unsubstantiated conjecture and pure speculation,” the Postal Service quotes its answer to interrogatory UPS/USPS-3A, that it “has no mechanism to quantify the number of transactions . . . .” The Postal Service mischaracterizes the type of logical inference OCA has asked it to make in interrogatories 27-30. First, OCA has not asked to Postal Service to *quantify* the number of domestic and international transactions. Rather, OCA asks the Postal Service to put questions 27 B. and C. and 28-30 before the most knowledgeable postal and contractor personnel responsible for operating Post E.C.S.. It is quite possible that such individuals may be able to offer an informed opinion, although they would be unable to quantify precisely the number of transactions initiated in the U.S. Second, the drawing of reasonable inferences is a fundamental part of the juridical tradition:<sup>11</sup>

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<sup>11</sup> *Gov't of the Virgin Islands v. Frederico, et al.*, 739 F.2d 936, 941 (3d Cir. 1984), quoting *U.S. v. Bycer*, 593 F.2d 549, 550 (3d Cir. 1979).

Inferences from established facts are accepted methods of proof when no direct evidence is available. It is essential, however, that there be a logical and convincing connection between the facts established and the conclusion inferred.

Justice Frankfurter espoused a similar philosophy: "there comes a point where this Court should not be ignorant as judges of what we know as men." 338 U.S. 49, 52 (1949). The Postal Service should make a good faith effort to present OCA's questions to those most likely to be able to answer them. Those individuals should then draw reasonable inferences from facts of which they may be aware. The statements of Postal Service counsel in the September 7 pleading are not an adequate substitute for an institutional response that may be included in the record of the proceeding.

Interrogatories OCA/USPS-27, part D., and -31-33

Interrogatories OCA/USPS-27D. and -31-33 ask for information about Post E.C.S. registrants located outside the U.S. The Postal Service objects on the grounds of commercial sensitivity, privilege, jurisdiction, and relevance.<sup>12</sup> The Postal Service defends its objection with vague statements about "test status," "newness," and the possibility that future relationships among the foreign posts may be different than their current relationships. Feeble generalizations such as these are not sufficient to support the Postal Service's objection.

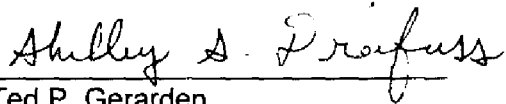
Furthermore, contrary to the Postal Service's contention that interrogatories 27D. and 31-33 are not relevant, answers to these questions are decidedly relevant since, as OCA has explained, it is reasonable to assume a propensity for registrants physically located within the U.S. to initiate communications within the U.S., and for registrants

physically located outside the U.S. to initiate their communications outside the U.S. Postal Service.

In conclusion, for the reasons presented above, OCA respectfully requests that the objections of the Postal Service to providing responses to interrogatories OCA/USPS-19, 20(A-B), 21, 23-24, 26, 27(B-D), and 28-33 be overruled.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE

  
Ted P. Gerarden  
Director

Shelley S. Dreifuss  
Attorney

**FILE**

UNITED STATES OF AMERICA  
Before The  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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Complaint on Post E.C.S.

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Docket No. C99-1

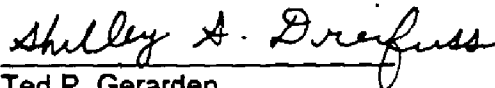
OFFICE OF THE CONSUMER ADVOCATE  
INTERROGATORIES TO UNITED STATES POSTAL SERVICE  
(OCA/USPS-19-34)  
August 25, 1999

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Pursuant to sections 25 and 26 of the Rules of Practice of the Postal Rate Commission, the Office of the Consumer Advocate hereby submits interrogatories and requests for production of documents. Instructions included with OCA interrogatories OCA/USPS-1-7 to the United States Postal Service, dated June 28, 1999, are hereby incorporated by reference.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE



Ted P. Gerarden  
Director

Shelley S. Dreifuss  
Attorney

OCA/USPS-19. Please refer to the Attachment to this interrogatory. The Attachment is a printout of information reported by Network Solutions at its "Whois" site. [Note: Network Solutions is "the world's leading provider of Web address registration services . . . . Network Solutions is responsible for maintaining the stability and security of the master file of Internet Web addresses." <http://www.netsol.com/nsi/>]

- a. Please confirm that the servers that may be used to provide Post ECS services are "GK-EAST.USPS.GOV" and "GK-WEST.USPS.GOV." If the Postal Service is unable to confirm, explain why not.
- b. In response to interrogatory OCA/USPS-12, the Postal Service stated that: "The Postal Service's server for Post ECS is physically located in the United States, in the State of California." Is the server located in California the same "GK-WEST.USPS.GOV" server listed in the Post ECS domain registration? If not, please explain.
- c. Please confirm that the server "GK-EAST.USPS.GOV" is located in the eastern part of the United States. If the Postal Service is unable to confirm, explain why not.
- d. At the present time, is the "GK-EAST.USPS.GOV" server listed in the Post ECS domain registration involved in the provision of Post ECS? If so, how? If not, why not?
- e. Please confirm that the I.P. addresses for the "GK-EAST.USPS.GOV" and "GK-WEST.USPS.GOV" servers are "56.0.96.11" and "56.0.72.11," respectively. If the Postal Service is unable to confirm, explain why not.

- f. Please confirm that Martineau & Associates is the registrant for the POSTECS domain. If the Postal Service is unable to confirm, explain why not.
- g. Please confirm that Pierre Martineau is the Administrative and Billing contact for the POSTECS domain. If the Postal Service is unable to confirm, explain why not.
- h. What is the relationship between Martineau & Associates and the Postal Service with respect to Post ECS? Please explain in detail.
  - (i). Include in the explanation a description of the duties and services performed by Martineau & Associates in connection with Post ECS.
  - (ii). On what date did Martineau & Associates begin to perform services in connection with Post ECS?
- i. What is the relationship between Pierre Martineau and the Postal Service with respect to Post ECS? Please explain in detail.
  - (i). Include in the explanation a description of the duties and services performed by Pierre Martineau in connection with Post ECS.
  - (ii). On what date did Pierre Martineau begin to perform services in connection with Post ECS.

[ATTACHMENT TO OCA/USPS-19]

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## Web Interface to Whois

Brand every e-mail you send.

**NETWORK SOLUTIONS**  
the dot com people **Registrant:**

Martineau & Associates (POSTECS-DOM)  
1050 Chestnut Street, #204  
Menlo Park, CA 94025  
US

**Domain Name:** POSTECS.COM**Administrative Contact:**

Martineau, Pierre (PM39) pierre@MARTINEAU.COM  
(415) 326-5030

**Technical Contact, Zone Contact:**

Stucky, Michael (MS209) stuckym@EAGLE.USPS.GOV  
(919) 501-9665 (FAX) (919) 501-9738

**Billing Contact:**

Martineau, Pierre (PM39) pierre@MARTINEAU.COM  
(415) 326-5030

Record last updated on 12-Aug-99.

Record created on 22-Feb-98.

Database last updated on 19-Aug-99 04:22:31 EDT.

Domain servers in listed order:

GK-EAST.USPS.GOV	<u>56.0.96.11</u>
GK-WEST.USPS.GOV	<u>56.0.72.11</u>

Questions? [help@networksolutions.com](mailto:help@networksolutions.com)

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OCA/USPS-20. In response to question 2, posed by the Commission in Order No. 1229, the Postal Service stated: "Based on customer feedback and informal interviews with end users, it is known that transactions are originated and directed to recipients within the U.S."

- a. Please break down the information cited above, i.e., customer feedback and informal interviews, into (1) domestic transactions, i.e., those originated in the U.S. and directed to recipients within the U.S., and (2) those which are non-domestic, i.e., either initiation of the communication or receipt of the communication (or both) take place outside the U.S. Express the breakdown as percentages of total Post ECS transactions. The percentages for (1) and (2) should sum to 100 percent. Ballpark percentage estimates are acceptable if more precise information is unavailable.
- b. Has the Postal Service had additional customer feedback and/or informal interviews since the time that the answer to question 2 was filed on March 3, 1999? If so, please answer part a. of this interrogatory based on all feedback and informal interview information, including the most recent feedback and interview information.
- c. Does the Postal Service know "that transactions are originated [or] directed to recipients [outside] the U.S.?" If yes, how did the Postal Service obtain this knowledge?

OCA/USPS-21. Please confirm that Post ECS's Adobe Acrobat portable document format technology "enables recipients to read any document regardless of the software

applications used to create them.” (Refer to p. 4 of Attachments to the Postal Service's response to interrogatory UPS/USPS-5A). If the Postal Service is unable to confirm, explain why not.

OCA/USPS-22. In response to interrogatory UPS/USPS-46B-C, the Postal Service states that: “The sender and recipient [of Post ECS] can . . . be located in any combination of locations.” Please confirm that one subset of the possible sender/recipient combinations consists of senders and recipients located in the U.S. If the Postal Service is unable to confirm, explain why not.

OCA/USPS-23. Would it be theoretically possible for the Postal Service to add the following (or a similar) question to the screen filled in by a Post ECS registrant at the time that a Post ECS service is purchased?

*“Please darken one of the following boxes by clicking your computer mouse.*

*Is this Post ECS communication being generated by a computer located*

☐ *in the U.S.? or*

☐ ***outside** the U.S.?*

*(Please call 1-800-xxx-xxxx if you are uncertain about whether your location is ‘in the U.S.’ or ‘outside the U.S.’ for the purpose of answering this question.)”*

- a. Please give a "yes" or "no" answer to the question posed above, i.e., whether it would be theoretically possible to add such a question (or a similar question) at the time a Post ECS transaction is made. If the answer is "no," explain in full why it would not be possible for the Postal Service to ask such questions of registrants.
- b. If the answer is "yes," then give a ballpark estimate of the time that would be required to reprogram the Post ECS software to add such a question. State the assumptions made to generate the ballpark estimate.
- c. Please confirm that Post ECS test participants "agree to participate in market research conducted by the USPS during the course of the test." Attachment to Postal Service's response to interrogatory UPS/USPS-11, "Post E.C.S. Service Test Participant Application."
- d. Does the Postal Service agree that having information such as this for each Post ECS transaction could be used to separate domestic transactions from non-domestic transactions? If the answer is negative, please explain in full the basis for disagreement.

OCA/USPS-24. Would it be theoretically possible for the Postal Service to add the following (or similar) questions to the screen filled in by a Post ECS registrant at the time that a Post ECS service is purchased?

- *"Is this Post ECS communication directed to a single recipient? (If not, then skip to the next set of questions).*

*If so, then choose one of the following (click computer mouse to darken one of the 3 boxes below)—*

*The location where the recipient will receive e-mail notification is located **in the U.S.** ☐, or*

*The location where the recipient will receive e-mail notification is located **outside the U.S.**, ☐ or*

*Recipient's location is not known. ☐*

*(Please call 1-800-xxx-xxxx if you are uncertain about whether the recipient's location is 'in the U.S.' or 'outside the U.S.' for the purpose of answering this question.)*

- *Is this communication directed to multiple recipients? (If not, then answer the set of questions immediately preceding this set).*

*If so, then please fill in both of the boxes below (use "0" if appropriate)—*

*Number of recipients located **in the U.S.** ☐*

*Number of recipients located **outside the U.S.** ☐*

*Number of recipients whose location is unknown. ☐*

- a. Please give a "yes" or "no" answer to the question posed above, i.e., whether it would be theoretically possible for the Postal Service to add such questions (or similar questions) at the time a Post ECS transaction is made. If the answer is "no," explain in full why it would not be possible for the Postal Service to ask such questions of registrants.
- b. If the answer is "yes," then give a ballpark estimate of the time that would be required to reprogram the Post ECS software to add such questions. State the assumptions made to generate the ballpark estimate.

- c. Does the Postal Service agree that having information such as this for each Post ECS transaction could be used to separate domestic transactions from non-domestic transactions? If the answer is negative, please explain in full the basis for disagreement.

OCA/USPS-25. In response to interrogatory OCA/USPS-12, the Postal Service states that "the 's' appended to the https:// denotes the secure portion of a server." Please explain generally how the secure portion of a server and the non-secure portion of a server differ physically. Please describe generally any other differences between the secure and non-secure portions of a server. Also, describe generally any measures taken to ensure security in only a portion of a server.

OCA/USPS-26. Please refer to the "*Post E.C.S. Test Pricing Guide*" attached to the Postal Service's response to interrogatory UPS/USPS-11. In that Pricing Guide, the Postal Service represents that:

- a. The Electronic Postmark <sup>™</sup> serves as a "Third-party, trusted time and date stamp that can stand as legal evidence." Please provide all Postal Service notes, files, reports, memoranda, documentation, legal research, and all other written materials that support or address this claim. Also, furnish detailed summaries of any oral statements that underlie this claim, and identify the person(s) making such statements. Give specific citations to any federal or state laws supporting the Pricing Guide claim.
- b. The Postal Service also represents that the Electronic Postmark <sup>™</sup> provides "Legal protections against tampering and misrepresentations of fact or identity."

Please provide all Postal Service notes, files, reports, memoranda, documentation, legal research, and all other written materials that support or address this claim. Also, furnish detailed summaries of any oral statements that underlie this claim, and identify the person(s) making such statements. Give specific citations to any federal or state laws supporting the Pricing Guide claim.

OCA/USPS-27. Please refer to the "Post E.C.S. Account Request Information" attached to the Postal Service's response to interrogatory UPS/USPS-11.

- a. Please confirm that the Postal Service asks for the "Physical Address" of every account member.
- b. Does the Postal Service agree that it is reasonable to assume that *almost all* Post ECS account members whose physical address is in the U.S. will initiate their Post ECS communications in the U.S.? If the answer is negative, please explain in full the basis for the answer.
- c. Does the Postal Service agree that it is reasonable to assume that the *majority* of all Post ECS account members whose physical address is in the U.S. will initiate their Post ECS communications in the U.S.? If the answer is negative, please explain in full the basis for the answer.
- d. Does the Postal Service currently have any registrations on file for Post ECS account holders or account members whose physical address is located outside the U.S.? If so, please state the percentage of total account member registrations involving physical addresses located outside the U.S. (Or, conversely, state the percentage of total account member registrations involving

physical addresses located within the U.S.) These two percentage figures should sum to 100 percent.

OCA/USPS-28. Please state the probability that the proportion of domestic Post ECS transactions has been less than the following fractions.

- a. 0.0001
- b. 0.001
- c. 0.01
- d. 0.1
- e. 0.2
- f. 0.3
- g. 0.4
- h. 0.5
- i. 0.9
- j. 0.99
- k. 0.999
- l. 0.9999

OCA/USPS-29. For the fractions listed in OCA/USPS-28, please state the probability that the proportion of domestic Post ECS transactions will be less than the listed fractions in FY 2000.

OCA/USPS-30. If the probabilities requested in the two previous interrogatories (OCA/USPS-28 and OCA/USPS-29) cannot be provided, please state the basis for any belief of the Postal Service that some Post ECS transactions will certainly be

international in character. Please distinguish the basis of the Postal Service's belief from the statement, "If an event *\*might\** happen, then it *\*will\** happen."

OCA/USPS-31. Does the Postal Service allow registration for Post ECS by individuals or businesses located in Canada? Please explain in full.

OCA/USPS-32. Does the Postal Service allow registration for Post ECS by individuals or businesses located in France? Please explain in full.

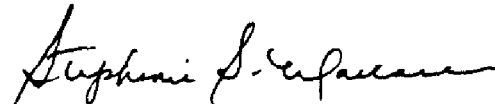
OCA/USPS-33. Canada Post imposes the following limitation on registration: "Any business *within Canada* is eligible for Canada Post's PosteCS™ 30 day free trial offer." (<http://www.canadapost.ca/CPC2/eps/postecs/registry.html>; emphasis added). Does the Postal Service impose a comparable restriction on registration, i.e., that a registrant be located within the U.S.? Please explain in full.

OCA/USPS-34. Please refer to the Postal Service's Attachment in response to UPS/USPS-11, Post E.C.S. Test Pricing Guide. There it states that "Basic Transaction" includes "tracking." Please explain in detail exactly what occurs when USPS "tracks" a transaction. Also, please give a step-by-step narrative of this process.



# CERTIFICATE OF SERVICE

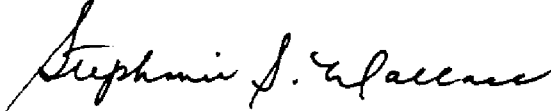
I hereby certify that, on behalf of the Office of the Consumer Advocate, I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

  
Stephanie Wallace

Washington, D.C. 20268-0001  
August 25, 1999

# CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

  
Stephanie S. Wallace

Washington, D.C. 20268-0001  
September 21, 1999