

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

TRANSFERRING FIRST-CLASS MAIL PARCELS  
TO THE COMPETITIVE PRODUCT LIST

Docket No. MC2015-7

**NOTICE OF ERRATUM TO UNITED STATES POSTAL SERVICE RESPONSE TO  
SUPPLEMENTAL COMMENTS OF GAMEFLY, INC.**  
(February 6, 2015)

On February 5, 2015, the Postal Service filed a Response to Supplemental Comments of GameFly, Inc. That Response included a typographical error on page 14, footnote 37. A revised copy of that page is attached to this notice, with the corrected language highlighted in gray. The Postal Service regrets any confusion that this error may have caused.

Respectfully submitted,

UNITED STATES POSTAL SERVICE  
By its attorneys:  
Daniel J. Foucheaux, Jr.  
Chief Counsel, Pricing and Product Support

Jacob D. Howley

475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1137  
(202) 268-8917; Fax -6187

initial list of presumptive competitive products, but Congress expressly subjected that list to “any changes the Postal Regulatory Commission may make under section 3642.” GameFly’s proposed interpretation, combined with a true application of the anti-surplusage canon to Section 3631(a), would put Sections 3631(a) and 3642(b)(2) on a collision course. It would make little sense for Congress to initially determine that Priority Mail and Bulk Parcel Post are competitive products, only to have Section 3642(b)(2) compel the Commission immediately to reclassify these products as market-dominant because of Section 601(b)(1).<sup>36</sup> This nonsensical reading plainly clears whatever “‘high threshold’ of unreasonableness” GameFly wishes to invoke.<sup>37</sup>

Third, GameFly attempts to distinguish the Commission’s prior decisions on this very issue because those “cases all involved bilateral agreements voluntarily entered into by large and sophisticated counterparties that indisputably possessed substantial countervailing market power, [which] special circumstances provided reasonable assurance that the terms of the arms-length agreements were the result of effective competition for the Postal Service’s international services.”<sup>38</sup> In other words, despite drawing the Commission’s attention to “[t]he omission of any statutory rule of reason from Section 3642(b)(2)” and the “irrelevan[ce]” of competitive conditions to Section 3642(b)(2) on the previous page,<sup>39</sup> GameFly would have the Commission disregard its

---

<sup>36</sup> Again, under GameFly’s proposed interpretation, all that would matter would be whether Section 601(b)(1) might prevent some theoretical (and improbably irrational) competitor from charging a price below the price floor, never mind how much margin for competition actually exists between the price floor and the Postal Service’s or its real-world competitors’ prices. See GameFly Initial Comments at 20-21; GameFly Supplemental Comments at 21. This argument could apply just as easily to certain Priority Mail parcels as to First-Class Mail Parcels. See USPS Reply Comments at 16-17.

<sup>37</sup> GameFly Supplemental Comments at 20.

<sup>38</sup> Id. at 22.

<sup>39</sup> Id. at 21.