

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**RESPONSES OF MICHAEL PLUNKETT OF  
THE UNITED STATES POSTAL SERVICE  
TO INTERROGATORIES OF CAPITAL ONE SERVICES, INC.  
(USPS-T-1)  
(COS/USPS-14-26)  
(November 4, 2008)**

The United States Postal Service hereby provides the responses of Michael Plunkett (USPS-T-1) to the following interrogatories of Capital One Services, Inc., filed on October 21, 2008: COS/USPS-14-26. A response to COS/USPS-13 is forthcoming, but requires additional time to compile all the requested information.

Each interrogatory is stated verbatim, and is followed by the response.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux, Jr.  
Chief Counsel, Pricing and Product Support

Elizabeth A. Reed

475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260-1135  
(202) 268-3179; Fax -6187  
November 4, 2008

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-14.** Please describe with relevant dates:

- (a) Your role in setting strategy for the NSA program;
- (b) Your role in developing procedures for negotiating NSAs with mailers;
- (c) Your role in the preparation of the NSA Manual;
- (d) Your role in developing and/or implementing process improvements for NSAs in late 2007- mid 2008;
- (e) Your role in developing NSAs that did not have any volume incentive component (i.e., pure "cost-savings" NSAs).

**RESPONSE:**

a-b. Throughout my tenure as Manager, Pricing Strategy, I was intimately involved in setting NSA strategy, and for overseeing (or participating in) negotiations with customers, and in all other administrative or managerial activities relating to NSAs. In this role I sought and received input from all areas of the USPS.

c. I oversaw the creation of the NSA manual.

d. I was involved in NSA process improvements up until my departure on academic leave in May 2008.

e. My role did not vary between NSAs relating to volume incentives or cost savings.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-15.**

- (a) As Manager of Pricing Strategy, did you hold regular meetings, e.g., weekly, meetings?
  - (i) If so, how often did you hold these meetings?
  - (ii) Please provide the name and title of each person who attended these meetings.
  - (iii) Please describe the topics covered at these meetings.
- (b) As Acting Vice President of Pricing, did you hold regular meetings, e.g., weekly, meetings?
  - (i) If so, how often did you hold these meetings?
  - (ii) Please provide the name and title of each person who attended these meetings.
  - (iii) Please describe the topics covered at these meetings.

**RESPONSE:**

(a)(i). Yes, generally we would hold staff meetings to discuss ongoing activities. For the most part these meetings would be weekly, but not in all cases. Meetings would be attended by all Pricing Strategy staff unless a staff member was on holiday, business travel, or had some other scheduling conflict.

(ii). At various points throughout my tenure as Manager of Pricing Strategy, the following individuals would have attended staff meetings:

- Mohammed Adra – Economist
- Debra Alexander – Marketing Specialist
- Cassandra Allison – Secretary
- Samuel Ankrah – Pricing Economist
- Ali Ayub – Pricing Economist
- Neil Berger – Marketing Specialist
- James Crawford – Marketing Specialist
- Charles Crum – Economist
- Gina Crocenzi – Marketing Specialist
- Gregory Dawson – Pricing Economist
- Joan Hearn – Marketing Specialist
- Laraine Hope – Economist
- John Landry – Economist
- Jessica Lowrance – Pricing Economist
- Broderick Parr – Economist
- Lisa Swanson – Secretary
- Michelle Yorgey – Marketing Specialist

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

(iii). Meeting topics would have included any topics of relevance to Pricing Strategy.

This would have included NSA activities, but also routine administrative or procedural matters.

(b)(i-ii). As with my response to part (a), meetings were generally weekly, but there were exceptions. Attendees would have been:

Joe Moeller	Manager, Pricing
Maura Robinson	Manager, Pricing Systems and Analysis
Tom Philson	Manager, International Pricing
Sharon Daniel	Manager, Mailing Standards
Don O'Hara	Manager, Product Redesign
John Nagla	Manager, Pricing Implementation
Greg Hall	Manager, National Customer Rulings
Bob Bokor	Manager, Mail Classification
Ed Wronsky	Manager, PCSC
Jessica Lowrance	Acting Manager, Pricing Strategy
Meosha Hudgens	Secretary

This is the normal attendance list. On occasion, managers might send designees if they were unavailable.

(iii). These meetings would cover all issues relevant to USPS pricing and classification, and typically would also cover issues pertaining to USPS policies and procedures.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

- COS/USPS-16.** With respect to the NSA negotiations process, please describe
- (a) the step-by-step process that a mailer followed in applying for, negotiating, litigating, and implementing an NSA;
  - (b) the step-by-step process that Pricing Strategy followed in initiating, negotiating, litigating, and implementing an NSA;
  - (c) the point in the process that you, as Manager of Pricing Strategy, would first become aware of the interest of a particular mailer in applying for an NSA;
  - (d) the criteria and decision-making process you used to determine which mailers you would pursue negotiations with and which you would not;
  - (e) the criteria and decision-making process you used to determine which NSA structures (e.g., cost-savings through electronic returns from UAA coupled with volume incentive discounts or pure “cost-savings) you would pursue.

**RESPONSE:**

(a-b). Customers can – and did – contact USPS through various channels: USPS sales representatives, USPS professional staff, through hired representatives (e.g. attorneys).

Once contacted, we would ask customers to complete a brief profile to allow us to collect some basic information on the customer’s use of USPS services. If, through joint discussion, we agreed with the customer that negotiations might be worthwhile, we would enter into negotiations. If negotiations were successful (we reached an agreement), we would – upon approval by the Board of Governors, begin litigation. In general, if litigation were successful, USPS would handle implementation issues by identifying mailing permits, recording postage spending, and determining qualification for any incentives that would be relevant.

(c). I would generally become aware (if I were not the original point of contact) as soon as one of the Pricing Strategy staff received an inquiry.

(d). There was not a set point in time where we could determine that a customer was or was not a suitable candidate for NSA negotiations. This generally was done in cooperation with the customer through joint discussion of relevant issues.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

(e). As indicated above, upon first inquiry, we would ask customers to complete a mail profile. Once complete, we would discuss the customer's use of USPS services, and attempt to arrive at a common understanding of what form a potential NSA ought to take.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-17.** Have you ever conducted a study or analysis, formal or informal, of the effects of a specific NSA (a) on the NSA applicant's competitors, (b) on competition in the relevant industry of the NSA applicant, or (c) on the relevant marketplace (as that term is used in 39 U.S.C. 3622(c)(10))? If your answer is no, are you aware of and/or have you ever relied upon any such study or analysis? If so, please describe all such studies or analyses.

**RESPONSE:**

I have not conducted any formal studies of the kind suggested here. On the other hand, I am able to judge informally, that NSAs ought generally to have a minimal impact on the specific industries within which NSA customers operate. For instance, larger companies primarily seek out NSAs, and thus the potential for NSA savings is likely to be small relative to the size of the enterprise – or its total postage spending for that matter. For example, Capital One's current market capitalization is a little more than \$15B, and many of the companies that they compete with are considerably larger. I believe it is unlikely that an NSA would have a significant competitive impact in that industry.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-18.** While you were Manager of Pricing Strategy and Acting Vice President of Pricing, was it your understanding that the Postal Service's Nondisclosure Agreement with an NSA applicant prevented the Postal Service from negotiating with another applicant an NSA with the same structural elements of the NSA that was the subject of the Nondisclosure Agreement?

**RESPONSE:**

No.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-19.** Are you aware of (a) any revisions or updates to the NSA Manual (Exhibit 1 to the Lowrance Deposition), in final or draft form, or (b) any statement of procedures, formal or informal, that may have replaced, amended, or supplemented the NSA Manual?

**RESPONSE:**

No.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-20.** For each of the following time periods, please identify by name, title, and department, each person who played a key role in developing, reviewing, evaluating, or approving the Bank of America NSA, and his or her area of expertise and contribution:

- (a) From 2006 to January 2007 (execution of Bank of America NSA)
- (b) From February 2007-October 2007 (issuance of the PRC Recommended Decision in MC2007-1)
- (c) From October 2007 – December 2007 (issuance of the Board of Governors' final decision)
- (d) From January 2008 – present (implementation).

For any person not within your department, please indicate the date that that person first provided input to you on the Bank of America NSA and describe the nature of that input.

**RESPONSE:**

Generally, all activities relating to the Bank of America NSA were carried out by four Pricing Strategy staff: myself, Jessica Lowrance, Greg Dawson, and Ali Ayub (other than myself, the aforementioned individuals shared the title "Pricing Economist"). Their levels of involvement changed during the course of the project based on a number of factors: their availability (for example, during part of this period Mr. Dawson was not employed by the Postal Service), the particular phase of development we were in (Mr. Ayub was the witness for example, so he had more involvement during litigation), and other Pricing Strategy activities.

Key individuals in other departments included: Ashley Lyons and Virginia Mayes (Finance); Anthony Alverno, Matthew Connolly, Susan Duchek, and Frank Heselton (Law Department). These individuals were, for the most part, involved throughout the various stages of the NSA process, but I do not have specific dates of when they first provided input.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-21.** With respect to the Bank of America NSA and MC2007-1:

- (a) Please confirm that you were the lead negotiator for the Postal Service and the senior official with day-to-day responsibility for the Bank of America NSA.
- (b) Please confirm that you reviewed and approved the direct testimony of Ali Ayub, filed in MC2007-1 on behalf of the United States Postal Service (USPS-T-1).
- (c) Please explain your interpretation of the statement in Mr. Ayub's testimony that the Postal Service recognized an "affirmative obligation to make comparable terms available to companies that are deemed functionally equivalent, thus obviating the possibility that any competitor of BAC need be affected by the Agreement." USPS-T-1 at 26.
- (d) Please describe any plans or steps that you considered or developed to carry out the "affirmative obligation" referred to above.
- (e) At the time of filing of Mr. Ayub's testimony, were you aware of the possibility that "the marginal value of any functionally equivalent NSA would be lower to the Postal Service, a factor which would have to be considered during the course of negotiation any functionally equivalent agreement," Response of USPS to COS/USPS-1 (August 22, 2008)? Please indicate when you first became aware of this factor.
- (f) Have you developed a metric to quantify the value of being the first adopter, as described in paragraph (e) above? If so, please describe in detail.

**RESPONSE:**

- (a). Confirmed.
- (b). Confirmed.
- (c). My understanding is that – according to prior PRC rulings – the Postal Service should make comparable terms available to similarly situated customers.
- (d). Whenever the Postal Service implemented a new baseline NSA we would entertain inquiries from all customers interested in pursuing functionally equivalent NSAs.
- (e). One of the purposes behind the BAC NSA is to foster process improvements that would lower USPS costs – as reflected in improvements in the indicators included in the BAC contract. The nature of the US postal system is such that process improvements

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

are diffused rapidly through the system because large customers share vendors, and there is substantial consolidation among postal intermediaries. Consequently, any customer who sought a functionally equivalent NSA would presumably – given the time lag and the tendency for improvements to diffuse rapidly – be starting from a higher baseline than BAC, though that would be subject to review and/or measurement before consummation of negotiations.

(f). No.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-22.** With respect to the December 2007 memorandum from the Postmaster General to the Board of Governors (referred to in the Deposition of Jessica Lowrance as the "PMG Memo"):

- (a) Please describe your role in preparing, drafting, coordinating departmental input, obtaining approvals, and presenting the PMG Memo.
- (b) Please identify by name and title each person who had input or approved the PMG Memo.
- (c) For each section of the PMG Memo, please identify by name and title the person(s) who drafted that section.
- (e) Please provide the dates and participants of each meeting you attended in which a draft of the memo was discussed.
- (f) Were you present at any discussion or presentation to the Board of Governors regarding the Bank of America NSA? If so, please provide the date, names of other Postal Service employees present, and topics discussed.
- (g) Please confirm that, it was your understanding that with respect to the Bank of America NSA discussed in the PMG Memo:
  - a. Certain component(s) of the NSA resulted in "negative contribution", as defined in the Lowrance deposition at page 229.
  - b. The overall financial effect of the NSA was positive when strategic benefits were considered. (Strategic benefits refer to the value of BAC's commitments to IMB, Postal One, Seamless Acceptance, FAST, CAPS, Confirm and One Code ACS.)If you do not confirm, please explain why.

**RESPONSE:**

- (a). I did not draft the memo, but reviewed drafts and sought input from the officers required to sign off on the final version.
- (b). To my knowledge, the officers with primary responsibility for the PMG Memo were Anita Bizzotto, Steve Kearney, and Mary Anne Gibbons, and it is my understanding that they received input from members of their respective staffs.
- (c). I lack personal knowledge of the individuals who drafted specific sections of the PMG Memo. The individuals likely would have been staff members of the officers listed in part (b).

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

(e). In the days leading up to completion, there were several brief meetings involving the officers identified in part (b). I do not have specific dates and attendance lists for those meetings.

(f). Yes. I was present when the BOG approved the filing of the BAC NSA, and I was present at two later BOG meetings: when the PRC issued its press release, and when the BOG approved the NSA. I do not have specific dates and attendance lists for those meetings.

(g)(a). Not confirmed. Any findings of NSA contribution were highly dependent on assumptions. The PRC used a number of suspect assumptions that resulted in negative contribution for instance. Nonetheless, I'm not aware of any requirement that every single component of an NSA must be contribution positive.

(g)(b). Confirmed that the BOG concluded that the NSA was contribution positive.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-23.** With respect to the December 2007 Powerpoint presentation from the Anita Bizzotto to the Board of Governors (referred to in the Deposition of Jessica Lowrance):

- (a) Please describe your role in preparing, drafting, coordinating departmental input, obtaining approvals, and presenting the Bizzotto presentation.
- (b) Please identify by name and title each person who had input or approved the presentation.
- (c) For each slide of the Bizzotto presentation, please identify by name and title the person(s) who drafted that slide.
- (d) Please provide the dates and participants of each meeting you attended in which a draft of the presentation was discussed.

**RESPONSE:**

- (a). I reviewed and prepared parts of the presentation, though I did not maintain a record of which parts I specifically participated in.
- (b). I did not maintain a record of who drafted specific slides in the presentation. In general, the participants would have been staff members of the officers listed in my response to COS/USPS-22(b).
- (c). I did not maintain a record of who drafted specific slides in the presentation. See my response to part (a)-(b).
- (d). There were a number of meetings leading up to the completion of the presentation. I do not have specific dates and attendance lists for those meetings.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-24.**

- (a) When were you first informed that the Postal Service needed a large mailer to adopt the Intelligent Mail Barcode prior to the date of mandated implementation?
- (b) Who informed you of this need?
- (c) Are you aware of any written recommendations, studies, analyses, or test, formal or informal, that support the need for an early adopter of the Intelligent Mail Barcode? If so, please identify by name, author, and date.
- (d) Are you aware of any quantification, in any form, of the value of early adoption of the Intelligent Mail Barcode to the Postal Service?

**RESPONSE:**

(a). I was never specifically informed of such a need prior to the negotiation of the Bank of America NSA, as this question implies.

(b). N/A.

(c-d). I am not aware of attempts to quantify the benefits of early adoption relative to late adoption.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-25.** Please provide the dates and Postal Service participants of face-to-face meetings you attended with Capital One representatives from 2006 to 2008, and confirm the following statements. If you do not confirm a statement, please explain why:

- (a) During Quarterly Business Reviews with Capital One, you were informed of Capital One's plans and progress in implementing new technologies for mail processing, including the Intelligent Mail Barcode.
- (b) You were informed of Capital One's participation in the Seamless Acceptance pilot tests.
- (c) You were informed of estimates of Capital One's scan rates from time to time.
- (d) You were informed of Capital One's interest in negotiating a "pure costsavings" NSA, similar to the Bank of America NSA.

**RESPONSE:**

During the period from 2006 to 2008, I estimate I attended at least 20 or more meetings with various representatives from Capital One; however, I do not have a record of the dates. Capital One does hold quarterly business reviews where I was generally a participant until March 2008.

- (a). Confirmed.
- (b). Confirmed.
- (c). Not confirmed. It is possible that scan rates were discussed, but I do not recall that specifically.
- (d). Confirmed.

RESPONSE OF MICHAEL PLUNKETT (USPS-T-1)  
TO INTERROGATORY OF CAPITAL ONE SERVICES, INC.

**COS/USPS-26.** Please confirm that, in the context of NSAs, you would define “similarly situated customers” as customers with similar business needs and mailing requirements to those of the baseline NSA mailer. If you do not confirm, please explain how you would define similarly situated customers.

**RESPONSE:**

Confirmed.