

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.) Docket No. C2008-3

VALPAK DIRECT MARKETING SYSTEMS, INC. AND
VALPAK DEALERS' ASSOCIATION, INC.
MOTION TO COMPEL ANSWERS TO INTERROGATORIES TO
THE UNITED STATES POSTAL SERVICE (VP/USPS-5-11)
(April 20, 2009)

Pursuant to Rule 3001.26(d) of the Commission's Rules of Practice and Procedure, Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (hereinafter "Valpak"), hereby move to compel responses to interrogatories (VP/USPS-5-11) submitted to the Postal Service on October 10, 2008.

Over six months ago, Valpak submitted its second set of interrogatories and requests for production of documents to the Postal Service, institutionally (VP/USPS-5-11) (*see* Attachment A hereto). (The first set (VP/USPS-1-4) had been submitted on September 16, 2008.) On October 20, 2008, the Postal Service filed a general Partial Objection of the United States Postal Service to Interrogatories of Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc. (VP/USPS-5-11). The Postal Service filed a limited objection only "to the extent [the interrogatories] seek irrelevant or commercially sensitive information," but then also stated that it "plans to file timely responses to certain portions of these interrogatories." After timely responses were not filed, on various occasions, Valpak was reassured by the Postal Service that answers would be forthcoming, and Valpak consequently took no formal action.

Last month, at the prehearing conference on March 3, 2009, the Commission directed the Postal Service to address the status of outstanding interrogatory responses, which the Postal Service did on March 7, 2009. In its filing, the Postal Service stated that it would submit responses to the identified outstanding interrogatories by March 13, 2009, if not sooner.

Subsequently, on March 20, 2009, the Postal Service finally responded to the last remaining question from Valpak's first set of interrogatories (VP/USPS-1). However, as the initial discovery period draws towards its close, Valpak still has not received responses to its second set of interrogatories, VP/USPS-5-11. Therefore, Valpak moves that the Commission compel the Postal Service to submit full and complete responses.

The deadline to respond to interrogatories set forth in the Commission's Rules of Practice and Procedure is 14 days (Rule 3001.26(b)). Any general partial objections by the Postal Service previously submitted should be deemed waived due to the passage of time and the Postal Service's failure to timely respond to the interrogatories as it has represented that it would. Valpak asks that the Commission direct that responses to VP/USPS-5-11 be filed by **April 28, 2009** (a modest **200 days** from the date of their submission), after which Valpak reserves its right to file follow-up interrogatories under Rule 3001.26(a).

Respectfully submitted,

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ATTACHMENT A**VP/USPS-5.**

Please refer to the response to PR/USPS-5 in this docket. Also refer to Docket No. MC2007-1, response to VP/USPS-T1-22, filed 4/24/07.

- a. Please define the term “first adopter” as used in the response to PR/USPS-5.
- b. The response to part (a) of VP/USPS-T1-22 states that “[a]t this time there are currently fewer than 5 mailers pilot testing Seamless Acceptance,” and the response to part (b) states that Bank of America was not included among those “fewer than 5 mailers.” Please explain whether any, some, or all, of these “fewer than 5 mailers” should be regarded as a “first adopter” of Seamless Acceptance?
- c. If some mailers, in addition to the “fewer than 5 mailers,” agreed to participate in the pilot test of Seamless Acceptance, would the Postal Service regard any or all of them as “first adopters”?
- d. Please explain, and indicate the number of mailers that the Postal Service now considers to be a “first adopter” of Seamless Acceptance.
- e. If the response to preceding part (b) is to the effect that none of the “fewer than 5 mailers” in that early pilot test should be regarded as a “first adopter” of Seamless Acceptance, please explain the event (*e.g.*, field test following completion of pilot test) and timing that would cause some mailer (or mailers) to qualify for the distinction of being regarded as a “first adopter” of Seamless Acceptance.

VP/USPS-6.

Please refer to COS/USPS-11 in this docket, filed 8/22/08. Also refer to Docket No. MC2007-1, response to VP/USPS-T1-3, filed 3/30/07.

- a. The response to part (d) of COS/USPS-11 states that “Seamless Acceptance is currently undergoing **pilot testing**.” The earlier response to part (a) of VP/USPS-T1-3 states that “the Postal Service is currently **pilot testing** Seamless Acceptance with mailers,” and the response to part (b) states that “the Postal Service has not scheduled a specific date to begin the **field test** of Seamless Acceptance.” (Emphasis added.) In order to avoid any ambiguity, please state whether the current pilot testing of Seamless Acceptance referred to in COS/USPS-11 is identical to (i) the **pilot test** or (ii) the **field test** referred to in VP/USPS-T1-3, or (iii) some test other than the pilot test and field test discussed in the response to VP/USPS-T1-3? Please clarify and explain as necessary.
- b. When did the Postal Service begin the **pilot test** of Seamless Acceptance referred to in part (a) of the response to VP/USPS-T1-3?
- c. Has the Postal Service completed the **pilot test** of Seamless Acceptance referred to in part (a) of the response to VP/USPS-T1-3?
 - (i) If so, when was that **pilot test** completed?

- (ii) If your response is to the effect that the current **pilot test** referred to in COS/USPS-11 is the same as the **pilot test** of Seamless Acceptance referred to previously in VP/USPS-T1-3, please indicate when the Postal Service expects the **pilot test** to be completed.
- d. Once the current pilot test of Seamless Acceptance referred to in COS/USPS-11 is completed, does the Postal Service still plan on conducting a subsequent **field test** of Seamless Acceptance as referred to in part (b) of the response to VP/USPS-T1-3?
- e. To date, what is the total number of mailers that have participated in the **pilot test** of Seamless Acceptance referred to in part (a) of the response to VP/USPS-T1-3?
- f. Did Bank of America participate at any time in the early **pilot testing** of Seamless Acceptance referred to in part (a) of the response to VP/USPS-T1-3? If so, when did such participation commence, and for how many months did (has) the Bank of America participate(d)?
- g. Does the Postal Service consider itself to have benefitted from the early **pilot testing** of Seamless Acceptance referred to in the response to VP/USPS-T1-3? Unless the response is an unqualified negative, please describe briefly and in qualitative terms the benefits derived by the Postal Service from that early **pilot testing** of Seamless Acceptance.
- h. Did the Postal Service provide any incentives, whether financial or non-financial, to any mailer, other than Bank of America, that were connected in any way to their participation in the **pilot testing** of Seamless acceptance referred to in the responses to VP/USPS-T1-3 and COS/USPS-11? If your response does not identify any incentives provided by the Postal Service, please explain how those early participating mailers were recruited and induced to incur the cost of their participation.

VP/USPS-7.

Please refer to Docket No. MC2007-1, response to VP/USPS-T1-7, filed 3/30/07. The response to part (b) of that interrogatory states that “the Postal Service is currently **pilot testing** eDropShip with mailers. **Field testing** of the production system will only occur once the production system is developed.” (Emphasis added.)

- a. When did the Postal Service begin the **pilot test** of eDropShip referred to in part (b) of the above-referenced interrogatory response?
- b. Has the Postal Service completed the **pilot test** of eDropShip referred to in part (b) of the above-referenced interrogatory response?
 - (i) If so, when was the **pilot test** completed?
 - (ii) If not, when is the **pilot test** expected to be completed? and
 - (iii) when is the **field test** expected to commence?
- c. For the **pilot test** of eDropShip referred to in part (b) of the above-referenced interrogatory response, please indicate the number of mailers that have participated:

- (i) as of the date the response was filed;
 - (ii) as of 12/17/07, the date the Governors approved the NSA with the Bank of America;
 - (iii) as of 4/1/08, the effective date of the NSA commenced; and
 - (iv) up until the present time.
- d. Has the Bank of America participated in that **pilot test** of eDropShip at any time? If so, when did such participation commence, and for how many months has the Bank of America participated?
 - e. In order for one or more of the mailers using eDropShip to be considered a “first adopter” (as defined in the response to preceding interrogatory 5(a)), when (or during what time frame) would they have had to commence using eDropShip?
 - f. Is the Bank of America considered to be a “first adopter” of eDropShip? If so, please explain, and indicate the number of mailers that the Postal Service now considers to be a “first adopter” of eDropShip.
 - g. Did the Postal Service provide any incentives, whether financial or non-financial, to any mailer, other than Bank of America, that were connected in any way to their participation in the **pilot testing** of eDropShip? If your response does not identify any incentives provided by the Postal Service, please explain how participating mailers were recruited and induced to incur their cost of participation.

VP/USPS-8.

Please refer to your responses to preceding VP/USPS-5 and VP/USPS-7.

- a. Of the mailers that participated in the **pilot test** for Seamless Acceptance prior to December 17, 2007, how many also participated in the **pilot test** for eDropShip?
- b. Of those mailers that have participated in the pilot test for both Seamless Acceptance and eDropShip, how many (or what portion) could be considered “first adopters” of both Seamless Acceptance and eDropShip?
- c. Is Bank of America included among the mailers counted in the response to preceding parts a or b?

VP/USPS-9.

Please refer to Docket No. MC2007-1, response to VP/USPS-T1-6, which discusses use of electronic manifest for all pallets, trays and pieces in either a Mail.dat or web services file.

- a. Has the presentment of an electronic manifest in either a Mail.dat or web services file been put into general use by the Postal Service? If, when did that occur?
- b. If the answer to preceding part a is negative, then what is the current status of the presentment of an electronic manifest in either a Mail.dat or web services file as regards being in either a **pilot test** stage or a **field test** stage?

- c. If the answer to preceding part a is affirmative, then prior to the time when presentment of an electronic manifest in either a Mail.dat or web services file was first put into general use by the Postal Service,
 - (i) were these electronic formats subjected to a **pilot test** by the Postal Service? and
 - (ii) over what time period were such **pilot test** conducted?
- d. If the answer to preceding part (c)(i) is affirmative, how many mailers participated in the **pilot test** that preceded the time when presentment of an electronic manifest in either a Mail.dat or web services file was first put into general use by the Postal Service?
- e. Was Bank of America included among the mailers in the **pilot test** of presentment of an electronic manifest in either a Mail.dat or web services file? If so, when did Bank of America's participation commence?
- f. In order for one or more mailers using presentment of an electronic manifest in either a Mail.dat or web services file to be considered a "first adopter" (as defined in the response to preceding interrogatory 5(a)), when (or during what time frame) would they have had to commence using presentment of an electronic manifest in either a Mail.dat or web services file?
- g. is the Bank of America considered to be a "first adopter" of eDropShip? If so, please explain, and indicate the number of mailers that the Postal Service now considers to be a "first adopter" of presentment of an electronic manifest in either a Mail.dat or web services file.
- h. Did the Postal Service provide any incentives, whether financial or non-financial, to any mailer, other than Bank of America, that were connected in any way to their participation in the **pilot testing** of presentment of an electronic manifest in either a Mail.dat or web services file? If your response does not identify any incentives provided by the Postal Service, please explain how participating mailers were recruited and induced to incur their cost of participation.

VP/USPS-10.

- Please refer to the responses to preceding VP/USPS-5, VP/USPS-7 and VP/USPS-9.
- a. How many mailers have participated in the **pilot testing** of (i) Seamless Acceptance, **and** (ii) eDropShip, **and** (iii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, all three)?
 - b. How many mailers would the Postal Service consider to be a "first adopter" (as defined in the response to preceding interrogatory 5(a)) of (i) Seamless Acceptance, **and** (ii) eDropShip, **and** (iii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, all three)? Is the Bank of America included among the number of mailers cited in the response to this question?
 - c. Excluding any mailers that were included in the response to preceding part (a), how many mailers have participated in the **pilot testing** of (i) Seamless

- Acceptance, **and** (ii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, these activities two only)?
- d. How many mailers would the Postal Service consider to be a “first adopter” (as defined in the response to preceding interrogatory 5(a)) of (i) Seamless Acceptance, **and** (ii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, these two only)? Is the Bank of America included among the number of mailers cited in the response to this question?
 - e. Excluding any mailers that were included in the response to preceding part (a), how many mailers have participated in the **pilot testing** of (i) eDropShip, **and** (ii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, these activities two only)?
 - f. How many mailers would the Postal Service consider to be a “first adopter” (as defined in the response to preceding interrogatory 5(a)) of (i) eDropShip, **and** (ii) presentment of an electronic manifest in either a Mail.dat or web services file (that is, these two only)? Is the Bank of America included among the number of mailers cited in the response to this question?

VP/USPS-11.

Please refer to Docket No. MC2007-1, response to VP/USPS-T1-5, which discusses the Centralized Automated Payment System (“CAPS”).

- a. Was CAPS subjected to an initial **pilot test**? If so,
 - (i) over what time period did the **pilot test** last, *i.e.*, when did the test begin and end?
 - (ii) how many mailers participated in the **pilot test**? and
 - (iii) was Bank of America included among the mailers in the initial **pilot test**?
- b. Was CAPS subject to a **field test** before becoming generally available? If so,
 - (i) over what time period did the **field test** last;
 - (ii) how many mailers participated in the **field test**; and
 - (iii) was Bank of America included among the mailers in the **field test**?
- c. When was CAPS first made generally available (*i.e.*, after any **pilot test** and **field test** were completed)?
- d. As of December 17, 2007 approximately what percentage of First-Class Mail and Standard Mail was **not** entered and paid for through CAPS?
- e. If any mailer (or agent acting on behalf of a mailer) were to adopt CAPS after December 17, 2007 (the date of the Governors’ decision in Docket No. MC2007-1), would the Postal Service consider that mailer to be a “first adopter” of CAPS? Please explain, and indicate the time frame when a mailer that started to use CAPS could have been considered a “first adopter” of CAPS.