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HEARINGS
BEFORE THE
COMMITTEE ON POSTAL OPERATIONS
OF THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES
NINETIETH CONGRESS
SECOND SESSION

JULY 23 AND 24, 1968

Serial No. 90-42

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PRIVACY IN THE MAIL

TUESDAY, JULY 23, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON POSTAL OPERATIONS
OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 210, Cannon House Office Building, Hon. Robert N. C. Nix presiding. Mr. NIX. The subcommittee will be in order.

Justice Brandeis, long before he became a Justice of the Supreme Court, was the coauthor of an article in 1890 in the Harvard Law Review on "The Right to Privacy." The substance was the right of privacy and this began the modern debate on the issue of privacy.

Although the Constitution provided no specific right of privacy, it did provide protection against unreasonable searches and seizures, as well as the guarantee of due process of law. Privacy then is a continually developing right based on the bedrock of a flexible Constitution. In a society as complicated and as big as ours, we must provide new protections for our people against the panderer, the propagandist and the unsolicited mailing of potentially dangerous products.

Great work has been done in the Congress by Congressman Cornelius Gallagher, Senators Long and Ervin, as well as our own Glenn Cunningham and Jerry Waldie, who are members of this subcommittee. One of the responsibilities of this subcommittee is protection from invasion of privacy by mail. There is an attack on the mailbox. It is our position that the primary right in the mailbox as part of the home is in the homeowner. We are going to do what we can to protect that right.

I can think of no more appropriate time for respect for this right of privacy than when there is a death in the family. This past March I was shocked to read in the Philadelphia Inquirer an editorial entitled "Hate Mail Evil," which I quote in part.

I shall make that article a part of the record.

(The article follows:)

[From the Philadelphia Inquirer, Mar. 27, 1968]

THE HATE-MAIL EVIL

A particularly ugly activity resulting from U.S. involvement in Vietnam is harassment of mourning relatives of soldiers killed in the Far Eastern war zone by means of anonymous hate letters and telephone calls.

The people who engage in this callous practice deserve a fate in keeping with their cruel deeds, though often they have been cunningly careful to stay just within the bounds of legality so it may be impossible to prosecute them for breaking any specific law. The vicious intent of what they are doing, however, is all too plain, and every effort should be made to trace both letters and telephone calls.

Sometimes grounds may exist for prosecution, but even when no such grounds may be found, focusing the spotlight of publicity on the offenders may be beneficial.

Unsigned mimeographed hate letters are being mailed to the parents of servicemen whose names appear in newspaper death and casualty reports. This use of the mails may not be illegal but it ought to be. There is no question that it is maliciously intended, vicious and morally indefensible. It seems to us that if present laws do not adequately cover it, Congress should take specific action to protect servicemen and their families from the emotionally deranged individuals or saboteurs responsible.

Meantime, all hate mail should be turned over to the postoffice. Telephone calls should be reported both to police and the telephone company, and we hope that the Federal Bureau of Investigation can find adequate grounds for joining in an effort to bring the offenders to justice.

Mr. Nix. (reading):

A particularly ugly activity resulting from U.S. involvement in Vietnam is harassment of mourning relatives of soldiers killed in the Far Eastern War Zone by means of anonymous hate letters.

The people who engage in this callous practice deserve a fate in keeping with their cruel deeds, though often they have been careful to stay just within the bounds of legality so it may become impossible to prosecute them for breaking any specific law. The vicious intent of what they are doing is all too plain.

Last week a front page story in the Washington Star on July 17 described the ordeal of a mother in Mercedes, Tex., who had lost her son in Vietnam. Mrs. Reeves had been proud of her son and she was even prouder of him when she received posthumously on his behalf the Distinguished Service Cross, the Bronze Star, the Air Medal, and the Purple Heart. She was deluged with hate mail which asked her again and again, "Would you rather have a dead hero or a live son?" Her answer was "Much as I loved him, I would rather my boy be where he is now, than to be one of them."

We will make this a part of the record.

(The article follows:)

[From the Evening Star, July 17, 1968]

TAUNTING ANTI-WAR MAIL—BETTER A DEAD HERO, HIS MOTHER ANSWERS

MERCEDAS, TEX. UPI.—The crudely printed pamphlet, mailed from Brownsville, Tex., by an anonymous anti-war group asked the family of a Mercedes, Tex., soldier killed in the Vietnam war:

"Which would you rather have—a dead hero or a live son?"

Yesterday, Mrs. W. B. Reeves, the mother of Army Sgt. Harold S. Reeves, had an answer the senders of the pamphlet might not have expected:

"Much as I loved him," she said, "I would rather my boy would be where he is now, than to be one of them."

"I thought these protesters claimed their actions were based on love. This is the cruelest thing I've ever seen."

Sgt. Reeves died at his machine gun aboard a helicopter gun ship in the battle for the city of Hue in February.

Mr. and Mrs. Reeves received the Distinguished Flying Cross, the Bronze Star, the Air Medal and the Purple Heart at a special ceremony last week at their home.

But Mrs. Reeves said medals for valor on the battlefield were not the only things they had received since their son's death.

She said the taunting pamphlet, with its reference to a "dead hero," was just one item in an avalanche of anti-war literature which has clattered down upon the family since word of her son's death was published.

"It's some of the most awful stuff I've ever read," she said, "and it started coming before we even buried him. I'd like to tell them they're wasting their time and their stamps, sending it to me, but I can't do that because there are no return addresses on any of it."

Sgt. Reeves was one of six soldier sons in the Reeves household. Mrs. Reeves said he volunteered for Vietnam duty after his younger brother, Douglas, was critically wounded there in 1965.

"He wanted to take his brother's place," she said, "and he did. Both were in the 1st Cavalry. He did all he could—gave all he had. And now, we have to get things like this in the mail. It's sickening."

Mr. NIX. This type of activity dates back at least to February of this year, and as I understand it, much beyond that before it received front page attention.

An Associated Press story which appeared in the Philadelphia Inquirer described the beginning of an investigation by the Federal Government into the activities of anonymous hate mailers who have sent vicious material to the widows of men killed in Vietnam. A Mrs. Schwellenbach of Fayetteville, N.C., received a vicious antiwar diatribe upon her husband's death at her in-law's home in Chico, Calif., and later at her own home near Fort Bragg.

The material she received described American troops in Vietnam as cannibals. The news story went on to say that Timothy May, General Counsel of the Post Office Department, was looking into the matter. He is with us today and he will give us a briefing on this case.

The story will be made a part of the record.

(The article follows:)

[From Phila. Inquirer, Feb. 14, 1968]

U.S. IS PROBING HATE MAIL SENT TO GI'S WIDOW

WASHINGTON, FEB. 13 (AP).—The Federal Government began an investigation Tuesday of incidents in which bitter antiwar propaganda was sent anonymously through the mail to a woman whose husband was killed in Vietnam.

Some of the material said American servicemen fighting in Vietnam are worse than cannibals. The young widow received it twice within a month after her husband died.

Pentagon sources said the Army's Criminal Investigations Division would take charge and would call in FBI to investigate the source of the mailings.

POST OFFICE TO ACT

Timothy J. May, general counsel to the Post Office Department, said his office would examine the material to determine if there were grounds for prosecution.

"When women are contacted in this manner we're encouraging them to let us know about it," a Pentagon spokesman said. "This junk is all objectionable from a moral and ethical sense, but legally there is often little we can do except appeal to the sender to stop it."

SCOPE RESTRICTED

"But where we find material that is actionable, we'll take action." Only obscene or seditious material is actionable, he added.

The antiwar diatribe in question was sent by first class mail to Carol Schwellenbach, 26, of Fayetteville, N.C. She received it first at her in-laws' home in Chico, Calif., shortly after her husband, Pfc. Gary Schwellenbach, was killed, and again three weeks later at her own home near Fort Bragg.

The Pentagon has a program for tracking down the sources of such harassment. In 34 months, it has pinpointed 205 sources. There has been only one successful prosecution, and that involved a paroled convict who sponged off the family of a dead Marine by posing as a buddy from Vietnam.

ATROCITIES CHARGED

The three printed pages of antiwar material received by Mrs. Schwellenbach included an essay which accused U.S. forces of "bombing hospitals, kindergartens, private homes" and then added:

"A cannibal is a barbarian. He kills one of his kind to eat. The sin is in the killing, not in the eating. We self-styled civilized people kill thousands for no cause at all which makes us a thousand times the barbarian the cannibal is."

Mr. NIX. The problem is much broader than the hate that lurks in the heart of the disloyal. It is the fact that today all kinds of business

people and others can obtain almost unlimited information about us. The information that is gathered about us by business houses can be used by others and has been so used. The problem is the protection of privacy.

Edward Hunter, in his book "Attack by Mail," points out that Iron Curtain countries very often send magazines and other material to refugees to convey the impression that someone is watching the refugee and giving information to the Soviets about him. In fact, all that the Communists are doing is collecting mailing lists and using them.

The very purpose of mailing lists is to send unsolicited material to mail patrons. The possession of mailing lists is a potent weapon. Tyler Abell, who was a postal official, testified before the Post Office and Civil Service Committee a few years back to the effect that the only way that he knew of for people to get off a mailing list was to write "deceased" on junk mail and return it. On reply to that, Congressman Udall stated "or committing suicide if you feel strongly enough about it."

The issue of privacy is raised in many ways by the use of mailing lists. Mailing lists sold by professional organizations to pay the administrative expenses of the organization often cost the members of the organization their privacy. The doctors of America had that experience when AMA mailing lists were sold to Ralph Ginsberg in his obscenity promotion of the magazine "Eros." The Federal Aviation Agency sold the names of newly licensed pilots to junk mailers. Youngsters who have subscribed to record clubs find their names on the mailing lists of panderers. Nonprescription drugs and other items that are inherently dangerous and unsolicited are mailed widely by use of mailing lists. So far there have been no deaths due to this practice; that is, none that we know of, which was described by a Washington Post reporter as lethal junk mail.

The members of our subcommittee have been very active in the field of protecting privacy and protecting the mailbox. The primary right in the mail is in the owner of the home the mailbox is attached to. There is no right to force-feed products by businessmen any more than there is the right to force vicious ideas on bereaved families or force children to buy pornography.

Without objection, a staff study prepared by Thomas R. Kennedy, subcommittee counsel, will be made a part of the record.

(The document follows:)

JULY 22, 1968.

MEMORANDUM

To: Honorable Robert N. C. Nix.

From: Thomas R. Kennedy, Subcommittee Counsel.

Subject: Mailing Lists and Relationship to Privacy.

It has been estimated that the Mailing List Business as of 1964 was a \$400 million a year business. Mailing lists provide the basis for the giant Direct Mail Industry which invests annually \$2.4 billion which is equal to the amount of money spent on advertising for television.

Approximately 250 firms are in the mailing list business; that is, the buying, selling and renting of mailing lists. Myron Brenton, the author of the book called *The Privacy Invaders*, discussed the operations of the Dunhill International List Co., Inc. This company put out a 100-page booklet which Brenton says included 5,000 mailing lists which was only a portion of the 12,500 lists they had on hand which included 40 million names.

These millions of names are gathered from telephone directories, magazine subscription lists, hotel employees, county clerks and even Federal Government agencies. These lists are refined and constantly broken down into subcategories. A list of 212,000 attorneys, 99,000 dentists, and 259,000 physicians can be gathered at the rate of \$25 per thousand. The price range per person per use runs from one to three cents per use. Special lists may run as high as a dollar a name.

A quotation from Brenton's book, *The Privacy Invaders*, on page 189 shows how personal these lists may become:

"Nothing is held sacred. Perhaps you are one of the 48,000 men and women of large means. Or among 110,000 women who sent for a booklet on child's trainer seat. Or among the 84,000 older men who bought a gadget to enhance sex life. Or one of the 23,000 women who bought a bust developer. Whatever your special interest, the compilers will find out, list you and offer you for sale. Today two out of every three persons are on at least one list, most on several. Today one out of every three letters in the average family's daily mail is an advertisement, sent at a third class postal rate. * * *

The sources of names for mailing lists are varied. The Diners Club, for instance, would as of 1964 allow mailers to circularize its 680,000 members once for \$17,000. A few years ago Ralph Ginzberg, the pornographer, used a mailing list sold by the A.M.A. to others, which list was eventually bought by Ginzberg. A letter of apology was forwarded by the organization to all the doctors on the list. A children's list of 1 million boys and 1 million girls would have been available to Ginzberg for \$30 a thousand, or five dollars more than the doctors list. Children are very good customers for direct mailers.

There are tens of millions of youngsters who spend over \$500 a year. They are impressionable and love to open mail addressed to them. The Dunhill Company sells mailing lists of young girls aged eight to fifteen for two cents each. (*The Naked Society*, Vance Packard).

Government agencies, local as well as Federal, have jumped into the business of selling names. A clerk in a large Eastern city made \$60,000 in a year selling the names from marriage licenses. The Federal Aviation Agency was selling the names of pilots who had obtained licenses. Many cities openly sell their tax rolls, and every State sells its automobile registrations, often to the highest bidder. The Rueben H. Donnelley Corporation specializes in mailing lists of automobile owners complete with make and year of the car. Donnelley offers to direct mailers a list of 40,000,000 names—New York State's list of automobile registrations for \$75,000 a few years ago. (*The Naked Society*, Vance Packard, 1964).

Therefore, it follows that vast amounts of information collected for one purpose is later used for a commercial and other purposes without the consent of the individual concerned. Individuals then receive large amounts of unsolicited mail, some of which is offensive to them. Last year the Postal Rates Bill amendment sponsored by this Subcommittee provided one answer. That is, if the mail patron thought the advertising he was receiving was erotic he could require the Post Office Department to inform the mailer that his name must be removed from mailing lists. The Cunningham-Waldie Amendment seems to be working in practice and many thousands of mail patrons are taking advantage of this means of protecting their homes against unwanted and unsolicited erotic material.

Congressman Zablocki in 1967 suggested before this Subcommittee another approach which would involve the registration and filing with the Post Office Department of all mailing list transactions. At that time the Subcommittee felt that Mr. Zablocki's bill would cause severe administrative burdens on the Post Office Department. (H.R. 2382—Mr. Zablocki, Postal Operations, April 18, 1967.)

A question is raised about Government participation in the mailing list business. A quotation from the Wall Street Journal of January 7, 1963, is interesting:

"Reuben H. Donnelley Corp. . . . buys 'tracts' from the Census Bureau which lists geographic areas containing 4,000 to 7,000 persons with similar education and income. The tracts help Donnelley spot appropriate neighborhoods for the 700,000,000 pieces of direct mail it sends out for its client annually."

A quotation from *The Naked Society* on page 221 follows:

"The Donnelley Corporation advises me that each Census tract is homogeneous in character and is likely to contain about 1,250 families. The factors about each tract that most interests Donnelley are median income . . . median school years . . . number of children . . . percentage of married couples . . . average age of children . . . percentage of homeowners . . . median value of home and median rent. It adds that most big outfits that have been soliciting by mail have been taking advantage of the 'selectivity' made possible by the Census tracts.

It calls the tract information relatively inexpensive to buy as prices go in its industry."

"But Donnelley claims it has the big edge in using these Census tracts because it has coded the information into 'our mass mailing lists' and 'with the advent of the little computers it is now possible to make selectivity quite readily and inexpensively available . . .'. The company official added with obvious pride, 'To my knowledge no one but the Reuben H. Donnelley Corporation has their mailing lists on tape with the ability for Census tract selectivity.' Most of this information according to the author, Vance Packard, comes from the Household Questionnaire.

The problem both legally and legislatively becomes a very difficult one. How shall the Congress protect the home and postal patrons from unwanted material and how shall the sale of the name of individuals be protected without interfering with the right of communications by legitimate businesses? A different question is raised by obscenity and hate mail, which can use the normal commercial means—mailing lists—for their activities. It requires a thorough study of the legal and legislative problems involved which should be ready by the next session of Congress.

Mr. NIX. At this time I am very happy to see that Mr. Henry Montague, the Chief Postal Inspector of the Post Office Department, is present.

Mr. Montague, we will be very happy to have you proceed with your testimony.

TESTIMONY OF HON. HENRY B. MONTAGUE, CHIEF POSTAL INSPECTOR, POST OFFICE DEPARTMENT

Mr. MONTAGUE. Thank you, Mr. Chairman.

Mr. May was unexpectedly delayed. We did plan to come up here together today, but he will be here in just a few minutes to join me.

Mr. Chairman and members of the subcommittee, you have indicated an interest in the use of mailing lists and a concern that such use violates the privacy of our citizens. More specifically, you understand that many American widows and wives of servicemen have received hate mail from extremist groups and that refugee groups from behind the Iron Curtain have been bothered with Communist literature. You refer to the use of mailing lists by pornographers as being perhaps the best known example of violation of privacy in this context.

As the chairman and members of the subcommittee well know, the mailing list business, if one includes all those activities which involve the compilation and sale of lists of names and addresses, is very likely a billion dollar one. The practice has been the subject of many newspaper and magazine articles in recent years and the subject of much testimony before congressional committees. There is little that is surreptitious or covert about the practice of compiling lists of names and addresses for commercial purposes. Who's Who in America has been published continuously since 1899. Its current issue contains the names, addresses, and pertinent personal data concerning 66,000 Americans. The current edition of International Who's Who contains 1,445 pages of similar personal data including, by the way, telephone numbers in many instances. We have Who's Who in the East, Who's Who in the West, Who's Who in Politics, ad infinitum. The Celebrity Register contains thousands of names, addresses, personal data, and even the photographs of those listed.

No less than 122 separate firms are self characterized as mailing list companies in the yellow pages of the Metropolitan New York

City telephone directory, a type of directory, incidently, that on a nationwide basis provides the springboard for many direct mail advertising promotions. One New York City firm claims it is prepared to furnish 10,000 different lists culled down to such categories as land buyers, prenataals, senior citizens, engaged girls, wealthy widows, et cetera. A Washington, D.C. firm boasts data on 900,000 local residences pinpointed to income, home value, education, et cetera.

Auto registration data, as we know, is sold by many State governments and such sales recently escaped court condemnation incident to two suits in the States of Connecticut and New York charging unlawful invasion of privacy. Data gathered by the Federal Government itself, particularly the Bureau of Census, provides some of the grist which the mill of the mailing list industry puts to profitable use.

We have no solid information that mailing lists are employed in any substantial way in directing so-called "hate mail" to widows and wives of our servicemen in Vietnam. We have no information that mailing lists are employed in any substantial way in programs to inflict Communist propaganda upon refugee groups in this country. There is, of course, a certain volume of anti-war and anti-everything material that passes through the mail, and given the practical value of mailing lists in any mailing operation, it would not be unusual if mailing lists did not come into some degree of play in this area.

Also we know, Mr. Chairman, from our investigation that people who send this type of material to surviving relatives of veterans comb the newspaper columns and they get much of their information that way as to the names and addresses of surviving relatives. By the same token, we feel that Iron Curtain governments have a good record of certain of their citizens or former citizens who may now be residing in this country and they keep records not only of those people, but also of the relatives who are still behind the Iron Curtain.

Mail patron complaints with respect to invasion of privacy arise principally with respect to shockingly offensive advertising matter of a sexual nature. Mr. May and I have previously testified somewhat at length on this subject before committees of the Congress. It is in this area where the indiscriminate use of mailing lists arouse the sharpest complaint.

Smut dealers are no less enterprising and ingenious in developing a list of persons with a predisposition to purchase sexually oriented material than are those who intend to market automobiles or cabin cruisers. Subscribers to arty, if not racy, magazines are apt to soon find themselves solicited with advertisements for so-called "adult" items and material. A subscribing member to a pen pal club inevitably becomes a source of mailing list income to the operator of the club.

It is a general practice among smut dealers to enter block ads in sexually oriented magazines and tabloids at a financial loss in order to obtain names and addresses for future offerings of hard core material and for name list sale to other dealers. Any random list that can be purchased cheaply may be pressed into use, however, in the hopes that while the initial financial returns will not cover postage and other costs, those who respond can be plyed with more expensive offerings and made a part of a tested and therefore marketable mailing list.

As an example of the manner in which mailing lists are offered to mail-order merchants of "adult items," I will quote from an actual solicitation to smut trade promoters:

DEAR MAIL ORDER MERCHANT: Names that sell are what we have to offer. These persons have proven to be active buyers of adult merchandise—films, photos, slides, books, etc. Their participation in abundant buying has proven these individuals are in the market to make additional purchases, and are hungry for the materials such as you have to offer. Moneymaking names will prove beneficial to you.

All our names are neatly typed on gummed labels, 33 to a sheet. We have 15,000 names available, of which none are older than 6 months. These are case buyers, not just inquiries. These names have been selected from our files of more than 100,000 names. We are offering this select list of adult buyers at the following prices: \$27.50 per thousand in lots of 5,000 or \$22.50 per thousand for the entire list of 15,000. If you wish, you can purchase 1,000 names for \$35.00 to test the productiveness of our names before investing in larger quantities. We will replace all nixies with 2 fresh names for every one returned to us within 30 days after purchase. May we have the pleasure of serving your firm in the very near future.

I shall be happy to answer any questions that you may have.

Mr. May is here now.

Mr. NIX. I want to thank you very much, Mr. Montague.

Mr. WALDIE. I have no questions.

Mr. NIX. I will not ask questions, but the only reason is that the House convenes at 11 o'clock this morning. I defer the questions and turn to Mr. Timothy May.

It is a pleasure to see you again, Mr. May.

TESTIMONY OF HON. TIMOTHY J. MAY, GENERAL COUNSEL, POST OFFICE DEPARTMENT

Mr. MAY. Thank you, Mr. Chairman.

My sincere apologies for any inconvenience I caused the committee by being late.

Mr. NIX. I understand.

Mr. MAY. The hearing this morning does not deal with a bill or legislative proposal, but as I understand is exploratory in nature—dealing with the effect of mailing lists on the privacy of individuals. It is not necessarily a complaint against the unsolicited receipt of countless ad circulars, annoying as that may be; it concerns the individual's feeling that the sanctity of his person is somehow being eroded. However, it is an undeniable fact that this transaction occurs many times and that a substantial industry is built on it and its discontinuance would have a severe impact on many businesses. It is not my purpose to justify the practice, nor to condemn it, but simply to suggest that it is an important development in our economy.

Last year I testified before this subcommittee at considerable length on the mailing list problem. This was at the hearing on H.R. 2382 held on April 18, 1967, which was a bill introduced by Congressman Zablocki which would have required the registration of broker dealers in mailing lists and would have generally imposed severe administrative chores both upon the industry and upon the Post Office Department, without in any way giving the Government any means to actually regulate the sale of list brokers or the sale of lists.

The main actors in the mailing list field are the compiler, the dealer, the broker, and the user. In many cases, of course, the same person will take more than one role.

For example, most users also compile lists for their own use, but which eventually are used by others.

Dealers may not only sell or rent lists in their possession but may also, as brokers, make arrangements for their customers to use other lists not in their possession.

One user of mailing lists may require only a list of relatively few names such as a supplier of goods or services to a relatively restricted industry. Another, such as a national magazine, may buy or rent in 1 year mailing lists totaling millions of names.

The pressures to find new sources of names of persons who are likely prospects for solicitation leads to continual compilation of new lists.

Each name of an individual added to a mailing list which is sold or rented means that person's name and address has become an article of commerce. Yet there is no practical way for an individual to avoid this result. Mailing lists are made from telephone directories, professional and business association rosters, club directories, automobile registration and driver's permits, magazine subscriptions, and almost any transaction in which we give our names and addresses.

You may be interested, parenthetically, that the mandatory ZIP code regulations have made compiling lists somewhat more expensive, particularly lists compiled from telephone directories which do not carry ZIP codes in the address since not only must the ZIP code be looked up when it is not given, but also the names must be arranged in ZIP code sequence. Otherwise the list is not usable for bulk third-class mailing. Previously, a reasonably good list could be rented for \$25 a thousand, or 2½ cents a name. Now it is my understanding the going rate is \$37 or more a thousand.

Of course, a mailing list loses its value in time. Most lists are regarded as unusable after 3 years unless they have been kept up to date. This is some comfort to a person who objects to his name being on a mailing list, but not much. In the meantime his name has undoubtedly been added to at least one new list.

Since I last testified before this committee on this subject, Congress has enacted the Postal Revenue and Federal Salary Act, 1967. Title III of that act provides a limited means for a person to secure the removal of his name from any mailing list which is used for distribution of pandering advertisements. And Congressman Waldie was quite instrumental in the framing of that statute and in securing its enactment. Under this law a person receiving matter which he considers to be a pandering advertisement offering for sale matter which is erotically arousing may set machinery in motion which will result in the mailer being ordered (1) to refrain from any further mailings to him, (2) to delete his name from all mailing lists in his possession, (3) and to refrain from engaging in any transaction involving mailing lists containing the complainant's name. This procedure, of course, can only be used when the addressee is ready to state that the advertising is of this special character.

In the 3 months in which this law has been in force, we have issued more than 30,000 orders under it. It is still too early to state just

what degree of compliance is being achieved and we have not yet had any court test of our administration of this law. We have requested the Department of Justice to seek a judicial enforcement against one firm which we have found to have engaged in multiple violations of departmental prohibiting orders issued against it. We cannot predict at this time whether the firm involved will seriously contest the enforcement order.

Of course, the American public generally does not consider a person's name and address as a fact which should be hidden. We are not a nation of Howard Hughes'. We list our addresses in telephone directories. We give our addresses in connection with casual business transactions to say nothing of entering it on voting records and automobile registration and driver's licenses. What then is the objection of its becoming available to advertisers or charitable solicitation? It must be that we feel that only we, ourselves, and not some stranger, should be entitled to make our addresses known, or that some stranger should not make a profit from peddling our name and address.

Mr. Chairman, this concludes my statement.

I will be glad to answer any questions.

Mr. NIX. Thank you very much, Mr. May.

Mr. WALDIE. I have no questions.

Mr. NIX. Mr. May, our colleague Mr. Cunningham, along with all of the other members of the subcommittee, as you know have long been interested in this particular subject. I regret that Mr. Cunningham is not here today, but I think it is only because he is not in very good health at this time. I want to thank both you and Mr. Montague for appearing here today.

In the next session of Congress we intend to concentrate on this very problem. I think one of the considerations in the delay is to give time to determine what effect the law referred to in your statement, which has been operative for about 3 months, will have and perhaps then we will have further direction as to the course we shall take in formulating legislation or seeking to do so.

So again on behalf of myself and the subcommittee, I want to thank both you and Mr. Montague.

Mr. WALDIE. I do have a question.

Mr. NIX. Yes.

Mr. WALDIE. I cannot at this early point in this inquiry see much need of controlling mailing lists. Neither can I see any justification whatsoever for the Federal Government or the States, and particularly the Federal Government, to engage in this business by selling names and addresses that might be accumulated through our processes of registering citizens for one reason or another.

What is the extent of the Federal Government's engagement in that sort of activity? Do you have any idea?

Mr. MAY. I must say that I do not think it was extensive prior to the passage of the Freedom of Information Act, but I can cite examples to you.

Prior to the Freedom of Information Act, I believe a request was made of the Federal Aviation Administration to supply a list of the names and addresses of all the private pilots that are licensed in this country to sellers of different kinds of goods which would be of interest to pilots. This would be a prime list.

And the FAA initially refused to supply this list, really more on grounds of policy than any other reason. The reason I believe they did not want to supply it was because they did not want all the private pilots in the country to begin to be harassed by a great number of advertising circulars being delivered to their home or by telephone calls by people trying to sell materials. But under the new Freedom of Information Act such information must be made available to any member of the public, and we have had these instances in the Post Office Department.

Mr. WALDIE. Let me interrupt you.

It must be available, but not in terms of the provision of names and addresses by lists.

Mr. MAY. Yes. We maintain, and a lot of other Government agencies maintain lists of names and addresses of certain individuals.

Mr. WALDIE. But I mean if a citizen writes to the Federal Aeronautics Administration and says I want a list of all the private pilots in America, do they have to provide it?

Mr. MAY. They do have to provide them such a list.

Mr. WALDIE. Or do they have to provide them access to such a list?

Mr. MAY. They can do one of two things. You can either provide the list yourself and make a user charge for the cost to the Government in supplying the list, or you can make the list available. But this for many Government agencies would just be a massive inconvenience to have a stranger coming in piling through all of their records trying to compile a list, but you can do it that way. But the information must be made available one way or the other.

A recent request we had, for example, is from a company interested in selling money orders; they wanted a list of all of our contract stations because our contract stations handle money orders and they want them to sell private money orders. We have to supply this list, the names and addresses of all the people who have contract stations.

We can do this in one of two ways. We already have such a list at each regional office. The regional office has a list of these contract stations. We can turn over that list. It means somebody is going to have to type it out.

We charge \$8 an hour per person for any postal employee whose time is used in making this. This is what we estimate is a reasonable charge for the time of our postal employees. Or we could tell the requesting agent to just come into the regional office, point to the file drawer and say all of the information is in there. But then you have your own office disrupted.

So in most cases it is just easier for us to make the compilation and to charge the person making the request a reasonable charge for the Department expenses.

Mr. WALDIE. Prior to the passage of the Freedom of Information Act, those requests were not acceded to by the Department?

Mr. MAY. That is correct.

I must say that before that act was passed I was advocating a change of policy because I did not think it was necessarily a wise policy for the Government not to. I could not really see any reason for not making a lot of information available because there did not seem to be any confidentiality attached to it. But my experience in most of the Government was that there were quite a few items of information that the

public should have available to it if it wanted it, that would in no way embarrass the Government or cause any invasion of privacy.

But on the other hand, as to most of the specific examples I mentioned to you, I know for a fact, prior to the passage of the Freedom of Information Act, they were not available to the public.

Another example we have is the names of boxholders.

Mr. WALDIE. I think there ought to be a distinction drawn here as to information that would embarrass the Government. That is, precisely the information that ought to be available.

Mr. MAY. That is available under the Freedom of Information Act now. What I am saying is that even beforehand you could understand rationally why a Government agency might have been loath to make such a disclosure when there is no legal compulsion to do it, but other information was denied where it looked to me like there could not be any possible grounds for denying.

Mr. WALDIE. Of course, it seems to me the Freedom of Information Act did not contemplate the selling of mailing lists, and that is what the Government is getting into.

Mr. MAY. In that sense it is. We have to make a charge, so we are selling them.

Mr. WALDIE. I cannot see why you cannot tell the fellow who wants to look at the list of contract agents you have no such lists, but he is welcome to come in and examine all of your files at his convenience.

Mr. MAY. We do have such a list.

Mr. WALDIE. You do not have to make that available to him. The fact you have the list does not mean you have to make that available to him. He can get his own list from your records. The freedom of information law requires you make your records available to him.

Mr. MAY. If we have such a list, that list is a record. It does not mean we have to make a copy of it and send him a copy, but if we have a list already compiled, then the minimum that we must do is permit the person to come into the office, hand the list over to him, and he can copy out the list. But this would result, in most cases, in a serious disruption of our offices, particularly in a post office where we do not permit nonpostal employees behind the screen line simply for security purposes. It is simply impractical to let people come in behind the screen line and, in those instances, invariably we will make up a list and make a charge for it.

Mr. WALDIE. Mr. Chairman, I would suggest that we do have more testimony on this subject to the extent to which the Government has gone into the business of mailing lists or, if not peddling them, at least making them available under circumstances where they were not previously available, and determine what we could do to prevent that.

It offends me finding the Government selling these names and addresses for purposes of permitting solicitation of those people that did not register their names with the Government believing that that would occur. I am quite certain that none of them would have approved it had they required prior approval be asked whether they wanted their names released for merchandising of that kind.

I would like also from Mr. May at least some reference in terms of a written report, if it is possible, to the provisions of the Freedom of Information Act that have resulted in this type of practice, beginning with Federal agencies.

I presume that your experience is duplicated by all Federal agencies?

Mr. MAY. I would think so. The act is quite strict. The burden of proof is upon the Government. If we deny any request for information, the burden of proof is on the Government to prove that this information comes within one of the specific exemptions provided by Congress.

Right now we have a request from one of the largest mail list brokers in the country who wants the names and addresses of our mail user councils. These are major businesses all over the country that have been organized into councils in different cities for the purpose of trying to cooperate with the Department to see if we cannot, through working with large mail users, ease some of the problems that are occasioned by large mail users who make volume shipments of mail.

These are businessmen who voluntarily have gotten together at our request, and we do have their names and addresses. Now we get a big list broker who wants the names and addresses of these large mail users. If they are supplied, the next thing we know all our mail user councils are going to begin to get solicitations of one kind or another. Then their reaction is going to be, "Here we are trying to cooperate with the Government and help out the Post Office Department, and you turn over our names to some mail list broker."

At least so far as the names are concerned, I have directed the Department to supply the names to this list broker since I could not see any justification, under the Freedom of Information Act, for denying them the names. However, I have ruled that the addresses do not have to be supplied.

The Civil Service Commission has taken the position that Federal employee home addresses are privileged information; their names are not. The names of the Government employees are not, but their home addresses are, and are not divulged under the theory of protection against invasion of privacy of the employee.

There may very well be a test on this construction of the law. Other than in the instance of our employees, or such a list as the mail users councils, where addresses are not divulged, otherwise most of these lists of names of businesses or rural route lists are available.

The Department, as I am sure you know, is a depository of all kinds of information about names and addresses of people, particularly in smaller communities. Often we are the one source that you can go to to find out where somebody lives.

I do have a list of rulings that have been published internally in the field to indicate where they are to give information. That is already available, and that would comply with your request for a written report.

Mr. WALDIE. Could I, as a citizen, go to the Internal Revenue Service and say I want a list of all citizens who filed a tax return in America last year?

Mr. MAY. I don't want to answer for the Internal Revenue Service. I have an idea how I would respond to such a request. In the first place, I wouldn't have a list, as such. I would have voluminous records, and the inconvenience and the cost of getting such a list, I think, would militate against anybody seriously trying to get it.

On the other hand, we have had requests from State revenue agencies for the name and address of people who own box numbers. They

are doing this on the grounds that they are law enforcement agencies. We have ruled that the Federal Commissioner of Internal Revenue, IRS, is for this purpose a law enforcement agency. We have, by contract with the person who rents a box, provided that we will not supply the name and address of the boxholders to anyone without their permission, except a law enforcement agency. This is by contract. This contract creates the privilege for not making this public information.

We had to change the contract we have and specifically write in that provision in order to create the grounds for exemption. Previously there would have been no basis for claiming any exemption for that information. One of the reasons many people get box numbers is precisely because they don't want their identity divulged. We do have a means now for not revealing that information and consistent with the Freedom of Information Act.

As I say, we have had these requests from State tax-collecting agencies for the names and addresses of boxholders on the grounds that they are law enforcement agencies. It is a close question.

Mr. WALDIE. I have no further questions.

Mr. NIX. Thank you, Mr. Waldie.

Mr. May, your Department does have an arrangement with the Proprietary Drug Association on packaging, do you not?

Mr. MAY. I don't know whether you could characterize it as an arrangement. They did approach us and we have suggested to them that we thought through voluntary self-regulation they could come a long way toward eliminating whatever problem there might be in terms of packaging of potentially dangerous articles that are sent for sampling in the mail, such as bottles of aspirin that children might get their hands on, and razor blades, this sort of thing.

They have adopted their own voluntary code which binds all of the members of the Proprietary Association, and I am told that that association represents among its membership some 95 percent of all those who do sampling through the mail.

They have their own standards on packaging to make it difficult for a child to open. The real key to the self-regulation that they have adopted, and the thing that really makes it effective, is a rule that even if the contents of a particular sample are of such small quantity that even if it is ingested it would cause no permanent harm to the child. That is the real safety valve here. The child might get temporarily sick to its stomach but there would be no enduring effect from ingestion of the contents. That provides the real protection.

As I say, they have voluntarily cooperated with the Department and adopted this code. The razor blade manufacturers have tried. They have come in to see me and they have packages. I don't know whether this packaging device for razor blades will work or it won't. It is quite possible children can open things adults can't. I have seen children rip open anything, take anything apart. I don't know whether it is possible to really safely package a razor blade that is going to go through the mails so a child can't get at it and injure himself. Even they are trying to come up with something.

Mr. NIX. Thank you.

Mr. WALDIE. I would suspect one of the best ways of encouraging them to caution would be a lawsuit for a child that is involved. I got a razor in the mail a week or so ago, Schick, not my favorite company

for certain reasons, but their razor blades were not, in my view, packaged in such a manner that a child could be damaged by them. It was simply packed in plastic.

Mr. MAY. They are not members of the Proprietary Association.

Mr. WALDIE. Schick is not?

Mr. MAY. No; the Proprietary Association is really those manufacturers of patent medicines. I think that is a pretty descriptive characterization, so that people manufacturing such things as razor blades, the razor blade manufacturers might also have a patent medicine and then would be a member of the Proprietary Association, but only because of the patent medicine, not just the razor blades.

It may very well be that if there is any incidence of injury in razor blades and we become persuaded there is really not any way to protect against it, we may simply want to approach the Congress with a view to eliminating them as a mailable item.

Mr. WALDIE. Thank you.

Mr. NIX. Anything futher?

Mr. WALDIE. Nothing further.

Mr. NIX. Again I want to thank you, Mr. May, and Mr. Montague, for your appearance here today.

Mr. MAY. Thank you, Mr. Chairman.

Mr. NIX. It is always a pleasure to have you.

The subcommittee will stand adjourned.

(Whereupon, at 10:52 p.m., the subcommittee adjourned.)

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PRIVACY IN THE MAIL

WEDNESDAY, JULY 24, 1968

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON POSTAL OPERATIONS
OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10 a.m. in room 210, Cannon House Office Building, Hon. Robert N. C. Nix (chairman of the subcommittee) presiding.

Mr. NIX. The subcommittee will come to order.

Today the subcommittee will hear from Col. William Temple, who will represent the Office of Secretary of Defense. He will discuss the problems service families have had with annoying mail and to some extent vicious mail from extremist groups. We gathered yesterday from testimony that the Freedom of Information Act has become a problem from some Government agencies and that this problem is related to mailing lists.

In addition, representatives of the Proprietary Association will appear as witnesses and describe their effort to voluntarily regulate the packaging of sample nonprescription drugs so that children will not be able to open direct mail sent to their homes. This, of course, is a problem because of a series of magazine articles which protests against the mailing of nonprescription drugs on the basis that they are, in fact, dangerous to children and others who would open such packages and samples. The magazine believed that it is impossible to safely package such products, and that they should be banned from the mail. There is little or no direct evidence of injuries or deaths resulting from this practice. However there have been dangerous situations which influenced the magazine editors. When we last discussed this problem in April of 1967, we stated that the subcommittee would like a report on the progress of voluntary efforts at self regulation in the industry. The Proprietary Association is here today to do that. The Post Office Department has already testified that they were aware of these efforts and advised the Proprietary Association of what steps would be helpful. I believe that this is a positive way of doing things because standards must be set up if this situation is to be resolved. The Congress and this committee cannot act in a vacuum.

Colonel Temple, I want to welcome you, sir, and if you have associates accompanying you, you may introduce them and proceed.

TESTIMONY OF COL. WILLIAM A. TEMPLE, DIRECTOR OF LEGISLATIVE PROGRAMS, OFFICE OF MILITARY PERSONNEL POLICY, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS, DEPARTMENT OF DEFENSE

Colonel TEMPLE. I am unaccompanied, sir, thank you.

Mr. Chairman and members of the committee, I am Col. William A. Temple, Director of Legislative Programs in the Office of Military Personnel Policy, Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs.

It is our understanding that the subcommittee is inquiring into the subject of privacy as it is affected by the use of mailing lists. In that connection, you have asked the Department of Defense to discuss with you such information as we have on the problem of harassment of the families of our servicemen by hate mail from extremist groups.

The Department of Defense has for some time been concerned about the adverse effect on the morale and welfare of our servicemen and their families of harassing communications to them, particularly as they relate to our military operations in Vietnam and elsewhere. Our concern was reflected previously in testimony to the Congress on a series of bills in the 89th and 90th Congresses designed to make obscene or harassing telephone calls in interstate or foreign commerce a Federal offense. In connection with those hearings, which led to the enactment of Public Law 90-299, we set up procedures for collecting information on specific incidents of objectionable communications to servicemen and their families. The incidents covered all forms of communications: telephonic, telegraphic, personal visits, and correspondence, and covered the period from approximately May of 1965 to the present.

In terms of harassment by means of the mail, I can report to you that our collection of incidents reflects only 34 officially reported cases in which servicemen or their families have received objectionable letters or postcards during that time. For the subcommittee's information I have submitted for the record a summary of these 34 incidents. We would request that any public disclosure of these cases omit reference to the names of the individual victims involved to lessen the possibility of their further harassment.

While some of the individual cases have involved mailings which can only be described as despicable—for example, the receipt of a postcard by the bereaved family of a serviceman killed in action in Southeast Asia which said in part "You must be rejoicing in anticipation of receiving \$10,000 NSLI. As a gesture of thanks, we suggest that you send \$1,000 'to the Vietcong Sympathizers Arms Fund'"—nevertheless an analysis of the cases does not suggest to us the existence of an organized campaign of such mailings. Rather, the number and character of the incidents indicate that they are individual efforts by the same sort of warped and diseased minds that are capable of making obscene telephone calls to victims in the middle of the night or of sending false telegraphic casualty messages to families of servicemen (I might say parenthetically that the total number of incidents of harassment of service families identified by our collection procedures in the last 3½ years of all types—telephonic, personal visits, telegram, and mail—is under 300 and shows essentially the same pattern of individual actions rather than of a calculated campaign of organized groups).

In terms of harassment by mail, our collected incidents do not suggest use of mailing lists. On the contrary, as several of the cases in the summary disclose, it would appear that perpetrators of these vicious acts secure the names and addresses of the families whom they victimize from such readily available sources as local newspaper obituary articles or from other publicity attendant on the death or injury of a serviceman.

The Department of Defense will continue to follow up carefully all cases of harassment of our service families which are reported to us.

At this time we do not see the problem as a quantitative one, but you may be sure that if our reports in future disclose the existence of a pattern of organized harassment we will promptly bring the matter to your attention for such corrective action as seems appropriate.

Gentlemen, this completes my prepared statement. I shall be happy to answer any questions you may have.

Mr. NIX. I want to thank you for appearing, Colonel Temple. I have been led to believe, and the other members of the subcommittee have likewise been led to believe, that this practice appeared to be an organized effort, and I am glad to hear that as a result of your investigation it is your opinion that it is not.

Colonel TEMPLE. At this point, as I say, sir, we do not see the existence of an organized effort. We are, as I said, very carefully watching the entire process. From our standpoint one bereaved widow being harassed in this manner is one too many.

Mr. NIX. Let me ask you whether or not your Department has been requested from any source to furnish a mailing list?

Colonel TEMPLE. Yes, sir; we are from time to time, for various purposes, requested to furnish mailing lists of military personnel. I should say lists of military personnel. It is not always indicated they are to be used as mailing lists. Generally speaking, our policy is not to furnish lists which could be used as mailing lists on the essential ground that information in personnel records is exempt from the requirements of the Freedom of Information Act and that the furnishing of mailing information from personnel records would constitute an unwarranted invasion of the right of privacy of the serviceman concerned.

Mr. NIX. Thank you.

Mr. KENNEDY (counsel). Do you have any regulations on that?

Colonel TEMPLE. In one area we do. The only area we have specifically found it necessary to write a regulation is in our personal commercial affairs area.

Mr. NIX. Mr. Waldie?

Mr. WALDIE. I have no questions.

Mr. NIX. Do you have a copy of the regulations, Colonel?

Colonel TEMPLE. Yes, I do.

Mr. NIX. Can they be detached from your records there?

Colonel TEMPLE. Yes, sir. I shall be glad to furnish either the entire directive on personal commercial affairs or the relevant portions thereof for committee use.

Mr. NIX. I would prefer having the entire thing and, without objection, the relevant portion will be made a part of the record at this point.

(The material referred to follows:)

SUPERVISION OF ON-BASE COMMERCIAL ACTIVITIES

A. The solicitation of military personnel and their dependents will be conducted on an individual basis, preferably by appointment, in such locations, and at such hours as the military commander may designate.

B. A conspicuous notice of installation regulations will be posted in such form and such place as to give notice thereof to all those conducting on-base commercial activities. In so far as practicable as determined by the military commander, those conducting on-base commercial activities will be presented with a copy of the applicable installation regulations and advised that disregard of the regulations will result in the withdrawal of solicitation privileges.

C. The following solicitation practices are prohibited:

1. Solicitation of recruits, trainees, "mass" or "captive" audiences, and transient personnel.
2. Solicitation in areas utilized for processing or housing transient personnel; solicitation in barracks occupied as quarters; or the making of appointments with or soliciting military persons in an "on duty" status.
3. The use of official identification cards by retired or reserve members of the armed forces to gain access to military installations for the purpose of soliciting.
4. Procuring, or attempting to procure, or supplying roster listings of DoD personnel for solicitation purposes.
5. The offering of unfair, improper and deceptive inducements to purchase or deal.
6. Practices involving rebates to facilitate transactions or to eliminate competition. (Credit union interest refunds to borrowers are not considered a prohibited rebate.)
7. The use of any manipulative, deceptive or fraudulent device, scheme or artifice, including misleading advertising and sales literature.
8. Any oral or written representations which suggest or give rise to the appearance that the DoD sponsors or endorses the company, its agents, or the goods, services and commodities it sells.

Mr. NIX. Colonel Temple, I want to thank you very much for your appearance this morning. It has been most helpful.

Colonel TEMPLE. Thank you.

Mr. NIX. Our next witness is Mr. James F. Hoge, general counsel of the Proprietary Association. I understand you are accompanied by Mr. John Green.

TESTIMONY OF JAMES F. HOGE, GENERAL COUNSEL, THE PROPRIETARY ASSOCIATION, ACCOMPANIED BY ALAN RASCH, RICHARDSON-MERRELL, INC.

Mr. HOGE. Mr. Chairman, Mr. Green is not here but a gentleman from Mr. Green's office is here. His name is Mr. Alan Rasch, but he doesn't intend to testify unless you have some questions you would like to ask him.

Mr. NIX. You may proceed, Mr. Hoge.

Mr. HOGE. Mr. Chairman and members of the committee, my name is James F. Hoge. I am a member of the bar of the State of North Carolina and of the State of New York. My address is 90 Park Avenue, New York City, where I am engaged in the active practice of the law as senior partner in the firm of Rogers, Hoge & Hills. I appear on behalf of the Proprietary Association, the offices of which are at 1700 Pennsylvania Avenue NW., Washington, D.C.

And, Mr. Chairman, if you will indulge a little touch of personal pride, I would like to say I am now in my 35th year as the counsel of this organization.

A letter from Hon. Robert N.C. Nix, chairman of this subcommittee, dated July 16, 1968 and addressed to me as general counsel, inquired if the Proprietary Association would appear today and summarize for the record the program worked out between it and the Post Office Department.

That program relates to regulation of the unsolicited mailing of nonprescription drugs. It was described in hearings on H.R. 3954 held by this subcommittee on April 19, 1967. And, Mr. Chairman, I understand that that bill is still in the jurisdiction of your committee, somewhat, I guess, as the court retains jurisdiction of a matter. So the bill is still here.

Representing the Proprietary Association, it was my privilege to appear in those hearings. My testimony begins on page 4 of the record. At the close of the hearings, on page 32 of the record, the chairman said:

I want to state that although there is no specific date for the next meeting of this subcommittee, nevertheless we are going to watch the meetings held between the Post Office, the ad hoc committee of the Proprietary Association, and any other agency that makes a contribution to an accommodation in this field. Whenever we feel that it is the part of wisdom to have a meeting, whenever it is required, or after something can be accomplished by calling a meeting, a meeting will be called.

The committee will recall that I identified the Proprietary Association as having been organized in 1881, as having been in continuous existence since then and as being composed of active members—now 94—engaged in the manufacture and distribution of proprietary medicines, that is, medicines which are completely compounded, packaged and labeled for use by consumers, and advertised direct to the public.

These medicines are classified as over-the-counter articles; that is, those not restricted by law or practice to sale on prescription. They are household products and their trademarks are widely known. There are also 135 associate members—companies which do not manufacture such medicines but which are interested in them as suppliers of materials and services. Numerous of the active members have engaged, from time to time, in the mailing to consumers of complimentary samples of their products.

I recall with continuing gratitude the courtesies shown me at the previous hearing by the chairman, Mr. Nix, and the other members of the subcommittee. I also recall the expressions of appreciation which I made at that time and which I would like to renew as I have the pleasure now of being before you again.

The chairman's letter inviting our appearance here today specifically requested that we summarize for the record the program which was worked out between the Proprietary Association and the Post Office Department.

Briefly reviewing—and only for the purpose of establishing the continuity—I referred in my previous appearance (p. 7 of the record) to our association having taken affirmative steps to assure that harm or injury will not result from its members' sampling activities. I stated that more than a year prior to the time of my appearance, which was on April 19, 1967, the association had appointed an ad hoc committee to study the matter. The chairman referred to it in the quotation which I have just read from page 32 of the record.

I also mentioned, in relation to the ad hoc committee, that a press release had been issued by the Post Office Department in November 1966, suggesting that the mail sampling of drugs, razor blades, or other items might pose a hazard to young children. The press release concluded that legislation might have to be considered unless voluntary standards were imposed by industry to control any reasonably foreseeable hazards that might exist.

The ad hoc committee conferred with representatives of the General Counsel's Office of the Post Office Department and offered its cooperation in devising a plan that would be responsive to the Post Office Department's concerns. Two conferences were held and several telephone conversations were had between such ad hoc committee members and the General Counsel's Office. These discussions were con-

cerned with the experience of the parties concerning potential hazards presented by the mail sampling of proprietary drugs and the kind of guidelines that could be established to overcome any such hazards that might exist.

In conjunction with this cooperative effort with the Post Office, the association continued its efforts within its membership to develop an effective and voluntary set of guidelines. In early 1967, the association adopted "Guidelines for the Bulk Mail Sampling of Proprietary Drugs." They appear on page 9 of the record.

These guidelines were initiated by the industry itself, though the Post Office Department was most helpful in an advisory capacity. It was understood at the outset that the guidelines would contemplate a self-policing effort and would not carry any official Government sanction. In that regard and at the request of the Post Office Department, we have recently deleted a reference to the Department's role in the establishment of the guidelines, which appeared in our association's pamphlet.

Mr. Chairman, I think you have a letter, or I have heard from Mr. May, that there is no question as to the fact of this. The Post Office Department did collaborate with us in preparing these guidelines but, for policy purposes, they preferred that we not make a public reference to it. That is understandable, and we gladly deleted the reference to the Department's role, and the pamphlet that will be filed this morning does not have that reference. The earlier one which I put in the record in 1967 did have it.

Since their promulgation, the association has actively implemented the guidelines. As aids in such implementation:

(1) The Post Office Department has been requested to notify the association of any complaints that may arise concerning mail samples of proprietary drugs;

(2) Periodic checks are made with member companies by the association to determine whether the members have received any complaints concerning their sampling practices.

Mr. Chairman, let me digress from my written statement at this point to give you a report that I think is illustrative of the checking we have tried to do to implement the guidelines. This is very recent, and since the promulgation of the guidelines about one year and four or five months ago. A survey of seven companies was made by officers of the association. It shows that over 18 million—my actual figure is 18,280,000—over 18 million samples were distributed by these seven companies, members of this association, without a single report of accidental ingestion or any injury whatsoever to anyone. We intend to make these checks from time to time. We have a fairly good idea of who does sampling so we do not have to make a survey broadside but can just check into the companies who are doing it and ask for their experience. This report is down to just a week or so ago. In fact, in preparing to come here we made this check of those companies at that time.

(3) The association continues to discuss within its membership the importance of the guidelines and the necessity for compliance; and

(4) The association from time to time publicizes the guidelines. The following are illustrative:

(a) At the annual meeting of the association on May 15, 1967, a letter of greetings and best wishes from the President of the United States, in which letter reference was made to these guidelines, was read and later bulletined to the members.

I submit a certified copy of that letter with my statement and at this time I would like to read it to get the continuity of what we are reporting. It is on the letterhead of The White House dated May 11, 1967, and reads as follows:

It is always a pleasure to greet the annual meeting of The Proprietary Association.

For almost ninety years, your members have been contributing substantially to the welfare of all Americans. Your leadership in setting voluntary guidelines for sending sample products through the mails was a helpful step in industry-government relations. The activities that earned you the President's "E" certificate for Export Service greatly assisted our efforts to increase exports and reduce trade barriers between the United States and other nations.

Your work has consistently advanced, not only the well-being of our Nation, but the peace and prosperity of the family of nations with which we trade.

I commend you and extend best wishes for a fruitful meeting and for success in your future endeavors.

That ends the quotation and the signature is that of our President, Lyndon B. Johnson.

Mr. Chairman, I did not read that or file it here in any presumptuous effort to call the President as a witness, or for any self-serving purpose. I do it to illustrate that we do publish to our members these guidelines and emphasize the importance of obeying them, and we felt there was no better way of doing it than to show them what the President says and thereby to place on them the greater burden of obeying those guidelines.

At the same annual meeting, but on a different day, I included a reference to the guidelines in the annual report of the General Counsel, as orally delivered at the meeting. And I am submitting with my statement an excerpt from page 96 of the printed proceedings of that meeting.

It includes the reference and relates it to our experience in 1966 when we were engaged before the Commerce Committee on a bill commonly known as the aspirin bill. It was to regulate the number of tablets of baby aspirin in a package and otherwise to regulate the matter. In the hearings—and I was the spokesman—we proposed that we have a conference of members of the industry to see what the facts were and what might be a workable solution. We referred to the fact there had been such a conference some years before and that it had been productive and said that perhaps this was the time to review and revise what we had done.

Now I will quote the excerpt from page 96 of our printed record of that meeting.:

Representing you, your spokesmen told the committee of a comparable conference ten years ago, recommended a repetition and represented that the industry would abide by the results of it.

We must therefore, keep faith with Congress.

And I must underscore that today. Our purpose is to keep faith with the Congress and with this committee.

Mr. WALDIE. Does the Schick Razor Blade Co., belong to your association?

Mr. HOGUE. No, sir.

Mr. WALDIE. It came to my attention they put on a promotional campaign for a razor blade and it was mailed in a package that would present jeopardy to children that might get hold of it.

Have they solicited your association to join?

Mr. HOGUE. This association, no sir; I don't think they would be eligible. Our members are engaged in the manufacture and distribution of proprietary medicines or drugs as distinguished from prescription drugs. The manufacturers of prescription drugs would be in the Pharmaceutical Association.

Mr. WALDIE. Are you aware of any similar voluntary effort to police the industry that would cover companies such as the Schick Co.?

Mr. HOGUE. I don't know. I think the toilet goods people have been working on guidelines. I am told by Mr. Rasch that is right.

Mr. WALDIE. I have no further questions.

Mr. HOGUE. I pick up where I left off on this excerpt from page 96 of the printed proceedings of the annual meeting of the association on May 15, 1967:

We must, therefore, keep faith with Congress. We must support the conference recommendations by complying with them not only to the ultimate letter but to the full spirit. And remember: in this we demonstrate capacity for self-regulation, and we show that future controls may minimize legislative fiat and executive edict and may accomplish desired ends by voluntary action, by conference, by education, by cooperation.

Already, there is another such opportunity. On April 19, we appeared before the House Committee on Postal Operations for a hearing on bills to prohibit unsolicited mail samples to consumers of any article within the broad definitions of drug, device and cosmetic.

Let me say in further answer to Mr. Waldie, I put that in purposely because the bill now before you would have outlawed the sampling of any drug as defined in the Food and Drug Act, and "drug" is defined very broadly. It includes liquid, solid, semisolid, salve, tablet, et cetera—any substance used or intended to be used in the cure, mitigation, prevention, or diagnosis of disease in man or other animal. It also includes any article in the U.S. Pharmacopeia, which lists many items such as salt and sugar and even water—distilled water. The definition of "devices" includes any device which is for the relief of the body or to affect the structure of the body. So, the definitions are about as broad as you can get, but not broad enough to include razors.

To pick up my excerpt again:

We told the Committee of the experience with the aspirin bill, recommended a similar course and presented guidelines for self-regulation. We also assured the Post Office Department that industry would cooperate. The Committee now has the bills under study for some such cooperative procedure. And we must keep our promise!

Let me interpolate a complimentary word to John Green and his subcommittee which opened conversations with the Post Office Department and formulated the guidelines which your President's Committee adopted and which on your behalf I put in the record at the Congressional hearing. Saying that, let me remind you of Dr. Goddard's criticism of us in relation to the advertising code. And, pertinent thereto, let me add that the promise of the future is not in the formulation and adoption of codes and guidelines but in the translation of them into frames of everyday reference.

That I say to you with all earnestness, Mr. Chairman and gentlemen, because we believe this so thoroughly and I, as general counsel, do try to preach this. I might say there is a certain well-known trade

publication in town that likes to say I preach the law, and I don't mind their saying it. I am very glad to preach the law.

Mr. WALDIE. Might I interrupt for another question, Mr. Chairman?

Mr. NIX. Yes.

Mr. WALDIE. Mr. Hoge, if an article is delivered through the mail from a company, a drug or a device, and a child does pick up the article and either eats it or cuts himself with a razor blade, for example, is there liability on the part of the company who sent the article through the mail?

Mr. HOGÉ. If there is a defect in the packaging or in the article, I would say yes.

Mr. WALDIE. Is there liability on the part of the Post Office Department for having accepted the article for delivery through the mail?

Mr. HOGÉ. I guess I should say I don't know, but I don't think so. I would have to yield to the counsel.

Mr. WALDIE. If the packaging is defective in not having been designed safely enough to prevent the child from being attracted to it, would not the Post Office Department, having accepted it, be a party to the act of negligence?

Mr. HOGÉ. I shouldn't guess about that. I don't think it would be but, again, I would have to yield to the counsel.

Mr. WALDIE. Are you aware of any instance within your association where suit has been brought against any of the manufacturers as the result of distributing articles through the mail?

Mr. HOGÉ. No, I am not. I am aware of suits having been brought for the use of products, not only in the proprietary medical field but in the prescription field.

May I again ask my associate if he knows of one. This is Mr. Rasch. Mr. Rasch says not to his knowledge. He is in the law department of Richardson-Merrell, Inc., and is an associate of Mr. Green, who worked out these guidelines. Of course we are all too conscious of the suits brought against these companies and the tremendous judgments granted.

Mr. WALDIE. I am trying to find out the necessity of legislation to control the mailing of these devices and materials. It occurred to someone, and I would say it has occurred because of cases where damage or injury resulted, and I presumed your association might have some indication that that has happened to your membership, or perhaps the committee does. Is there any indication of any instances where people have been damaged by the receipt of these things in the mail box?

Mr. NIX. I don't recall any information on widespread injury but I think it is unrealistic to assume that some injury will not result.

Mr. WALDIE. Is there any instance on record where injury has occurred? Does the committee have any record at all of the necessity for this legislation because of injury?

Mr. NIX. We have no such cases. There were certain articles published that gave rise to the belief that injury was widespread. We want to explore it and put it to rest forever or show that there is substance to them.

Mr. WALDIE. Who published those articles?

Mr. HOGÉ. Consumer Reports.

Mr. WALDIE. Have we attempted to get the author of those articles before us?

Mr. NIX. That is what I want the staff to do.

Mr. WALDIE. If there are no substantiated cases of damage or injury occurring, it would seem there is no need for this legislation except on the possible basis people just don't want these things coming in their mail box for reasons having little to do with damage or injury.

Mr. HOGE. Mr. Chairman and Mr. Waldie, if there are, I am sure they would be de minimus. I have reported on over 18 million in a few months from the companies I know and there are no reports of injury. We had a dialog when I was here before—I think it was between you and me, Mr. Chairman—and you observed there might be numerous injuries and put it to me as though I might accede to that, and I said respectfully I could not accede to it, and I think you accepted my correction.

I think what might generate it more than anything else is what you alluded to, that some people don't want to receive things unsolicited through the mail. I am sure all of us have experiences of that sort and it aggravates me sometimes but it does not move me to suggest to the Post Office Department that they stop people from sending me things I don't want.

Mr. WALDIE. I think, Mr. Chairman, it would be proper to ask if they have any instances of injuries that have been incurred by the receipt of these items through the mail.

Mr. NIX. I agree with you, Mr. Waldie, we would be most grateful for that sort of information. Mr. Hoge suggested earlier in his testimony that any such information coming to his attention would be sent to the committee.

Mr. HOGE. Yes, we will do that.

Mr. WALDIE. Perhaps rather than placing the duty on you to give us information that comes to your attention, we should ask you to solicit information.

Mr. HOGE. We did solicit information. We went to these seven companies and I would have brought you the report of any injuries, if there were, but I have no such instances, and I was assured by Mr. Green that he gave me the report as it was. This is what we are doing to implement the guidelines and we will continue to do it. Anything more?

Mr. WALDIE. No. I am taken aback by the steam this legislation has picked up on the basis it is designed to protect the consumer from injury when there is no evidence of any injury having occurred.

Mr. HOGE. I just don't know. Everything is possible and there may be something somewhere, but, trying as we have these past 2 years, we have no report to bring you, and the Post Office likewise.

The next item I wanted to mention was the printed leaflet containing these guidelines.

The printed leaflet containing these guidelines, and carrying on the cover an advisory statement by me as general counsel, has been disseminated widely to members, to publications, and to other interested parties. One of such leaflets will be filed with you. I will read from it.

It is important that manufacturers of proprietary medicines who send samples through the mail give careful attention to the guidelines contained in this leaflet.

I would like to say at this point, and apropos of Mr. Waldie's interest which I appreciate so much, that this association has endeavored to work in this way not only on matters in your committee, but in other committees too. For instance, I reported to you on the aspirin conference. The Interstate and Foreign Commerce Committee accepted it. The conference was held under the auspices of the Food and Drug Administration. Members of the industry, scientists, and others were invited to come in and determine upon the number of tablets to be placed in a bottle, and on the labeling. The determination was accepted and is working. If there has been any violation of it, I don't know of it.

Then we have an advertising code. I referred to Dr. Goddard having criticized it. It is true a code doesn't mean anything unless it is translated into action. But we have a code which we have widely circulated with regard to correcting advertising abuses.

Then we have an advertising review and have had for years. It is headed by a physician, and advertising matter is submitted to him for review. And I think you had in your remarks this morning the matter of bottle closures. That is the subject of a bill introduced by Mr. Magnuson in the Senate with the statement that he does not intend to bring it out this session but hopes for action in the next session of Congress.

We have undertaken at some expense to set up a pilot study on proper bottle closures, costing us quite a few thousand dollars. We have an outside agency studying this very important question of proper bottle closures. This is a very difficult question because if you close the bottle so tightly you can't open it, or an arthritic can't open it, you have defeated the purpose. So, our general pattern of operation is to try this sort of voluntary and cooperative action.

In the event of any complaints on the periodic checks a procedure has been set up for counseling with the member company with appropriate reference to the guidelines.

In a letter dated January 22, 1968, addressed to Hon. Thaddeus J. Dulski, as chairman of the full committee, we reported that the guidelines were being implemented, and, as far as we could determine, were proving effective. That was 6 months ago. That situation has not changed. To our knowledge—with the sole exception of items in the magazine, "Consumer Reports," referred to in the chairman's letter of July 16—there has not been a single complaint or criticism. I suppose I have to modify the word "criticism." Some people don't like sampling and criticize it. When I talk about criticism I am talking about accidental ingestion and things of that sort.

In the case of the article in the February issue of "Consumer Reports," the author had not contacted the association prior to publication. The member company involved advised us that the author of the article had declined to meet personally with representatives of the company to discuss the factual basis for the article's criticism. They tried to get him to come in to listen to their story and to see what material they had. But he declined. He said he would talk to them over the telephone but there was no use in wasting his and their time.

I think he was opposed to postal sampling per se. The member company stated that in its opinion, the article was misleading and

inaccurate and expressed regret that the author appeared to have no interest in meeting to discuss in detail any facts that the company had to rebut the author's criticism.

His criticism was not a case of accidental ingestion or injury. It was a case of the reporter, an adult man, seeing the sample and thinking it opened too easily and deciding to write an article. He called the advertising agency of the company and they told him about the guidelines. Then he called the Post Office Department and they also referred to these guidelines. Still we had no direct touch with him until, and except for, the telephone conversation. But it is his article that has been responsible for these hearings. So, the chairman has taken the right posture about it, and we are happy to be here to help him see it through.

The guidelines have been in effect for over a year and based on all of the information we have been able to obtain, appear to be extremely effective. The association will continue its monitoring activities and will continue to work closely with the Post Office Department to assure implementation of the guidelines. We will, of course, endeavor to keep the subcommittee informed of our activities from time to time as conditions warrant.

If there is any further information that we may provide, please let us know. Mr. Chairman, we are desirous of cooperating fully with you and your colleagues. The association takes its public relations very seriously indeed, the more so in the shadow of the industry's present unfortunate public image.

Forgive me if I add this word after 35 years. It is distressing to see the plight of a great industry which has served so dramatically and so effectively to extend our lifespan and to lift the weight of pain and disease. The members of this industry do not ask for praise. They ask no more than an objective and impartial appraisal of their purposes and their efforts. It is heartening and refreshing in the extreme to come to the bar of a committee which so earnestly seeks to do just that. And, Mr. Chairman, I am very grateful for the opportunity to be here today.

Mr. NIX. Thank you.

For purpose of clarification I might say for the record that in the press release of November 1966 by the Post Office Department it was suggested that the mail sampling of drugs, razor blades, and other items might cause injury to young children. It stated that legislation might have to be considered unless voluntary standards were imposed by industry to control any reasonably foreseeable hazards that might exist. I think the industry is to be complimented for its cooperation with the Post Office Department and, incidentally, with the public. I think it was the duty of this subcommittee, however, after having had this press release brought to its attention, to inquire into the matter raised by the press release. That, to a great extent, is the reason why, in my opinion, we wish to establish once and for all whether or not there is any foundation to the fears expressed of injury or hazards to young children. That is a part, really, of this particular inquiry.

I want to thank you again, Mr. Hoge, for a most informative statement. It is always a pleasure to me to sit in a subcommittee when you appear to testify. Again, I thank you.

Mr. HOGUE. I thank you, Mr. Chairman, and I can only say that I reciprocate it. It is a great pleasure to be here and I want to say this

is exemplary. If Congressmen will work with industry—and so many do—industry will try to meet you more than halfway. Our doors and telephones are wide open, and any time you want us to appear all you have to do is get in touch with us.

Mr. NIX. Thank you.

Mr. WALDIE. I want to join the chairman in his commendation of the witness. I am very much interested in knowing what brought about the necessity for this legislation. I think some controls, whether a voluntary code or regulations of the Post Office Department or statutory authority, might still be required because the difficulty seems to be that a massive mailing that does not comply with reasonable standards and creates the danger of ingestion of these harmful materials or injury from a razor blade, once the mailing is made the possibility of this type of injury is so grave that failure to foresee these circumstances might be reason for criticism of Congress.

Mr. HOGE. May I just say to that, you will not find us in opposition to the proposition as you state it. Indeed when we were here in April last year I said we were not appearing in opposition to any regulation but to that particular bill because it would outlaw the sampling of any drug as defined in the Food and Drug Act, which definition is extremely broad. One Member that day said that he agreed with me that that bill went too far. He did not commit himself on how far it should go. We would like to work with you on the form any bill should take. Right now we are speaking on the bill as it is written at the moment and we are still opposed to that bill as it is written.

Mr. WALDIE. That is all.

Mr. NIX. Thank you.

Colonel Temple, Mr. Waldie would like to put some questions to you.

Mr. WALDIE. Colonel, I am sorry I did not put these questions to you when you were testifying. It would seem to me the type of communications you referred to would be in three main categories. One is the despicable type of communication you referred to briefly. The others seemed more political in nature, the extreme left wing and the extreme right wing, and it seems the majority of cases are the extreme right wing, such as the John Birch Society. Is it your position that the receipt of those materials constitutes harassment of servicemen?

Colonel TEMPLE. Not necessarily, sir. We respect, of course, the right of persons of all shades of political opinion to legitimately express their opinions, and whether this is done by public statement, by mail to the public generally, or not is not an area in which we feel we have any legitimate right to inquire. We got these cases simply because, in an attempt to define the magnitude of the problem which had been publicized, we asked voluntarily for servicemen and their families to report materials which to them subjectively were harassing. These are in one sense the raw results of those reports.

Mr. WALDIE. The inclusion of these reports, then, is not an indication, at least on the part of your office, that the receipt of this literature has been a form of harassment.

Colonel TEMPLE. No, sir; it would mean only to imply that for that particular recipient he felt, or the family felt, harassed.

Certainly the circumstances under which some of these materials are received, for example a perfectly legitimate anti-Vietnam discussion in written form received by the members of a family who just

buried a son killed in Vietnam, might constitute harassment at that time when it would otherwise not.

Mr. WALDIE. I just wanted for the record, Mr. Chairman, to indicate that the literature of Young Americans for Freedom and that of other organizations mentioned during the questioning are suggested as incidents of harassment when received by servicemen or their parents.

I do not believe it to be within the province of the Army or of the Congress to seek to control or legislate in this field, however.

The other type of incident is disturbing and should be prohibited in some way or another.

I appreciate the clarification, Colonel Temple.

Colonel TEMPLE. Yes, sir.

Mr. NIX. Thank you.

The subcommittee will stand adjourned.

(Whereupon, at 11 a.m. the hearing was adjourned.)

(The following statements were received by the subcommittee for inclusion in the record:)

STATEMENT OF HON. CORNELIUS E. GALLAGHER, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW JERSEY

Mr. Chairman, I appreciate the opportunity of submitting this statement to this distinguished Subcommittee. The problems of unsolicited mail and trading in names have grown to serious proportions, and this Subcommittee has been in the forefront in representing and protecting the interest of the individual American.

According to Exhibit I of the Postmaster General's Cost Ascertainment Report for 1967, delivery of regular-rate third class mail ran a deficit of over \$321,000,000—a deficit that suggests a rather substantial burden on each individual taxpayer in order to pay for the delivery of this usually unsolicited mail. The Report further indicates that there were almost 21 billion pieces of third class mail last year, of which, it has been estimated, over 15 billion were sent to addresses obtained from prepared and commercially available mailing lists. I believe it is fair to say, Mr. Chairman, that the American taxpayer has been subsidizing the "names-for-sale" industry in an amount approaching \$250 million yearly.

For this reason, it is appropriate for this Subcommittee to investigate the ramifications and propriety of such a substantial subsidy.

There can be little question that American business depends to a great extent on the postal system, and without a smoothly and dependably functioning system, business, and indeed all aspects of American life, would be severely hampered. But the use of the mails to send unsolicited and unwanted advertising materials presents a difficult question on two planes: (1) Should the government give such a financial backing to this industry; and (2) Should the government continue to subsidize an industry which generates material which recipients do not request and which many find to be objectionable.

I intend to deal in the most part with the second of these questions. As Chairman of the Special Subcommittee on Invasion of Privacy, I am concerned by this rapidly expanding industry which depends for its existence on gathering together and categorizing the names and addresses of individual citizens. The mailing list industry is composed of professional privacy invaders. When a man sends his name and personal information to obtain goods or services, he, in effect, gives the firm the opportunity to disperse his name to untold numbers of direct mail advertisers and those who compile the lists for these advertisers. I make no judgments as to the desirability of the merchandise these firms are advertising, but I do express a feeling, held by many individual citizens, that this unsolicited advertising cluttering up mailboxes is a nuisance and does not warrant or deserve a governmental subsidy. It seems to me that a man should be able to release his name for purposes of receiving some merchandise or service without fearing that his mail will begin to swell with circulars and "spectacular" offers within two or three months. A man should have

some small quantum of control over the mail he can expect to receive. As I said, Mr. Chairman, I think it is time to study in greater detail the deprivations of privacy that have accompanied the growth of the mailing list trade.

The April 1968 issue of *The Reporter of Direct Mail Advertising*, the industry's trade journal, ran an advertisement which offered, "The National Demographic Information List . . . 100,000 names now ready for testing; total compilation expected to reach 3.5 million verified names . . . in addition to normal information, the National Demographic List offers you: Verified titles, single or married persons, either sex-occupation codes: professional & executive; retail sales and clerical; skilled, unskilled; other . . . whether wife works or not . . . number of dependent children . . . list is completely computerized, available by any one or any combination of the factors above . . ."

Another ad, in the same issue, headlined "The List", offered, "One million, seven hundred thousand of the best credit-checked spenders you'll ever find. The American Express Credit Card List." Also available at a modest cost is a list of "170,000 better income travel customers. Purchasers of more than \$2,000 in travel from various travel offices of American Express."

One might legitimately ask where these mailing list compilers get the names, addresses and other information. Many listings come straight out of the telephone directories. Some lists are garnered from magazine subscription lists, credit card lists, trade association directories, school lists and lists of those who have taken advantage of so-called "free offers." I was amused to learn that there is even a list now available of those who have written letters to mailers complaining about being sent a particular circular. These "soreheads" are apparently prime recipients of solicitations for animal repellents, burglar alarms, and electrified fences.

Another lucrative field involves the so-called "pre-natal" listing. I heard of one case recently in which a young husband answered his door to confront a diaper service salesman, soliciting the "soon-to-be" family man. The husband indignantly informed the salesman that he was expecting no new arrivals. Later, his wife informed him that she was indeed expecting. They then learned that the laboratory that analyzed the tests referred to it by the young wife's obstetrician, was in the practice of giving the names and addresses of women whose tests showed pregnancy to the highest bidder among a number of diaper services. In this case, the diaper service knew of the blessed event before the father.

Even where organizations attempt to maintain a strict standard of confidentiality, mailing list brokers find a way to obtain a listing. As an example, the United Jewish Appeal decided to keep the list of its contributors secret. However, at UJA dinners, some hotel employees are always given a guest list for the purpose of checking the seating plan. A large list broker has managed to make an arrangement with more than three-quarters of these hotel employees in some of the finest hotels in America to provide the broker with lists of those attending these dinners. By utilizing the telephone directory, the broker then sells the listing, avoiding UJA outrage and possible legal proceedings by calling this collection "contributors to a large Jewish charity."

Another fertile source of names for mailing lists is the Federal government itself. The Census, although it does not list individuals, does break down the country into block-sized tracts, from which many list brokers, utilizing a combination of census tract information as to race, family size, age, income and ethnic origin in conjunction with a telephone directory, compile detailed listings for practically any combination of characteristics.

The Federal Aviation Agency has made available to anyone with sufficient funds a list of the licensed pilots and aircraft owners in the United States. This list runs to about 400,000 names. The FAA, in addition, gives out certain other information as to age, date of birth, qualification and sex. I have criticized this practice in the past and, as a result, I am informed that the FAA no longer gives out the age and sex.

The States have been contributing to the compilation of mailing lists for many years. New York annually sells the names and addresses of those registering automobiles in the State to the highest bidder. My own State of New Jersey gives the names and addresses of licensed drivers to a nationwide organization in return for the present addresses of parking ticket delinquents.

Mr. Chairman, the examples are numerous. Some are amusing. Others are tragic, like the mother who loses her baby being deluged by offers of books of baby names and diaper services. It is becoming impossible to maintain any shred

of control over the distribution of your name. Mailing lists are made even more attractive from a financial standpoint by the large yearly Federal subsidy. The uncontrolled use of these listings threaten to submerge all of us in a torrent of unsolicited mail.

The advent of the computer has placed within the grasp of the mailing list vendor an almost unlimited capacity to reference and cross reference different listings and to compile any combination of names with any imaginable combination of characteristics. The computer allows list brokers to handle immense amounts of information with ease. What this means to the average citizen is that his name and address can be placed on numerous listings simultaneously and sold again and again. I predict that the volume of unsolicited mail will increase substantially over the next few years, further clogging our already overburdened mails. There must be some legislation by the Federal government.

Mr. Chairman, the gentleman from Wisconsin has proposed a bill which would bring the practices of the mailing list brokers under the public's scrutiny at long last. Hopefully, by requiring those who deal in mailing lists to register their transactions, the Postmaster General will be able to better report to the Congress the extent of the industry and possible need for further regulation. I support the Zablocki Bill, and I urge this Subcommittee to act favorably.

The business community has a legitimate right to utilize the mails to bring products and information to the public. But, in equal measure, the public has a right to expect some freedom from degrading and useless solicitations. If a man's home is his castle, he must have the right to raise the drawbridge by controlling, at least to some extent, what he and his family receive in the mail.

Mr. Chairman, privacy is the last frontier in our Nation, which owes much of its history and power to frontiers. I feel that we can make a real contribution to protecting that frontier of privacy by insuring that a man's trip to the mailbox in the morning brings him things of value and not invitations to unwanted merchandise and boringly cute gimmicks.

STATEMENT BY DIRECTOR, BUREAU OF THE CENSUS, CONCERNING CENSUS TRACTS AND ADDRESS LISTS

The Census Bureau does not sell or make available lists of names and addresses, nor does it make available any information concerning individual persons, households, or firms, as a matter of law. (Title 13 U.S.C.).

Direct mail advertisers and others frequently make use of small-area statistics to classify their own mailing lists according to certain characteristics. A typical case would be one in which a firm selects from its lists those addresses which are concentrated in counties, cities, census tracts, or other areas of relatively high income, relatively high educational levels, home ownership, etc. The information by which such areas are identified can be obtained from various sources including the census tract reports issued by the Bureau of the Census.

Census tracts are small, permanently established geographic areas into which large cities and the balance of their metropolitan areas have been divided. Census tracts are established for statistical purposes; their boundaries are developed by local committees with the concurrence of the Bureau of the Census. The average tract has about 4,000 people, and was originally laid out with attention to achieving some uniformity of population characteristics, economic status, and living conditions. The first establishment of census tracts was for the census of 1910. Tract boundaries remain the same for a long time, in order to permit local officials and others to measure changes taking place in their areas.

In each decennial census, the Bureau of the Census tabulates and publishes population and housing information for each tract. In many cases, local statistics are also assembled by tracts and, in this way, local governmental and other groups can compare their data with the census data.

Census tracts were developed to meet the needs for statistical information for areas within cities. They are extensively used by local governments, by planning agencies, and by health, educational, and welfare agencies, as well as by the business community. Their boundaries are easily recognized and any address list can be classified according to census tracts. Thus a police department can classify arrest records by census tracts and determine the social and economic characteristics of areas where certain types of offenses are most common. A health department could determine the housing characteristics of those areas in which certain

health problems have arisen. A department store, by classifying its own records by census tracts, could determine whether or not it is reaching all sections of the metropolitan area which it could potentially serve. A firm which wished to engage in direct mail advertising might select those tracts in which median family incomes are at a given level, and then circularize only those addresses on their own lists which are located in these tracts.

Census tract data give local officials statistics which are needed for the planning of programs, for administration, and for evaluation. They provide the same tools for other persons and organizations which have an interest in the metropolitan area.

Census tract tabulations for the 1970 census will be made available for approximately 32,000 tracts in 233 standard metropolitan statistical areas.







