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# MAILING LISTS

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## HEARINGS

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BEFORE THE



COMMITTEE ON POSTAL OPERATIONS

OF THE

## COMMITTEE ON OFFICE AND CIVIL SERVICE USE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

SECOND SESSION

ON

### H.R. 2730 and Similar Bills

TO PROHIBIT THE FURNISHING OF MAILING LISTS AND OTHER LISTS OF NAMES OR ADDRESSES BY GOVERNMENT AGENCIES TO THE PUBLIC IN CONNECTION WITH THE USE OF THE UNITED STATES MAILS, AND FOR OTHER PURPOSES

JULY 22 AND 23, 1970

Serial No. 91-28

Printed for the use of the  
Committee on Post Office and Civil Service



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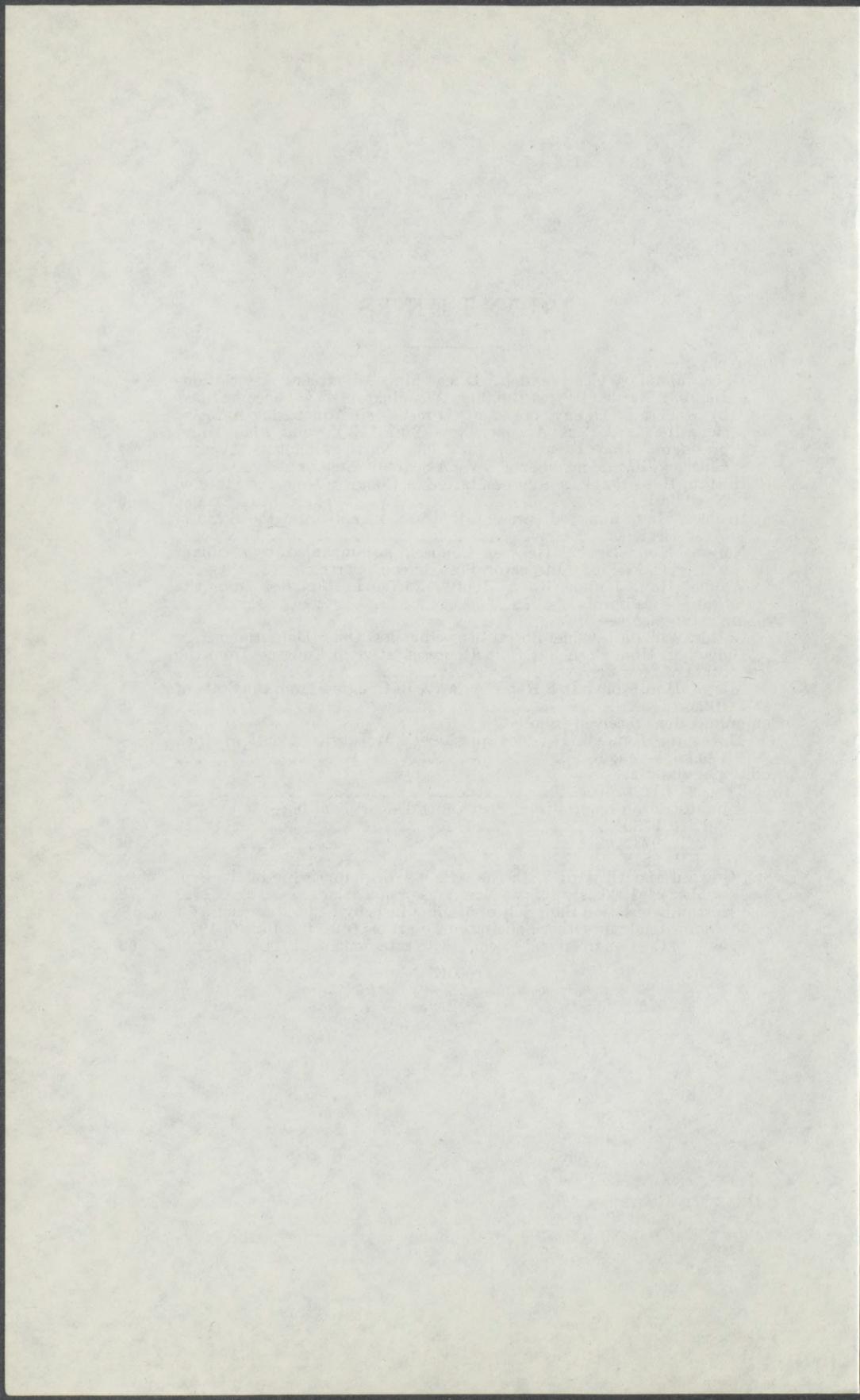
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## CONTENTS

Statement of—	
Daly, John Jay, vice president, Direct Mail Advertising Association, Inc. 921 National Press Building, Washington, D.C., accompanied by Robert F. DeLay, president, Direct Mail Advertising Association, Inc., 230 Park Avenue, New York, N.Y., and Alan Drey, president, Alan Drey Co., Inc., 333 North Michigan Avenue, Chicago, Ill., and member of DMAA board of directors-----	Page 28
Horton, Hon. Frank, a Representative in Congress from the State of New York-----	66
Hechler, Hon. Ken, a Representative in Congress from the State of West Virginia-----	20
Nelson, Hon. David, General Counsel, accompanied by William Cotter, Chief Postal Inspector, Post Office Department-----	7
Waldie, Hon. Jerome R., a Representative in Congress from the State of California-----	18
Prepared statements—	
Cotter, William J., Chief Postal Inspector, Post Office Department----	15
Gallagher, Hon. Cornelius E., a Representative in Congress from the State of New Jersey-----	4
Mikva, Hon. Abner J., a Representative in Congress from the State of Illinois-----	25
Communications received from—	
McIntyre, Randall P., vice president, McIntyre Aviation, Inc., Ronkonkoma, N. Y.-----	35
Additional material—	
Text of H.R. 2730-----	1
Administration reports from Post Office Department on—	
H.R. 2730-----	1
H.R. 923-----	2
H.R. 5818-----	3
“Onward and Upward With the Arts,” article appearing in the September 24, 1966, issue of the New Yorker magazine-----	43
“Horton Legislation Bans Sale of Mailing Lists by Federal Agencies for Commercial and Other Solicitations,” article from the June 9, 1970, issue of the Congressional Record, with attachments-----	69



## MAILING LISTS

WEDNESDAY, JULY 22, 1970

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

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

(The bill, H.R. 2730 and reports from the Post Office Department follow:)

[H.R. 2730, 91st Cong., first sess.]

A BILL To prohibit the furnishing of mailing lists and other lists of names or addresses by Government agencies to the public in connection with the use of the United States mails, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 5 of title 39, United States Code, is amended by adding at the end thereof the following new section:*

**“§ 511. Nondisclosure of mailing and other lists of post office box patrons or other names and addresses to the public**

“Notwithstanding any provision to the contrary in subchapter II of chapter 5 of title 5 or in any other statute, the Postmaster General shall not make available to the public any mailing or other list of post office box patrons, or any other mailing or other list of names or addresses, for any purpose.”

(b) The table of sections of chapter 5 of title 39, United States Code, is amended by adding at the end thereof—

“511. Nondisclosure of mailing and other lists of post office box patrons and other names or addresses to the public.”

Sec. 2. That (a) subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

**“§ 560. Nondisclosure of mailing and other lists of names or addresses to the public**

“Notwithstanding any provision to the contrary in this subchapter or any other statute, an agency shall not make available to the public any mailing or other list of names or addresses for any purpose.”

(b) The table of sections of subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof—

“560. Nondisclosure of mailing and other lists of names or addresses to the public.”

THE GENERAL COUNSEL,  
POST OFFICE DEPARTMENT,  
*Washington, D.C., July 9, 1970.*

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to the request for a report on H.R. 2730, a bill “To prohibit the furnishing of mailing lists and other lists of names or addresses by Government agencies to the public in connection with the use of the United States mails, and for other purposes.”

Section 1 of the bill would enjoin the Postmaster General from making available to the public any mailing or other list of post office box patrons, or any other mailing or other list of names or addresses, for any purpose.

Section 2 of the bill would prohibit any Government agency from making available to the public any mailing or other list of names or addresses for any purpose.

The Post Office Department recommends against the enactment of H.R. 2730 for the following reasons:

(1) Postal regulations (Postal Manual 113.15h) provide that "the names, addresses, and telephone numbers of post office box holders shall not be disclosed except to a recognized law enforcement agency or in compliance with a subpoena or court order issued after the litigant has made a showing of special need." In the circumstances, that part of the bill dealing with post office boxholders is unnecessary.

(2) The other provisions of the bill which would prohibit any Government agency from making available to the public any mailing or other list of names or addresses for any purpose would be ineffective. These provisions do not prohibit public access to most Government records. In the circumstances, mailing list compilers and others can ask to see the agency's files on a particular subject and can draw up their own lists of names, with the consequent disruption of the office.

In the case of the Post Office, there is also a security problem in allowing non-postal employees to enter behind the screen line in order to search postal records, and a space problem in offices, many of which are already inadequate to meet the ever-increasing volume of mail.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program.

Sincerely,

DAVID A. NELSON,  
*General Counsel.*

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THE POSTMASTER GENERAL,  
*Washington, D.C., February 20, 1970.*

HON. THADDEUS J. DULSKI,  
*Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for our views on H.R. 923, a bill to require registration of mailing list brokers, and the furnishing of information with respect to mailing list sales or exchanges.

The purpose of this legislation, we presume, would be to control the indiscriminate mailing of indecent materials by permitting the Post Office Department to inspect the compilation and exchange of mailing lists that provide the market for dealers in pornography. The assumption on which the bill is based is that knowledge of the sales and purchases of mailing lists would furnish a practical method of eliminating pornographic mailings without violating the rights of individual citizens to the privacy of their mail, and without unduly interfering with the rights of legitimate direct mailers.

While we are in accord with what we understand to be the overall objective of this legislation, it is our belief that the proposed measure would not be of material help in enabling us to cope more effectively with mail-order pornography. The slight investigative assistance provided by the passage of this bill, we feel, would not be commensurate with the additional administrative work involved. Though the information-registration requirement might cause some mailing list dealers to be more careful, at first, about furnishing lists to those engaged in questionable promotions, it is our opinion that because of competitive pressures such a curb, if occurring at all, would be only of a temporary nature.

For these reasons we are unable to recommend favorable consideration of the proposed legislation.

The Bureau of the Budget has advised that from the standpoint of the administration's program there is no objection to the submission of this report to the committee.

Sincerely yours,

WINTON M. BLOUNT.

THE POSTMASTER GENERAL,  
Washington, D.C., July 24, 1969.

HON. THADDEUS J. DULSKI,  
Chairman, Committee on Post Office and Civil Service,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This Department has been requested to report on H.R. 5818, a bill to regulate mailing list dealers.

The bill would impose an annual fee of \$1,000 on a person or organization engaged in the business of buying, selling, renting, exchanging, or otherwise trading in lists of names or addresses and would authorize the Postmaster General to regulate the manner of transmission of such lists. The bill would also require the mailing list dealer to furnish to the Postmaster General the name of a party to whom a list has been sent, if the dealer knows or reasonably believes that the list is being used to transmit in the mails offers for sale of obscene literature or devices. The bill would also require the Postmaster General to deny a mailing list dealer the right to transmit mailing lists in the mails for such period of time as the Postmaster General directs, if the dealer knowingly fails (1) to furnish names to the Postmaster General, as required by the act, or (2) continues to make lists available to a party who is using them to transmit obscene literature or devices.

The apparent purpose of the bill is to halt dissemination of mailing lists to those who traffic in obscene literature or devices. While we have no quarrel with the purpose of the bill, we question the effectiveness of the means chosen to accomplish it. Thus, the imposition of a large annual fee of \$1,000 upon all mailing list dealers, the overwhelming majority of whom are legitimate businessmen, would exact a heavy penalty from them, and would drive the smaller ones out of business. Our information indicates also that purveyors of obscene literature or devices do not do extensive business with legitimate mailing list dealers but generally tend to deal with each other or compile their own lists of names from other sources. Therefore, a considerable number of such persons would not appear to be covered by the bill.

In addition, the bill would require the Postmaster General to establish and enforce regulations governing the manner of transmission of mailing lists. Since the majority of such lists are being transmitted in a legitimate manner, this would place an expensive administrative burden upon the Postmaster General far outweighing any practical investigative value to be obtained therefrom.

The bill would also have the effect of imposing upon all mailing list dealers the burden of determining whether or not particular literature or devices advertised and mailed by others are obscene. We believe it inappropriate to require mailing list dealers to make such a determination. Furthermore, as noted above legitimate dealers do not as a rule come in contact commercially with purveyors of obscene literature or devices; thus, the bill would fail to accomplish its purpose.

In view of the foregoing, the Department opposes enactment of this bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report to the committee from the standpoint of the administration's program.

Sincerely,

WINTON M. BLOUNT.

Mr. NIX. The Subcommittee on Postal Operations will be in order.

These hearings will be essentially devoted to the subject of privacy.

The mailing list business has become a great, giant industry which traffics in the names and addresses of almost every American. We are also interested in the continuing threat of mail fraud to the American people.

Frank Coffey, "Action Line" columnist with the Philadelphia Inquirer, has done a great deal to keep my subcommittee aware of the ever-increasing threat of mail fraud to the American consumer.

His work in the Philadelphia area is outstanding, and we will receive a statement from him for introduction into the record of this hearing. He is one of America's outstanding journalists.

Our witnesses today will include several Members of Congress who introduced legislation which will restrict the wholesale invasion of privacy by mailing-list brokers.

Witnesses from the Post Office Department will give us the benefit of their experience in the mailing list problem, as well as the increase in the mail fraud problem.

At this time, without objection, we introduce into the record a statement submitted by the Honorable Cornelius E. Gallagher of New Jersey.

(The statement follows:)

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

I am delighted to have the opportunity to make a statement to the Subcommittee on Postal Operations, as I did when hearings were held on privacy in the mail in July 1968. I am very pleased that Chairman Nix is continuing his creative focus on this important matter.

I want to commend Chairman Nix for scheduling these additional hearings. Quite frankly, many people are talking about privacy, but he is one of the few who is trying to translate what we all feel is essential for ourselves and our families into national policy. This is one of the many reasons why I hold Mr. Robert Nix of Pennsylvania in high regard and great esteem, both as a fellow Member of the House and as a man I am proud to call my friend.

The direct mail industry knows almost everything about each of us, but what do we know about direct mailers and their spearhead, mailing list brokers? I suggest we know far too little about them and I further suggest that they know far too much about all the American people.

I have been vitally interested in computer technology since my Privacy Subcommittee of the Committee on Government Operations held hearings into a proposed national data bank in 1966. During the intervening 4 years, I have frequently spoken of the danger to privacy and to the Bill of Rights presented by the compilation of massive amounts of data in computerized information systems, and the ease with which all safeguards to the individual can be bypassed.

Nothing more clearly illustrates this than a recent event in Chicago which is directly relevant to these hearings. A suit has been filed by Encyclopedia Britannica against three former employees, charging that they copied computer tapes. These tapes contained the names and addresses of 2 million Encyclopedia Britannica customers and were sold to mailing list brokers. One broker, who had received the stolen property, then sold a list containing 800,000 of those names to Curtis Books, Inc., a competitor of Encyclopedia Britannica.

I believe this shocking example typifies the necessity for the Congress of the United States to begin to understand how vulnerable to abuse the computer is, and how its willing tool, the junk mail industry, welcomes and actually encourages such abuse. At least, it has no scruples about buying any collection of names, and the humans to whom those names refer have utterly no control.

I introduced H.R. 15309 on December 17, 1969. This was the first comprehensive bill aimed directly at the names-for-sale industry and I am very pleased to learn that my colleagues, Mr. Mikva and Mr. Hechler, subsequently introduced broadly based bills. While I will not comment upon their bills, it is a source of gratification to me that each of our bills does not focus upon unsolicited pornography in the mail.

This is only fair, Mr. Chairman, for we must realize immediately that the sending of obscenity through the mail is an infinitesimal portion of the activities of this industry. Further, we should realize that in the area of unsolicited mail, one man's junk is another man's joy. What is irritating, boring, or irrelevant to one householder and causes him to reach for the wastebasket, is interesting to another and causes him to reach for his checkbook. Certainly it is not the intention of H.R. 15309 to destroy the very real economic benefits which the industry brings to the American people.

Nor is it an attempt to inhibit the use of direct mail by legitimate nonprofit groups. In many areas, the industry is an aid to worthwhile causes, not excluding the national campaigns of candidates for public office. The general manager of Haines Criss Cross directory has claimed that Robert Kennedy made extensive use of his organization's services in his presidential campaign of 1968, and I am sure there are many other examples.

So we see, Mr. Chairman, that in certain circumstances the industry is a vital part of our social and economic life. The bill introduced on December 17 attempts

to deal with these factors and at the same time, restore privacy to the American home. Let me now discuss H.R. 15309. It has four basic provisions:

1. All mailing list brokers will be required to register with the Postmaster General. This was the provision of Mr. Zablocki's pioneering bill and I think it is an essential first step in beginning to bring Federal policy to bear on the industry. After all, mailing list brokers are the heart of the direct mail business which generates an incredible amount of mail for the Post Office Department.

The dimensions and the social utility of third class, direct mail may be estimated in the following example. Many people have collected the mail which they consider junk and have weighed it at the end of the year. The average is around 33 pounds. Let us assume that just half the households in the Nation are the recipients of this amount. This means that the Post Office is required to carry half a million tons of junk mail each year.

I have been informed that many organizations which employ direct mailing techniques consider their campaigns successful if 2 percent of the recipients respond. This means, Mr. Chairman, that our already overburdened mail system is required to carry 490,000 tons of mail in which it is confidently expected that no one will be interested.

Let me repeat; 490,000 tons, according to these approximations are sent through the mails which nobody expects anybody to care about. A rational sense of priorities suggests that if for no other reason, this makes the direct mail industry a vital source of congressional concern. It should also be noted that this is totally aside from the very real doubts about whether junk mail pays its own way.

Not being expert in Post Office economics, I would not care to hazard a guess on this subject at this time. However, I was rather amused to note that a recent study by the Post Office Department flatly stated that first-class mail pays 185 percent of its cost, airmail pays 133 percent, third-class mail pays 197 percent, and parcel post pays 166 percent. Several legitimate questions are raised. If these cost figures were true, why does the Post Office lose so much money? In response, the accountants who had prepared the study stated that "cost" included only 51 percent of the total cost of running the Federal Postal system.

When faced with mathematical wizardry of that caliber, Mr. Chairman, a mere lawyer and Congressman like myself must respectfully decline to speculate on whether third-class mail is self supporting. I do know, however, that early this year postal carriers in San Francisco threw about 5,300 bundles of junk mail into a nearby garbage truck. This "eliminating the middleman" struck such a responsive chord that a Federal grand jury refused to indict the carriers.

The second provision of H.R. 15309 will provide means for an individual to avoid receiving any unsolicited mass mailing or to receive only those which relate to charitable, nonprofit purposes. This will provide a computerized data bank, which can be readily referenced by modern technology, of individuals who choose to opt out of the system.

I stress that this data bank will be in Federal hands because I noted that on June 15, 1970 the industry itself suggested that it was thinking of maintaining a "dissident data bank" of people who had indicated displeasure with junk mail. Aside from the typically tasteless branding of anyone who is displeased with their product as a "dissident" I would point out an example from a most complete survey of the industry in the New Yorker magazine of April 1966. A similar data bank with an even more vindictive title—a "sorehead" list—was being maintained by the industry and names on it were considered prime prospects for bomb shelters, burglar alarms, and animal repellants.

The third basic provision of H.R. 15309 will be to provide an enforceable way for an individual to direct his name to be removed from a particular mailing list. I based this provision on the antipornography law which has recently passed constitutional muster in the Supreme Court decision in the *Rowan* case. My bill, however, does not require the individual to find the mailing obscene and, while some have read Chief Justice Burger's masterly exposition of privacy as meaning that any mail, not just that considered pornographic, could be rejected by the householder, I believe it would be useful to have it spelled out in legislation.

Incidentally, Mr. Chairman, I would strongly recommend that Chief Justice Burger's opinion be included in the body of these hearings. Not only is it of great relevance to the subject under discussion, not only is it remarkably well thought-out and superbly written, but, most important, it reaffirms the validity of privacy and expands the concept.

In my judgment, Mr. Chairman, the most important provision in my December 17, 1969, bill is to require each and every piece of unsolicited mail to contain identifying information clearly specifying where the sender has obtained the name

of the recipient. To the best of my knowledge, this provision was original when I proposed the bill and it is the provision stimulated by my interest in repelling the privacy invaders and affirming personal integrity. I regard this novel thought as timely for several reasons.

First, let me suggest what I am sure will be regarded as an anachronism. It would be a graceful and decent step for the industry to take; it would be polite and would be a demonstration of good manners. It would be civilized to announce to the recipient how he was chosen; it would confirm his dignity. It might—and here I offer revolutionary social thinking—assist in creating a climate of respect which would put the recipient in a frame of mind which would make it more likely for him to respond.

Coupled with other provisions in my bill, it would make junk mail more effective by allowing the individual to be able to answer what are now powerless cries of rage and frustration: "How did they get my name?" and "How can I get off that list?"

Second, this will return some sense of personal control to the individual. If he knows who was responsible for selling his name and can take effective action in expressing his possible disgust, I would contend that he will feel more like a citizen and less like a cipher in somebody's moneymaking computer.

Third, and perhaps most important, this provision will demonstrate conclusively to the American people the vast subculture of those who shuffle among themselves intimate facts about the individual. Every serious student of privacy has defined a vital part of the concept as being a measure of control over the spread of information about yourself. By showing just how illusory such control is in the age of the computer, it might be possible to create a constituency for privacy by bringing home to the individual just how freely information is exchanged.

Although I am not sanguine, Mr. Chairman, about the possibilities for the passage of H.R. 15309 or for the preservation of the Bill of Rights for our children, I have believed for the past 6 years that it is absolutely essential to make the effort. As the case in Chicago which I mentioned at the beginning of my remarks so graphically illustrates, the computer puts a "wild-card", virtually a cancer cell, into every record repository. And malignant forces within the names-for-sale industry specifically focus on spreading that information from computer to computer, into the bloodstream of our society, and eventually into every American home.

Many examples of the practices of the direct mail industry have come to my attention. Let me briefly list a few.

1. A man learned his wife was pregnant when a solicitation for a diaper service arrived at his home. The laboratory which conducted the pregnancy test had sold his wife's name to the diaper service.

2. Alan Ginzberg bought the American Medical Association's membership list and used it to solicit subscribers for his magazine EROS. Courts later found that advertising to be pandering and obscene. If my provision about identifying the source of each mailing had been in effect at that time, it would have forced the AMA to investigate to whom they were selling their lists. Nothing in current law prevents perpetuating and repeating the absurdity of the AMA guiding obscenity into the homes of doctors.

3. In 1966, the New York Times reported that subscribers to a computerized dating service had their names and addresses sold to mailers of pornography.

4. The Federal Trade Commission has charged that a questionnaire distributed by Metromedia, Inc. was merely a cover to gain a more sophisticated mailing list.

5. It has been charged that hotel employees in New York are bribed to give the seating lists at large dinners to direct mailers who then prepare such lists as "Major Contributors to Large Jewish Charities." This is done to circumvent the refusal of some organizations to give out their membership lists.

6. Junk mailers make massive use of census tract information—provided by the citizen under penalty of law, let me add. In addition, the Internal Revenue Service will offer "statistical" information on average income in ZIP code classifications around the country.

7. A privately owned firm in Washington, D.C., specializes in providing computer tapes with a detailed personal description of over 3,000,000 Federal employees.

8. Bill-paying habits in the computers of retail stores and credit bureaus are used to create what I would call tailor made junk mail. This reflection of past purchases of an individual is used to trigger a personalized letter.

In conjunction with vehicle registration lists, census tract information, ZIP code income profiles, credit data in retail stores and credit bureaus, it is now a

widespread direct mail stratagem to create a sophisticated profile of the individual and to deluge him with letters containing little personal touches.

During the hearings conducted into credit bureaus in 1968 by my Privacy Subcommittee, Dr. Alan Westin recounted how Readers Digest had conducted such a campaign with computer generated letters. He recalled that the executives at Readers Digest were a little worried at the amount of power this technology gave to them. A major worry of mine about the computer's impact on the future of American freedom is that we just do not know whether other executives in private or Federal organizations will show a similar concern.

This is the basic reason why I regard these hearings to be so essential. A man's name may very well be his most sacred and personal possession and it certainly is the peg upon which is hung thousands of intimate details of a person's life. So if we can move promptly to protect a person's name from totally indiscriminate barter among profit-seeking strangers, we may, hopefully, protect his privacy at the same time.

How does this relate to H.R. 15309?

I believe that the novel provision in my bill which insists that the ultimate source of the individual's name be a part of every single piece of direct mail will begin to disclose to the American people the pervasiveness of the subterranean subculture whose sole reason for existence is dealing in dossiers. When that is done, and only when that is done, will we be able to show how little control the citizen has over the sub rosa scurry of data about himself.

It may then be possible to expand the constituency for privacy and have Federal policy begin to take the strong and necessary actions to preserve the sanity of human values.

In conclusion, Mr. Chairman, I want to ask a very simple question. It is a question which we must begin to ask as our society moves into the blinding light of the Age of Aquarius which will become the Age of Aquariums, in which every action and every record is a fishbowl. It is a question which must be asked as we enter the twilight of the 20th century, in which every human sanctuary faces sophisticated technological incursion.

My question is: Once we cannot call our name our own, what do we have left?

The direct mail industry feeds and prospers on profitably manipulating names. Its executives thrust and probe into every record in the Nation to produce more personalized letters. Its computers chew, digest, and disseminate millions of intimate facts about each American.

None of us can now call our name our own. It is my hope that these hearings will produce legislation which will, at the very least, permit us to know slightly those who know us so well. Perhaps then we can take action to once again be able to call our name our own.

Perhaps then we can recapture the only thing which really separates vigorous free men from those who are passive pawns in a closed society. For just as direct mailers are the spearhead of invasion of privacy, let us make legislation controlling them the spearhead of recapturing privacy.

Mr. NIX. As our first witness, I am pleased to welcome the Honorable David Nelson, General Counsel of the Post Office Department. It is a pleasure to have you here.

#### STATEMENT OF HON. DAVID NELSON, GENERAL COUNSEL, POST OFFICE DEPARTMENT

Mr. NELSON. It's a pleasure to be here, Mr. Chairman. I appreciate this opportunity to appear before the subcommittee to discuss mailing lists, their compilation, transfer and possible control, and to comment upon the 1968 amendment to 39 United States Code, section 4005, which helps my office provide a greater measure of protection to the American consumer from mail containing materially false advertising.

Recent years have seen a very substantial increase in the direct marketing of goods and services through the mails, and in the use of direct mail advertising. While this increased mailing activity affects both of the matters which I wish to discuss this morning, it has given

rise to especially great concern over the preparation and use of mailing lists.

The use of these lists, containing tens or hundreds of thousands of names and addresses, is of course vitally important to reaching a mass market by direct mail advertising.

A thriving business has grown up involving simply the compilation and distribution of mailing lists. The sources from which names can be obtained and the techniques employed in compiling lists are almost endless.

Common sources include the telephone directories and city directories, the subscription lists of magazines, and the lists of former subscribers to magazines, membership lists of organizations, lists of contributors to charities and customer lists of credit card and other business firms.

It is well known that some States sell motor vehicle registration lists. Indeed it appears that anywhere two or three names can be found together, someone will emerge to put those names on a mailing list.

Lists may be sold or may be exchanged between mail users, but a very common practice is the renting of a list. Under this practice, the owner of a list does the actual mailing of the advertisements of another firm, charging a fee for the use of his list. The amount of the fee is based on the number of names on the list, and may vary from \$1 to \$35 a thousand names, or even more.

The value of the list will depend on the extent to which the particular people on the list are likely to respond favorably to the particular advertiser's material. Accordingly, list compilers, try to develop specialized lists of people whose background or interests suggest they may be more receptive than the average person to the message the advertiser is paying to distribute.

Such specialized lists may be made up, for example, of business executives, veterans discharged from the service after a specific date, parents of newborn babies.

Trade magazines contain advertisements such as—"you can communicate directly with 327,000 junior and senior high school teachers of science, math, and social science."

The combinations and permutations that are possible are almost endless.

There is something distasteful to many people in a commercial traffic in the names and addresses of individuals. Objection is frequently voiced to the mass mailing of unsolicited advertisements which the use of mailing lists facilitates, and in relation to pandering advertisements, the Supreme Court, as the subcommittee knows, has recently invoked the right of privacy in sustaining the constitutionality of section 4009 of title 39 of the United States Code, which permits the individual to close his mailbox to unsolicited advertisements for material which the addressee considers erotically arousing or sexually provocative.

In response to the general objections that many people have to such use of mailing lists, several bills on the subject have been introduced in the 91st Congress, notably by Congressman Waldie of the Committee on Post Office and Civil Service, as well as by other Members of the House.

In general, these bills have tended to embody one of two approaches to the question of the attitude which the Government should take toward mailing lists. One group of proposals would prohibit Federal agencies from furnishing names and addresses for use as mailing lists. The second group of proposals, on the other hand, would give the Post Office Department a more active role in regulating or policing the use of mailing lists.

Taking the first approach, Congressman Waldie's bill, H.R. 2730, would prohibit the furnishing of mailing lists or other lists of names and addresses by Government agencies to the public. Section 1 of the bill would specifically prohibit the Postmaster General from making available lists of post office box patrons or of other persons. Section 2 would impose a general prohibition applicable to all Government agencies.

Although we agree with the bill's general purpose, the Department has recommended against enactment of the bill on two grounds. First, since postal regulations now prohibit the disclosure of the names, addresses, or telephone numbers of post office boxholders, except to a recognized law enforcement agency or in compliance with a subpoena or court order, we do not believe that additional legislation for that particular purpose is necessary.

I might also mention that other postal regulations—section 123.5 of title 39 of the Code of Federal Regulations—forbids generally the compiling of mailing lists of postal patrons by postal employees.

Second, the bill would not necessarily accomplish its purpose of preventing Government records from being used as a source of commercial mailing lists, and could not do so without severely curtailing public access to the records which contain the names and addresses of individuals. Even though agencies would not be required or indeed permitted to make names available in list form, it would seem difficult to interpret the language of H.R. 2730 to forbid the disclosure of records from which such lists could be derived.

In addition to Congressman Waldie's bill, there were introduced, during the first session, H.R. 923, by Congressman Zablocki and H.R. 5818 by Congressman Gubser. In the second session of the 91st Congress, H.R. 16668 was introduced by Congressman Mikva, and H.R. 17977 by Mr. Horton, for himself and on behalf of other Congressmen, including Congressman Gallagher.

The Postmaster General has submitted reports in connection with three of these bills. With respect to H.R. 16668 and 17977, the Department has not yet submitted reports. I should like, if I may, to summarize briefly those reports that were submitted.

H.R. 923 is a bill which would require the registration of mailing list brokers and upon request by the Postmaster General, the furnishing of information concerning sales or exchanges of mailing lists.

Although this bill seems to be intended to aid in controlling the indiscriminate mailing of indecent material, we do not frankly believe that it would be of much help to us in coping with this traffic. In our judgment, the additional administrative burden which it would entail would far outweigh the slight investigative assistance it would provide. Accordingly, the Department has recommended against enactment of H.R. 923.

H.R. 5818 would impose an annual fee of \$1,000 on each person or organization engaged in the business of dealing in lists of names

or addresses, and would authorize the Postmaster General to regulate the manner in which such lists could be transmitted through the mails.

Further, H.R. 5818 would require that any mailing list dealer furnish the Postmaster General with the name of anyone to whom he has sent through the mail a mailing list, if he reasonably believes that the list is being used in turn to transmit in the mails offers for the sale of obscene literature or devices. The Postmaster General could deny a dealer the right to use the mails for the transmission of lists for a period of time to be determined by the Postmaster General, if the dealer either failed to furnish names to the Postmaster General as required, or continued to make lists available to a party for these objectionable purposes.

We are in complete agreement with the general purpose of this bill, that is, to inhibit the traffic in obscene material. But again, we must question the effectiveness of H.R. 5818 in achieving this purpose.

Certainly the payment of a large annual fee by all mailing list dealers would exact a penalty from the overwhelming majority of legitimate businessmen who deal in mailing lists. It might drive some of them out of business.

But our experience indicates that the purveyors of obscene literature or devices are able to deal with each other directly, rather than through the mail, and to compile their own lists of names, rather than to obtain lists from legitimate dealers.

Hence, a considerable number of these under-the-counter dealers would appear not to be inhibited particularly by the terms of this bill.

The power to adopt regulations covering the manner of mailing mailing lists would, we believe, be of little or no practical value to the Department from an investigatory standpoint.

A very fundamental problem if the bill were enacted would be that of imposing on all mailing list dealers the burden of determining whether any particular literature or device advertised and mailed by others is obscene. This subcommittee is well aware of the great divergence of judicial opinion concerning obscenity. If even judges have difficulty in agreeing as to what is obscene, we believe that the bill would probably impose unreasonable burdens on mailing list dealers.

H.R. 16669 is broadly addressed to the entire problem of unsolicited direct mail advertising, and most of its provisions deal with advertisements sent through the mails, rather than with mailing lists as such.

Section 3 of the bill, however, would prohibit the sale, by any person, not simply by the Government, of any list of names intended for use in mailing commercial advertisements unless the persons included in the list had consented to this use of their names.

Sanctions for violations of this provision would include the civil penalty of \$1,000 for each name used in violation of the prohibition. Since the Department has not completed its evaluation of this proposed legislation, it would be inappropriate for me to express any views on it.

H.R. 17977 proposes an amendment to the Freedom of Information Act to provide that no agency may make available for use in commercial advertising any list of names and addresses of persons in various categories—employees or former employees of that agency, persons listed by the agency, persons registered or required to file information with the agency, or members or former members of the Armed Forces.

A person who was authorized to obtain a list could not make it available to any other person. Likewise, a person who received a list in violation of the prohibition could not lawfully use the list for purposes of commercial solicitation or for any purpose unlawful under State or Federal law.

Criminal sanctions would be provided for violation of these prohibitions. As I previously stated, the Department has not yet made a report on this bill to the Committee on Government Operations of the House, and it would be inappropriate for me to comment on it.

The Department has for many years, as the subcommittee knows, provided an address correction service to mailers, which is, of course, something entirely different from the furnishing of mailing lists, although it is available to mailers using commercial mailing lists as well as to other mail users.

Prior to 1967, this service was available to users of all classes of mail except first class. In that year, the service was extended to first class.

This service has been the subject of a recent study by the Comptroller General of the United States, and his findings were transmitted to both the President of the Senate, and the Speaker of the House of Representatives in his letter, 8114874; copies of the report were also furnished to the Director of the Bureau of the Budget and to the Postmaster General.

The Comptroller General's study and report did not deal with any subject other than the cost of providing this service and the fees charged for it. His conclusion was that the fees do not cover all costs involved. The Department is conducting its own study of the costs of this service, and I am informed that the results of this study will be available in the month of August.

In addition, the Department's Bureau of Planning and Marketing is conducting a comprehensive review of the address correction service. When these studies are completed, we expect to make any appropriate changes in the fees charged for address corrections.

Let me turn now if I may to the postal false representation law, as amended, which is the successor to the postal civil fraud statute, 39 U.S.C. 4005.

In 1968, Congress amended the postal civil fraud statute to relieve the Department of the difficult burden of proving intent to deceive in administrative proceedings brought against dealers promoting mail order sales by means of false representations.

We have had nearly 2 years experience under this amended law. During this time, handling the types of cases we had handled under the prior language, we have seen a dramatic increase in the number of cases which have been settled by means of compromise agreements, which permit voluntary compliance with the law.

Under this procedure, a precitation letter is generally sent to an advertiser, specifying the claims which we consider to be false. The advertiser is afforded an opportunity to enter into an agreement by the terms of which he agrees to discontinue the objectionable advertising claims, and to return remittances which he received in response to advertisements containing these claims.

Of course, if the advertiser declines to enter into such an agreement, which he is perfectly free to do, we would normally file a formal administrative complaint and the matter is set down for hearing before a departmental hearing examiner.

Occasionally, cases arise where large numbers of consumers stand to lose their money in a fly-by-night scheme, or are exposed to serious physical danger from a dangerous drug or device. In such cases, the ordinary administrative process under section 4005 cannot afford adequate protection to the consumer. The Postmaster General has no summary authority to detain a violator's incoming mail. In the extraordinary case, and only after a proper showing, a U.S. district court, pursuant to 39 U.S.C. 4007, may enter a temporary restraining order and preliminary injunction, detaining a defendant's incoming mail.

This procedure is available of course only in instances in which an administrative proceeding, pursuant to section 4005 or 4006, is pending or in preparation.

The statute has been invoked two times in false representations during the past 2 years. One case, the matter of Deluxe Vacation, involved a scheme in which thousands of persons who were led to believe they had won a free prize vacation, and were induced to send in \$25 as a returnable deposit. Quick action by the Department under section 4007 prevented the public from being cheated out of several hundred thousand dollars.

In the other case, involving Clifton Patterson, doing business as a classified directory, the mailer sent out solicitations contrived to look like invoices. As in the Vacation case, prompt action by the Department prevented thousands of innocent people from being cheated.

As you know, section 4007 allows for detention of the respondent's mail only until completion of the administrative proceeding when either a permanent order is issued or the complaint is dismissed.

We emphasize that we have utilized section 4007 only sparingly, and have not engaged in wholesale activities under this statute.

The only objections which have come to our attention regarding the amended section 4005 have been voiced by persons critical of our actions involving the promoters of certain so-called health books.

Frequently these critics ignore the representations made by these promoters in their advertising material. Our activity in this area has sometimes given rise to the charge that the Department is banning and censoring such publications. This charge is completely without foundation. The statute is directed toward false advertising claims and not to the publication or the product itself. We have no choice but to treat the promotional matter for health publications in the same manner as advertising copy for any other article or merchandise.

In these cases, as in others, if the advertiser is seeking remittances in the mails by means of materially false representations, we are bound under section 4005 to act. The Department does not have authority to bar the distribution of any book under this law, nor do we seek such authority.

The 1968 amendment did nothing more than eliminate the necessity for proving intent to deceive in false representation cases. As far as the consumer is concerned, there is no difference between reliance upon a false representation seeking remittance, and reliance upon a false representation seeking remittance but made with actual intent to deceive.

In both instances the consumer is induced to part with his money on the basis of false information. The Department's action in regard to the promotional copy for health books is no different now than it was before section 4005 was amended.

Although the number of false representation cases handled by the Office of the General Counsel has increased somewhat, but not dramatically, no order issued under section 4005 as amended has yet been challenged in the courts. Prior to the amendment, from three to five cases went to court each year, and many of the successful suits were instituted on the question of intent. We believe that the removal of intent to deceive as an element of the offense has been an important contributing factor in reducing the level of this litigation.

During the past 2 years, approximately 88 percent of the cases processed by this office have been settled without the necessity of filing a formal complaint.

By way of contrast, during the 3 years prior to the amendment of section 4005, an average of only 58 percent of the cases could be settled in this manner; 42 percent required the initiation of a formal docketed proceeding.

Since the types of cases handled are all essentially the same, we have concluded that the amended law has made settlement easier to obtain since, as indicated, intent to deceive is no longer an element which must be proved.

We think this increase in the number of voluntary settlements benefits all of the parties concerned. The consumer, since he is sooner protected from false advertising claims; the advertiser, since a more rapid resolution of the dispute permits him to continue his proper activities with less uncertainty and expense; and finally, the Government, through my office, which is able to protect the consumer more promptly and with less expense to the taxpayer.

We are grateful to you, Mr. Chairman, for your assistance in obtaining the passage of the 1968 amendment. We think that it has worked well, and will continue to serve the public interest.

That completes my prepared statement. I will be happy to attempt to respond to any questions the subcommittee may have, and in the alternative, Mr. Cotter, the Chief Postal Inspector, does have a prepared statement on the matter he was asked to discuss, and perhaps if the chairman wishes, Mr. Cotter's statement should be placed in the record before we respond to questions.

Mr. NIX. Thank you very much, Mr. Nelson. I would like to ask, when do you think your report on the legislation would be available?

Mr. NELSON. I anticipate that it should be available within a matter of weeks. We have been making an effort to better our performance in responding to the requests of the committees for reports.

Mr. NIX. Without objection, those reports will be entered into the record when received.

Mr. White?

Mr. WHITE. Thank you, Mr. Chairman.

Mr. Nelson, what is your definition of public, as used in this bill? What would you think public would mean? And I will ask this further—would that include a State, or the agencies of a State—not the United States, but of a State—that represents the public?

Mr. NELSON. Congressman White, are we talking about the Waldie bill?

Mr. WHITE. Yes; the Waldie bill.

Mr. NELSON. I have examined the bill hurriedly, Congressman White, and I do not find a statutory definition of the term, "the public." I think that an argument could be made on both sides of

the question, and in all candor, I am not sure what the outcome of that argument would be.

My offhand impression is that perhaps the stronger case is that a State or agency of Government would not come within the description of the public, but I am not certain.

Mr. WHITE. But you can see—

Mr. NELSON. There is an ambiguity there.

Mr. WHITE. You don't feel we should restrict State governments in the exercise of police powers in getting information?

Mr. NELSON. Indeed, I do not. Of course the Post Office Department historically has made every effort to cooperate fully with State and local governments in matters of concern to them.

Mr. WHITE. Do you think it would be a proper function if a veterans organization in a community obtained a list of veterans from the Veterans' Administration? Do you see anything wrong with that?

Mr. NELSON. Again, I am commenting on the matters that aren't strictly within the province of the Post Office Department as such, but as an individual, I think that a strong case could be made that the public does have a right to know what the public records contain, and the veterans' organizations certainly do have a legitimate interest in communicating with those who share the concerns that the organizations have.

Mr. WHITE. What about the Hudspeth Directory? Do the publishers obtain verification of the contents of their book from the Post Office Department?

Mr. NELSON. What directory?

Mr. WHITE. The Hudspeth Directory. It's used in many States—I thought it was used universally—in which individuals living in a community are listed by address, by their occupation, and then in the back, normally the addresses are by streets.

Mr. NELSON. A city directory?

Mr. WHITE. Yes.

Mr. NELSON. I am not personally familiar with the practices of that company. Perhaps I could furnish it for the record.

Mr. WHITE. Do any of these directory companies verify with the Post Office Department?

Mr. NELSON. Not to my knowledge, but again, I would have to check and perhaps furnish the information.

Mr. WHITE. Would you see any objection to a city directory checking their listing of addresses with the Post Office Department?

Mr. NELSON. I would see a real advantage in the Post Office Department assisting those who use the facilities of the Post Office Department in getting the addresses right. This is very important to us, because improperly addressed, misaddressed mailing pieces do cost the Department money, and we definitely want to cut down the incidence of improperly addressed mail.

Mr. WHITE. Of course when they publish city directories, those addresses can be used for further mailing by recipients, subscribers to the booklet.

Mr. NELSON. Indeed they can.

Mr. WHITE. Now, considering those questions as background, would you have any objection to a bill worded in this fashion, saying, as a prohibition, a person or individual or company cannot advertise for sale any lists or portions thereof obtained from a Government

agency? Would you see any objection from the standpoint of the Post Office Department to prohibiting advertising of such lists?

Mr. NELSON. I can see no direct operating effect as far as the Post Office Department is concerned.

Mr. WHITE. That is, advertising for remailing. I think you would have to make that distinction, because of course the city directories would have to advertise for sale of their book, and various other fraternal organizations and such would advertise lists of their members, which is a mailing list in itself.

Mr. NELSON. This question may come more within the province of the Bureau of Marketing and Planning, which exists to deal with this type of question. Of course, my office does not.

Mr. WHITE. What do you think about this type of language "that they cannot use any list obtained from a Government agency if for the express purpose of using this for a mailing list, in whole or in part."

Mr. NELSON. Well, perhaps I shouldn't respond without seeing the actual words on paper, but again, my offhand impression is that from an operational stand point, this might not have any major impact on the Post Office Department.

Mr. WHITE. All right, suppose we go further and say, no company or individual can sell to a third person if the obvious purpose is to use this list for mailing purposes, if obtained from a U.S. Government agency.

Mr. NELSON. If I understand the proposition, again, barring facts of which I may well be unaware, I see no direct operational effect on the Post Office Department.

Mr. WHITE. Thank you very much.

Mr. NIX. Mr. Cotter, you have a prepared statement. That will be submitted for the record at this time. I suppose you are available for any questions that may be put to you?

Mr. COTTER. Yes, Mr. Chairman.

Mr. NIX. Mr. White?

Mr. WHITE. I have no further questions.

Mr. NIX. Your statement of course, Mr. Cotter, is supplemental to the statement already made by the General Counsel, Mr. Nelson.

(The statement of Mr. Cotter follows:)

STATEMENT OF WILLIAM J. COTTER, CHIEF POSTAL INSPECTOR, POST OFFICE DEPARTMENT

Mr. Chairman and members of the subcommittee, you have indicated an interest in the subject of mailing lists generally and the efficacy of the statutes by which the Post Office Department protects the public from fraud and false representation.

Mr. Nelson has addressed himself to the subject of mailing lists and I will direct my principal remarks to the status of our investigative-enforcement program with respect to fraud and false representations in the postal context.

Congress has provided the Department with two statutory weapons with which to protect the consumer, as well as the business community, from loss on the basis of fraud and falsity accomplished through the operation of our postal service.

The first, both in terms of date of enactment and breadth of coverage, is the criminal mail fraud statute, section 1341, title 18, United States Code. It has been publicly characterized by Attorneys General, judges of the U.S. courts, and by numerous U.S. attorneys as the most versatile and effective Federal law ever devised to protect the public from fraudulent exploitation.

Enacted in 1872 to protect the public in the 19th century from snake-oil salesmen, gold-brick peddlers, and the like, it is no less effective a hundred years later, in 1970, to combat such highly sophisticated and complex modern schemes as sales referral schemes, advance fee swindles, and home improvement frauds.

The scope of statutes is sufficiently broad as to be adaptable for use against all conceivable schemes. Two elements of proof are required—(1) the intentional devising of a scheme to defraud and (2) the using of the mails in furtherance of the scheme. Consequently, it matters not what type of scheme is involved so long as it is deliberately designed to defraud and the mails are used in its furtherance. For example, in our automatic data processing reporting system there are 68 separate categories of mail fraud schemes listed and the statute is regularly applied against all of them. Another important feature is the fact that the statute can be employed against violators anywhere in the United States where the mails are used. Swindlers cannot circumvent its provisions by operating from out-of-state sanctuaries or by fleeing local jurisdictions. Prosecution may be brought in the district where the mail was deposited or where it was delivered.

Better business bureaus, chambers of commerce, consumer organizations, and various regulatory agencies have repeatedly pointed out that debt consolidation home improvement, and sales referral schemes are among those that pose the biggest problem in the area of consumer protection today. I would like to point out a few examples of how the mail fraud statute has been effectively employed by the Inspection Service against these operations. Prosecution of a typical debt consolidation scheme was concluded on March 11, 1970, in the U.S. District Court at Detroit. In this case financially distressed persons desperately in need of funds were induced to make payments to Credit Advisors, Inc., which in turn would allegedly disburse the funds to creditors. Most of the funds went into the pockets of the promoter. Estimated loss to the public in the Detroit area alone was \$1,900,000 and as the promoter had 56 offices nationwide, the total public loss is estimated at \$15 million. The promoter was sentenced to 2 years in prison and fines totalling \$76,500 were assessed. Our enforcement efforts against this type of scheme during the past 4 years have resulted in 53 convictions and have caused the discontinuance of 180 questionable similar operations with resultant savings to the public of many millions of dollars.

In April of this year, two defendants pleaded guilty to charges of mail fraud in a home improvement operation based at nearby Silver Spring, Md. These promoters frightened homeowners into believing their property was scheduled for condemnation unless repairs were made. None of the work was needed and much was never completed. The jobs, even had they been necessary and performed, were grossly overpriced and contracts usually included a debt consolidation program which left victims with large liens on their property. During the period of this operation, the company grossed \$1,419,000. Twelve persons have been convicted during the past 4 years in our enforcement program against this type of fraudulent scheme and 64 questionable promotions have been discontinued as a result of our investigations.

Two officers and two salesmen of a Danville, Va., firm recently pleaded guilty and were sentenced incident to their sale of central vacuum cleaner systems under a chain referral selling plan. The defendants induced prospects to purchase central vacuum cleaning systems at exorbitant prices, assuring them that they would receive sufficient bonus commissions to fully pay for their purchase. If the plan had worked according to the sales pitch, all possible prospects in the State of Virginia would have been exhausted within five referral steps. This selling method has been used to market burglar alarms, intercommunication systems, color television sets, and a variety of appliances at highly inflated prices. In some instances, salesmen have induced buyers to sign papers resulting in second mortgages being placed on their homes when the merchandise was required to be permanently installed in a house. We have conducted 362 investigations of chain referral selling schemes since 1964, resulting in 56 convictions. Currently, we have 56 investigations of this type underway with 17 persons awaiting trial.

For many years the statute has been used to prosecute swindlers who employ schemes to loot insurance companies of assets. Likewise, it has been employed against other swindlers whose scheme was to defraud banks by using worthless securities to collateralize loans. Recently, we have found the two schemes joined in a composite one designed to loot insurance companies and defraud banks in one single operation. Such a scheme concluded on June 22, 1970, at New York, N. Y., when an insurance company president and three confidence swindlers were convicted of mail fraud. The insurance company president had been issuing single premium paidup life insurance policies to confederates in exchange for worthless stock. The policies were then used as collateral for loans from banks.

Banks suffered losses in excess of one-half million dollars and the insurance company assets were impaired to the point where the company is now in receivership. The promoters felt they could obscure the scheme through a series of confusing financial transactions. They were not successful. We have several other such promotions under investigation.

The Postal Inspection Service is contributing to the Federal enforcement effort to combat and control organized crime. As you may know, postal inspectors are now participating in nine joint strike forces in major cities where organized criminal groups are thought to be most deeply entrenched. Eleven postal inspectors have been assigned to collaborate directly with these strike forces and many of our other inspectors are investigating so-called spin off cases emerging from the intelligence developed by these groups. The mail fraud statute has proved to be one of the most effective weapons in these joint efforts directed against organized crime and criminals. Currently, there are 52 cases under investigation in various categories of mail fraud in which organized crime elements are suspected to be active. In the recent past, important arrests, prosecutions, and convictions have been obtained. For example, credit card investigations at Chicago culminated in 30 persons, including identified members of an organized crime group and merchants and tradesmen whom they corrupted, being indicted, arrested, and most have already pleaded guilty or have been found guilty of mail fraud and conspiracy. In New York, the son of one of the most powerful criminal leaders was sentenced to serve 4 years in prison; one of the biggest bookmakers in the country has been indicted; and the former manager of prominent entertainers was convicted, all for credit card violations of the mail fraud statute. In Providence, R.I., as well as in New York, notorious gangsters were convicted of bankruptcy frauds, known also as scams or bust-outs. In several major cities, indictments and convictions have been obtained of known criminals who have operated the advance fee racket in which commissions are demanded in advance for loans which are not consummated.

In the final analysis, the effectiveness of any statute can best be judged in the light of the results obtained. A total of 1,163 fraud arrests were made in fiscal year 1970, which represents the highest in the history of the Postal Inspection Services and an increase of 9.6 percent over the previous year. Another new high was reached in the last fiscal year when convictions for mail fraud totalled 910, an increase of 18.6 percent over the previous high. There were 10,012 questionable promotions terminated, and a total of \$6,438,786 recovered. This amount more than doubled the total cost of our fraud investigative program.

I feel that the mail fraud statute has stood the test of time and despite the best efforts of swindlers to circumvent its provision, it is as effective today against all types of schemes as it was when enacted by Congress 100 years ago. I cannot, therefore, perceive any need for changes of any of its provisions except with respect to its penalties. The present statute provides for a maximum prison sentence of 5 years which we feel is adequate; however, a maximum fine of only \$1,000 is provided for each violation. The fine portion of the statute has not been altered since 1909 and is completely unrealistic considering the huge amounts being filched from the public by present day operators. I would suggest that the present state of affluence which the public is enjoying begets more swindlers who defraud more persons of larger sums of money and dictates the clear need for a fine of at least \$10,000 for each violation. This larger fine would permit courts to hand down sentences which would hit the swindler in his pocket and help to insure that the sums fleeced would not be waiting for the promoter after his sentence had been served. Fines of \$10,000 are commonly found in statutes of a similar nature.

Mr. Nelson has commented on the efficacy of the civil or false representation statute, section 4005, title 39, United States Code. As you know, questionable promotions which appear to lend themselves to action under this statute are investigated by inspectors with the evidence then submitted to the General Counsel for consideration. Some 170 such cases were presented this past fiscal year.

Mr. NIX. I want to express the subcommittee's appreciation for the presence of both of you, and thank you for the contribution you have made and you are making to the subject matter under discussion.

Mr. COTTER. Thank you, Mr. Chairman.

Mr. NELSON. Thank you, Mr. Chairman.

Mr. NIX. Our next witness is one of our distinguished colleagues, a member of the full Committee on Post Office and Civil Service, who has introduced legislation on this subject—the bill under discussion,

H. R. 2730. It's a pleasure to welcome you, my colleague and friend, the Honorable Jerome R. Waldie, Member of Congress from California.

**STATEMENT OF HON. JEROME R. WALDIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. WALDIE. My statement will be brief, Mr. Chairman. It is not a prepared statement. It essentially is this.

I think the time has come and probably is long passed when we ought to start paying attention to some of the things we are doing inadvertently to the citizens of this country by governmental activity. And one of many abuses we are causing them, and perhaps advertently in this instance, is we are permitting them to be harassed by the necessity that they frequently have either under compulsion or under voluntary submission of dealing with the Federal Government.

In every aspect of their life, they deal with the Federal Government, and they do it in many instances not of their own volition; in some instances, yes; but in every instance, they are dealing solely with the Federal Government, and by reason of that transaction, they find they are dealing with other parties, they are dealing with, in the most common instance, people who are attempting to sell them goods and services that were not contemplated by them when they entered into the transaction with the Government. Neither should it have been contemplated, either by them or the Government.

The Freedom of Information Act, in my view, did not intend to have within its scope and purview the disclosure of all the names and addresses on file with the Federal Government for all the purposes for which people deal with the Federal Government. This bill would simply say that we have gone too far, we have not protected the people in the right to deal with the Government as a sole transaction between the citizen and his Government, and that we ought to exclude others who seek to take advantage of that transaction.

This bill will prevent those who are taking advantage in a compelling and abusive way of that private transaction between the citizen and his Government, and I think it ought to be passed. I have nothing further to say, but I am pleased to respond to any questions.

Mr. NIX. Mr. Waldie, I want to make the observation that I am in full accord with the statement made by you, and I certainly will support the legislation that you have offered.

Mr. WALDIE. I appreciate that.

Mr. NIX. I compliment you on the interest you displayed in the subject, and the effort you put forth to do something about it.

Mr. WALDIE. I appreciate that, Mr. Chairman.

Mr. NIX. Mr. White?

Mr. WHITE. Mr. Waldie, I think you are going down the highway; I am not sure that you are in the right lane and you may be going too far in your scope. I would support the legislation in this area, but let me point out some reservations I have here, and I think we can whittle something out in time that will be helpful to the public.

You say in your last section here, page 2, starting with line 12 and going through 15, you say—notwithstanding any provision to the contrary, this subchapter or other statute, an agency shall not make available to the public any mailing or other list of names and addresses for any purpose.

Now the first example that comes to mind, someone wants to get the address of a serviceman and writes to get the address. The way I read this, by strict interpretation, that address could not be provided.

Mr. WALDIE. You read it incorrectly. It was not so. "Mailing" modifies "lists."

Mr. WHITE. Mailing or other list.

Mr. WALDIE. Mailing modifies list.

Mr. WHITE. Well, I think you have to spell it out.

Mr. WALDIE. Let me ask you—if that is my intent and it is so spelled out, would you have objection to it?

Mr. WHITE. I think that can be clarified. Don't you think there are legitimate reasons for providing lists?

Mr. WALDIE. None.

Mr. WHITE. Like the chamber of commerce?

Mr. WALDIE. None, whatsoever, If they want to deal with the chamber of commerce, let them go to the chamber. When they are dealing with the Federal Government for a purpose, they either voluntarily dealt with them or were compelled to deal with them. They did not intend, and neither should they be compelled, to deal with the chamber of commerce as an added incidence of transaction with the Government.

Mr. WHITE. Suppose you have a veterans' organization or auxiliary.

Mr. WALDIE. They did not intend to deal with the veterans organization or the auxiliary. They intended to deal with the Federal Government and no transaction beyond that.

Mr. WHITE. Suppose they want to make contact with members, to help the members?

Mr. WALDIE. The members should solicit the help if they want it. When the citizen goes to the Federal Government, whether as a veteran or a draftee or whether he is seeking a license to fly an airplane, he seeks to deal with the Federal Government in that limited capacity, and he doesn't thereby extend his consent to the Government to bring him into dealings with other people.

Mr. WHITE. I thought the primary purpose was to prevent the sale of the list.

Mr. WALDIE. The primary purpose is to prevent the citizen from being harassed.

Mr. WHITE. You are not interested in the mail-order man?

Mr. WALDIE. I am interested only in the citizen; to the extent the citizen is harassed by the mail-order man or by anybody, out of a transaction that he did not intend to deal with them, I think it is improper.

Mr. WHITE. Don't you think you can eliminate the harassment in another way without obviating legitimate uses that the Government can be of service to the general public, providing information that would not be a harassment?

Mr. WALDIE. I don't want the Government to make that decision on my behalf, is my point. I don't have the confidence in the Government that your suggestion expresses. I want to make the determinations with whom I am going to deal. I don't want the Government to determine that because I have had to deal with them that they are going to do me a great service by putting me in touch with somebody else. I will ask for that help if I want it.

Mr. WHITE. Aren't there a number of lists published of various businesses that would be stopped by this? That is, I think that the

Census Bureau publishes some, the Commerce Department publishes some. These would be stopped by your bill.

Mr. WALDIE. Quite possible. If they violate this bill, they would be, and in my opinion should be, stopped.

Mr. WHITE. Well, I think this use is made every day.

Mr. WALDIE. There are uses made every day of these names on these lists, but they violate, in my view, the basic premise that I am seeking to advance. When a citizen deals with his Government out of volition or compulsion, he does not thereby give the Government the opportunity or right to make a further extension of that transaction by putting him in touch with someone else to deal with him.

Mr. WHITE. Let's go further then. Recently there was a publication of the number of farmers and their names, who were receiving allegedly excessive payments in the view of some people, in the limitation of payment fight.

Now under your amendment or bill, the Government could not publish the names of those who are receiving payments. Isn't this true?

Mr. WALDIE. The Government could not provide a list of names for any purpose, and if it was for purposes of disclosing who is receiving what in the way of benefit, that is absolutely correct.

Mr. WHITE. Therefore, this would violate another principle that you advocate of disclosure and honesty in Government.

Mr. WALDIE. To the extent that it would require a citizen who is dealing with the Government to be placed in touch with others who seek to deal with him.

Mr. WHITE. You can't make that distinction.

Mr. WALDIE. I am making that distinction.

Mr. WHITE. I don't believe your bill does.

Mr. WALDIE. Perhaps the bill does not. That is the distinction I make, and it is my assumption the bill does.

Mr. WHITE. It says "for any purpose."

Mr. WALDIE. It is my assumption that the bill makes the distinction that I sought.

Mr. WHITE. Thank you very much.

Mr. NIX. Thank you very much.

Mr. WALDIE. Any further questions?

Mr. NIX. No further questions.

Mr. WALDIE. Thank you, Mr. Chairman.

Mr. NIX. Our next witness is another one of our distinguished colleagues, Representative Ken Hechler, the gentleman from West Virginia, who has given leadership in the House of Representatives in a variety of fields. It is my pleasure to welcome my good friend, the honorable gentleman from West Virginia.

#### STATEMENT OF HON. KEN HECHLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. HECHLER. Thank you, Mr. Chairman. I strongly support H.R. 2730 introduced by my colleague, Representative Jerome Waldie of California. I appreciate and acknowledge the wisdom and ability of this committee in working out any amendments that are necessary in order to bring the bill into law, and to make such necessary changes as will make it a fair and just bill.

H.R. 17775 is an identical bill which I introduced on May 25, 1970, and I congratulate this committee for holding these hearings on this legislation.

Ours is a production-minded society. We measure progress in terms of the gross national product. Most Congressmen instinctively respect the economic and political power of producers, who are well organized, better bank-rolled, able to band together in trade associations with lobbyists in Washington, and always able to defend their interests when threatened. Consumers are the not-so-silent majority, who sound off loudly, but are unorganized, poorly represented, frustrated by the small and tightly organized producers, and who only in recent years have national champions for their cause.

Junk mail is a perfect example of the failure of the more numerous consumers to overcome the well-heeled, smoothly organized talent of the producers. The recipients of junk mail rise up in their wrath at the pollution of their mail boxes by unsolicited, unwanted, unasked for mail which frequently goes unopened into the trash.

The trash is then carted away to add to the solid waste pollution, or burned to create more air pollution, and then more trees must be cut down to produce more junk mail. The postal rate structure, plus the indiscriminate and unregulated mushrooming of mailing lists, has produced a junk mail epidemic. From 7.1 billion pieces of third-class mail in 1949, the Nation was engulfed last year by 18.6 billion pieces of third-class mail. In 1949, third-class mail constituted 16.3 percent of the total mail volume; in 1969, this percentage rose to 22.7 percent of the total.

I have already testified before the Postal Rates Subcommittee of this committee in favor of steep increases in second- and third-class rates, and I believe I am the only Member of Congress to introduce a postal rate bill. In case it has been overlooked in the shuffle, the number of my postal rate bill is H.R. 17933, introduced on June 4, 1970. But today I am here to testify about mailing lists, which are expanding and exploding faster than the birth rate in underdeveloped nations. We desperately need aggressive dissemination of birth control devices to limit the runaway reproduction and proliferation of mailing lists. Recipients of junk mail loudly complain about the sterility of ideas which flood their mailboxes, but nobody can challenge the fact that every mailing list carries the germs of high fertility and an ability to reproduce with the speed of an amoeba and the size of an elephant.

Every Congressman has received hundreds of letters from shocked constituents whose names somehow have turned up on mailing lists sold to purveyors of pornographic literature. These mailing lists are sometimes dentists, doctors, and even juveniles who answer ads for items which don't have the remotest relation to pornography.

Turning to another subject, mailing lists of all kinds are sold to eager advertisers and this is the first step in the insidious invasion of the privacy of a man's home, without a by-your-leave. We have heard a lot of argument about "no knock" as it relates to crime legislation, and drug laws. A far more diabolical scheme of breaking into a man's home, uninvited, without even a suspicion of guilt, results from the sale of mailing lists. No person's name is safe. Nobody's privacy is respected by the list peddlers. Your name is sold, traded and peddled from the day you are born until long after death,

because if you die your spouse immediately goes onto a mailing list for tombstones, memorials, and how to live alone and like it schemes.

One of the chief offenders in the sale of mailing lists is Uncle Sam. It is incomprehensible to me that the Federal Government, which requires by law the licensing or registration of airplane pilots, ham radio operators, boats, and hundreds of other items and people, systematically turns around and sells these names and addresses without the consent of those forced to register. And when this is done for commercial purposes, I think it is wrong.

Then millions of people get stuck with junk mail which follows them wherever they go. The ultimate insult is perpetrated when a taxpayer coughs up his taxes on April 15, and then the very agency which collects the taxes—the Internal Revenue Service—turns around and sells mailing lists of gun dealers as well as ZIP coded marketing area lists drawn from income tax returns.

On that point, I might mention it is very easy to get from the IRS this ZIP code area data which enables you, Mr. Chairman, and anyone in the Philadelphia area, to go out into Haverford, or Ardmore, or Bryn Mawr; these areas are targets of opportunity where there are high income groups with a certain number of dependents. The Internal Revenue Service will document for you, not by name, but by ZIP code and area, the number of people in various middle- or high-income groups, as well as the number of dependents in families in the area.

Edmund Burke once wrote: "And having looked to Government for bread, on the very first scarcity they will turn and bite the hand that fed them." But in the case of mailing lists, Uncle Sam is doing just the reverse: the taxpayers feed and support the Federal Government, and Uncle Sam turns around and bites the hand which feeds him. Surely these Federal mailing lists badly need both leashes and muzzles.

The Chief Justice of the United States had some wise words about mailing lists, in his decision handed down in the Daniel Rowan case on May 4, 1970. In his opinion, Chief Justice Warren Burger cogently observed:

Today's merchandising methods, the plethora of mass mailings, subsidized by low postal rates and the growth of the sale of large mailing lists as an industry in itself have changed the mailman from a carrier of primarily private communications, as he was in a more leisurely day, and has made him an adjunct of the mass mailer who sends unsolicited and often unwanted mail into every home.

In today's complex society we are inescapably captive audiences for many purposes, but a sufficient measure of individual autonomy must survive to permit every householder to exercise control over unwanted mail.

It places no strain on the doctrine of judicial notice to observe that whether measured by pieces or pounds, everyman's mail today is made up overwhelmingly of materials he did not seek from persons he did not know. And all too often it is matter he finds offensive. The ancient concept that a man's home is his castle into which not even a king may enter has lost none of its vitality, and none of the recognized exceptions, includes any right to communicate offensively with one another.

This landmark Supreme Court decision also quotes Congressman Jerome Waldie of California.

This great Supreme Court decision makes it crystal clear that it is constitutional to extend the power of the individual householder to protect his right of privacy to refuse any type of unwanted mail. I hope this committee will take steps to extend this right of privacy

and also to protect an individual who does have ownership rights to his name which are being violated by the people who peddle mailing lists.

Thank you, Mr. Chairman.

Mr. NIX. Thank you, Congressman Hechler for the statement. Do you think that in the event that the Post Office and Civil Service Committee initiated and passed legislation to increase the cost of third-class mail, that would be a deterrent? That would diminish the amount of junk mail?

Mr. HECHLER. The record shows, Mr. Chairman, that whenever there have been rate increases in the past, that it has not actually decreased the volume of third-class mail. Fear has always been expressed before this committee that many businesses will go into bankruptcy, people will be thrown out of work and onto the welfare or poverty rolls, if the rates are raised. This has not been the case. The volume of third-class mail has steadily increased despite rate increases.

However, I will say the rates have not been raised very precipitously. I think they ought to be raised to the extent of 40 percent, and this may have some effect on the volume. However, I believe that the committee is proceeding properly in holding hearings on mailing lists which are sold by the Federal Government, and this is a major source of junk mail, a very important source of junk mail that I think is very offensive.

Mr. NIX. Of course, the objective behind the legislation is not to eliminate junk mail, but to make it infinitely more difficult to send it through the mails. And you have stated, the Federal Government, insofar as its trafficking in mailing lists, is a great offender in this area.

Mr. HECHLER. Yes.

Mr. NIX. Mr. White?

Mr. WHITE. Thank you, Mr. Chairman.

Mr. Hechler has always been an advocate of the rights of the citizen, and certainly in the area of the post office and mailings. I commend him for his past actions; you haven't always succeeded, but you have done very well, and promoted many reforms.

What do you regard as an agency? I was looking for a definition. Would this include Congress, in any remote way, or merely Government agencies under the executive department?

Mr. HECHLER. I would think this would have to include Congress as a Federal agency. I certainly think it would have to.

Mr. WHITE. Then I keep thinking about all the Congressional Records that have had long lists of names of people, just like the illustration I gave Mr. Waldie, lists of farmers in this country who were published by a gentleman from Illinois, those who had allegedly received excessive payments. That would not be permitted, do you think, if Congress were termed an agency by this bill?

Mr. HECHLER. I would agree with Mr. Waldie that this information can be obtained individually, but that we should not extend the privilege of giving an entire list of the nature that you mentioned. I think I have to be consistent. If in the wisdom of the committee a determination is made that the line should be drawn at the use of such lists for commercial purposes, it seems to me that there is where the committee could legitimately draw the line. I would welcome an oppor-

tunity to support legislation that would limit it to the use for commercial purposes.

Mr. WHITE. I agree. That is the point I was driving at.

Mr. HECHLER. In the case of lists of farmers who receive payments over a certain amount, this would not be for commercial purposes and, therefore, would be excluded from the purview of the bill.

Mr. WHITE. Yes, I think the bill as drawn was too broad, and I wondered if that was your attitude, but apparently you are interested in restricting it to mailings, to invasion of privacy of the home.

Mr. HECHLER. That's correct. for commercial purposes. That's the important distinction. So I will accept the suggestion of the gentleman from Texas and accept an amendment, although I can't speak for my colleague, Mr. Waldie.

Mr. WHITE. I am thinking of a newspaperman who walks into a courtroom and wants to see the docket of the court of individuals who are going to be tried or have their cases come up. That is an agency of government. That is a list. He is a newspaperman, and he is the public.

Therefore, under this bill, if passed, it is conceivable that he couldn't even look at that list.

Mr. HECHLER. Well, he is not going to use it for commercial purposes. Again, I would emphasize that the use for commercial purposes is the key point.

Many veterans organizations engage in profitmaking ventures—they send out items like key chains and Christmas cards under the nonprofit rates which are very low, and frequently they send out bills with these items. I don't think that that is a proper and legitimate use of the mailing power and use of a mailing list.

Mr. WHITE. Let me go a little bit further to test your idea, if I may. If you are going to restrict this to commercial use, are you going to permit or prohibit the exposition of the names of companies, or are you restricting this to individuals?

Mr. HECHLER. I think both individuals and organizations should be covered in the law.

Mr. WHITE. Both?

Mr. HECHLER. Yes.

Mr. WHITE. All right, now, if an individual is a manufacturer of parts, and he wants to know the names of all the companies who are going to bid on a particular contract, a defense contract, as prime contractors, he writes the Defense Department for a list. Under this new version, then, he would be refused. He could not find out who is bidding.

Mr. HECHLER. It seems to me again that this is asking a Government agency to supply a complete list. It would be very, very easy for this individual to get these names on an individual basis, by copying down individual names. What we are objecting to and trying to prohibit by this bill, is the requirement that a Federal agency do a print-out or put on tape or otherwise submit a list for commercial uses.

Mr. WHITE. Now, Mr. Hechler, don't you think that the only way you are really going to get at that without cutting off so many other legitimate practices is to really target in on the use of these lists for mailing, and the use of these lists for sale to third persons for mailing purposes? I wonder, because I don't think we can sit down here today and catalog every legitimate use that from such lists could be made,

and every legitimate practice of a Federal agency. I think we would cut out some very vital activities of Government if we just blanketed them as this bill does, or even a restriction to commercial uses would.

Mr. HECHLER. I think this dialog is very helpful because I acknowledge the fact that the word commercial in some instances has legitimate uses. But I think your point about mailing lists and peddling these lists to third parties is where the restrictions could come in.

And this is a matter I think that the committee has to consider quite seriously. I hope it will be as restrictive as possible. In the case of an airplane pilot, for example, that has to take out a license, there's nothing he can do except put his name address down. Then he gets all kinds of junk mail from different types of people simply because, by law, he has to take out a pilot's license.

That is the kind of practice we are trying to correct.

Mr. WHITE. I would like to talk to you further about this, and I thank you for your frankness and constructiveness.

Thank you, Mr. Chairman.

Mr. NIX. Thank you, Mr. White.

Assuming that we restricted the sale to commercial uses, made it illegal, and the Government dealt with A, and sold a list to A, and of course intended A to use these names in a proper manner. Then A's company becomes bankrupt and of course the list would be one of the assets of the bankrupt business, and it is then sold and the purchaser uses it for other purposes.

Certainly he would not be prevented from doing this? And certainly the sale to that additional person for an additional purpose would be legitimate, and we would be stymied to that extent, wouldn't we?

Mr. HECHLER. I think the legislation ought to be broadened to cover such a case of illegitimate resale for illegitimate purposes. I would hope the committee could cover that specific point.

I am not a lawyer. The gentleman in the Chair is an extremely able lawyer with long experience and I am sure, with his wisdom in this field, he and the committee would be able to draft the proper language to cover that case.

Mr. NIX. The gentleman places an extraordinary burden on us.

Thank you very much. It's been a pleasure to have you.

Mr. HECHLER. Thank you, Mr. Chairman.

Mr. NIX. Hon. Abner J. Mikva, the gentleman from Illinois, has submitted a statement for the record. If there is no objection, the statement will be placed in the record at this point.

(The statement follows:)

STATEMENT OF HON. ABNER J. MIKVA, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF ILLINOIS

Mr. Chairman, I am grateful to have the opportunity to testify before this distinguished subcommittee about the sale and exchange of mailing lists by profitmaking organizations.

A substantial number of second- and third-class unsolicited mailings originate from commercial mailing lists which are compiled and distributed without the knowledge or consent of the individuals on the lists. The 19.6 billion pieces of commercial advertising mail carried by postmen every year average over 100 pieces of commercial mail for every man, woman, and child in this country. This is mail that many of us don't want, yet an individual has no convenient legal means to stop the daily harassment and annoying intrusion into his privacy caused by the unwanted mail.

Title 39 of the United States Code, section 4009 now provides that an addressee may notify the Postmaster General to refrain from delivering materials which the patron "in his sole discretion believes to be erotically arousing or sexually provocative." The key words "in his sole discretion" result in a broad law covering any unsolicited advertising. Thus, postal patrons are protected on a piecemeal basis from unwanted commercial mail, but the addressee carries the burden of notifying the postmaster every time he wants to halt delivery of such mail from a particular organization, and remove his name from its mailing list. Without knowing who has his name and address in the huge system of mailing list exchanges, the addressee has an endless task if he wants to eliminate all unsolicited commercial material from his mailbox.

I introduced H.R. 16669 in April of this year. Under the third provision of the bill, a commercial mailer must get permission of an individual before it buys or sells a mailing list used to send commercial mailings to that person. In this way the responsibility of protecting the postal patron's privacy shifts from the postal patron to the sender and gives the individual the right to decide whether he wishes to receive commercial mail or not. The aim is not to destroy the many organizations whose survival depends on mailing list trade. It would require each profitmaking organization to send out a form asking for the consent of the individual before sending him advertising material. Variations of my proposal could reduce the expense to mail-order companies and still meet the desired end of protecting against intrusion by mail for profit.

Privacy is not specifically guaranteed under the Constitution but it has always been assumed as a right by the people of this country. With technological advances and population increases, Americans gradually began to surrender their privacy—usually out of reasonable necessity. However, according to a recent Newsweek article, the public has become alarmed by the degree to which privacy has eroded. Wiretaps and recent IRS library checks into the names of people who have checked out "subversive" literature seem more appropriate to Nazi Germany or Stalinist Russia than the United States. Everyone seems to have a piece of information about an individual—the credit bureaus, tax bureaus, police, census takers, insurance agencies, merchants, and Federal agencies—and are willing to trade and sell it. A citizen is beginning to feel he has no control over who knows what. We are able to cope with the annoying intrusions of personal interviewers, door-to-door salesmen and telephone solicitors since we can personally get rid of them when we are harassed from time to time.

Now Congress and the Postmaster are in a position to conveniently eliminate the almost daily intrusion into the privacy of postal patrons by unwanted commercial advertising by providing an individual with the choice of what advertising solicitations he wishes to receive. Congress simply takes section 4009 one step further making the solicitor responsible for asking permission to send advertising material. More important Congress can restore the confidence in controlling personal privacy which seems to be lost in a network of mailing list sales and exchanges.

There being no further witnesses, the subcommittee will be adjourned until tomorrow morning at 10 o'clock.

(Whereupon, at 11:05 a.m., the hearing in the above-entitled matter was recessed, to resume at 10 a.m. the following day, Thursday, July 23, 1970.)

## MAILING LISTS

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THURSDAY, JULY 23, 1970

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

The subcommittee met 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 on Postal Operations will be in order.

The issue we face today is whether or not the mailing list industry has an absolute right to engage in the exchange of the names and addresses of Americans without their permission. Should the right to buy and sell personal information without permission be limited in some fashion in order to protect the privacy of the public?

The practice of selling names and addresses for profit with personal information as to mail patrons has become so common that Federal, State, and local governments engage in the practice without any particular authority to do so.

The Federal Aviation Agency sold the names of new pilot licensees to business houses. The Internal Revenue Service sold the names of gun registrants to commercial interests, as well as other information bearing on the wealth of taxpayers, neighborhoods, et cetera, to mail business houses.

Local and State governments sell complete auto registration lists, including license numbers and the type of automobile involved. The taxpayers have not given their permission for this kind of thing, collectively or individually.

There may be matters of a private nature that individuals do not want released by their government. For example, we did take testimony in the last Congress on the matter of mail solicitation of widows of those killed in Vietnam. Some individuals were solicited by business houses to buy trashy items, at a time when such individuals wanted more than anything else to be left alone.

There is a continuing battle between a big, overorganized society and the individual. We have to create new rights in order to balance the scales, so that the individual can protect himself against big business, big government and all other institutions that exploit the individual in big and little ways.

Our first witness today is Mr. John Jay Daly, vice president of the Direct Mail Advertising Association, Inc.

Mr. Daly, the committee is pleased to welcome you. You may proceed. And will you introduce your associates for the record.

STATEMENT OF JOHN JAY DALY, VICE PRESIDENT, DIRECT MAIL  
ADVERTISING ASSOCIATION, INC., ACCOMPANIED BY ROBERT F.  
DELAY, PRESIDENT, DIRECT MAIL ADVERTISING ASSOCIATION,  
INC., AND ALAN DREY, PRESIDENT, ALAN DREY CO., INC.,  
MEMBER OF DMAA BOARD OF DIRECTORS

Mr. DALY. Thank you, Mr. Chairman.

On my left is the president of our association, the Direct Mail Advertising Association, Robert F. DeLay, the chief executive officer, whose headquarters are at 230 Park Avenue, New York.

On my right is Mr. Alan Drey, a member of DMAA's board of directors, and president of the Alan Drey Co. of Chicago.

Mr. DeLay will explain broadly about the direct mail industry, and Mr. Drey will give technical explanations of how mailing lists are utilized and will be prepared to answer questions and to explain how mailing lists are utilized.

We appear before you this morning to explain the many and varied uses of mailing lists. Following our formal presentation, we would welcome questions and would be delighted to explain any facet of our industry. Where you need to obtain more information, we will be glad to provide it.

Our formal testimony is rather long, Mr. Chairman, but we understood that you wanted to have as complete a record as possible.

We also have a variety of information, some of it of a technical nature, some of it of a selling, explanatory-type nature, that we think might be useful as a permanent part of the record—particularly an article that appeared in the September 1966 issue of the New Yorker magazine, that we would hope might be included in the record, although I would say we do not necessarily espouse all of the practices that are alluded to in this journalistic-type article. It is an interesting and informative piece in many ways.

Now I would like to introduce Mr. Robert F. DeLay, the president of the Direct Mail Advertising Association.

Mr. NIX. Please proceed, Mr. DeLay.

Mr. DELAY. Before introducing Mr. Drey, who is a list broker—and I am sure a man with the kind of experience he has in this business can be very helpful to you and your subcommittee in these hearings—we would like to mention some attachments which can be found at the end of our testimony. The green attachment outlines the general background of the makeup of the 2,600 individuals and 1,600 member firms who belong to our association. We have also provided the subcommittee with a roster of our membership so you can quickly obtain a glimpse into the varied industries and services that utilize the DMAA activities.

The yellow attachment, in listing the names of our 27-member board of directors, provides a microcosm of the makeup of our varied membership.

Naturally we commend you, Mr. Chairman, and your subcommittee for the positive role you are serving by holding this open dialog on the various aspects of mailing lists. At this point it seems appropriate to call attention to DMAA's standards of ethical business practices. Each of our members must subscribe to them before his firm can belong to, or remain in, the association. You will note that each standard

is designed so all members adhere to these stringent rules of business practice. We feel it is important to mention that at the last meeting of our board of directors a 17th standard was added to protect the security of mailing lists.

Members of DMAA will be responsible for ascertaining that they do not use any list in violation of the lawful rights of any other person; and DMAA members will promptly bring to the attention of the lawful owner of any list any information they may have regarding any possible violation of his proprietary right therein.

In testimony that you heard yesterday, there were some statements which we feel require refutation. Before launching into the main part of our testimony, I would like to refer briefly to them.

First, there was the reference to all direct mail advertising as junk mail. As the representative of the largest trade association of direct mail users in the country I take exception to this vulgar reference. Our membership constitutes many of the blue ribbon industrial companies in the country. Such firms as National Cash Register, Colgate, Aluminum Co. of America, Youngstown Sheet & Tube, Field Enterprises, Litton Industries, Merck, Ciba, McGraw-Hill, Journal of Commerce, Dow-Jones, and 1,600 other important sellers of products and services use advertising mail to assist their selling process. There is nothing un-American about what they do. Their investment in mail advertising is scientifically calculated to bring information and education about quality American-produced products to the homes and businesses of this country. In their absence from this witness stand today, I would defend their right to carry on legitimate selling practices without having them branded by headline-seeking phrases that are cruel, misleading, and unfair.

Secondly, unfair references have also been made that the use of lists automatically results in the receipt of pornographic mail. This just is not so, as the President's Commission on Pornography and Obscenity should reveal—a group, incidentally, that our association has worked with for several months. We will keep our remarks in this area short because so many separate hearings have been held on this subject.

The pending postal reform legislation will clearly reflect the work that this very subcommittee has done under your chairmanship, Mr. Nix. Soon every citizen will be able to preregister his dislike for sexually oriented mail with the Postmaster General and thus prevent its receipt. We will not comment further other than to state that DMAA has long been on record as opposing this type of mail. DMAA has firmly endorsed sensible legislation to relieve the public of the onerous burden of this type of offensive mail.

Thirdly, it was stated that "the direct mail industry knows almost everything about each of us, but what do we know about direct mailers and their spearhead, mailing list brokers?" Unfortunately, gentlemen, the direct mail industry in general, and mailing list brokers in particular, know no more about each of us than the publishers of periodicals know about their subscribers; or department store owners about their customers—or for that matter, Congressmen know about their constituents. I submit that certain agencies of the Federal Government, perhaps, truly know almost everything about each of us. I say this is unfortunate, gentlemen, for if users of direct mail—or all American industry, perhaps—knew more about each one of us, its marketing

efforts could be targeted even more closely to that segment of the total consuming public which because of ability to buy, and proven interest in buying represents the precise market for each individual product, service or publication produced by American science and industry.

Fourthly, the statement was made that 490,000 tons—presumably of direct advertising mail—are sent through the mails which nobody expects anybody to care about. The facts are that in the past 5 years the average household has only received an average of 50 extra pieces of advertising mail a year above the period 1964. And even today, those figures taken from the Census Bureau and the U.S. Post Office Department reveal that an average of only one piece of direct mail advertising per day is received by each household. This includes all third-class bulk mail, exclusive of nonprofit mail. These are facts, gentlemen, not approximations.

Fifthly, it was suggested that only 2 percent of direct mail is acted on. While we cannot accept the generality of 2 percent, it is not our intent to argue the point. We do disagree, however, with the implication that the remaining percentage, whatever it may be, is waste. It is no more waste than the frequency of a salesman's call, the frequency of advertising in a paper, a magazine, or a billboard. The selling of products and services requires consistency of cultivation to find the right time to sell a product. Selling by mail represents a marketing approach the same as other selling methods. For some products and services it is more efficient than any other marketing channel. To saddle direct mail with restrictive legislation is to place an unfair competitive burden on it with respect to other forms of advertising and marketing.

Sixthly, there were some strange conclusions drawn in that testimony yesterday from some unknown arithmetic purporting that "our already overburdened mail system is required to carry 490,000 tons of mail in which it is confidently expected that no one will be interested." Against what we feel are these blue-sky conclusions are the absolute facts developed by scientific research which are set out in a booklet, a copy of which we have supplied to each member, and this research concludes that:

A minimum of 75 percent of the public open and at least glance at all direct mail they receive.

Four out of five, or 81 percent, of the public open and read thoroughly or glance at the fundraising direct mail they receive.

Three out of four, or 75 percent, open and read thoroughly or at least glance at advertising and selling direct mail.

Three out of four, or 75 percent, open and read thoroughly or glance at catalogs.

Ecology is a popular 'threat of our present era, but let's not misuse the reputations of America's leading business firms by trying to make their advertising mail the source of the blight. Direct mail advertising brings information, education and useful knowledge in convenient form to fill the needs and desires of many millions of consumers and businesses. If there are abuses of the privilege of mailing to individuals, homes and business, then let's seek constructive ways of correcting them. But, with considerable legislation already on the books of our law of the land, let's not continue to load new regulations, new restrictions, and new burdens on a selling weapon whose effectiveness has withstood the test of time.

We think you might be interested in the overall position of the direct mail industry as it relates to other advertising media. Depending on how it is measured, direct mail is definitely the third largest—and perhaps the second largest—of all the advertising media. It is used by more advertisers than any other medium. This is so primarily because of direct mail's unique advantage: namely, the ability to select and pinpoint markets, and accurately measure the results of such advertising efforts. One key to this ability is the proper care and selection of mailing lists. We will discuss this facet of our medium later in the testimony.

One of the common canards of our civilization is that advertising mail is unwanted and unread. This untruth is spread widely by many who are competitors to the medium who are perhaps jealous of the medium's ability to attract sophisticated customers. If all advertising mail were as its critics claim, then our medium would have vanished long ago. Instead, precisely because the medium is so useful to so many, it continues to grow despite the often vicious attacks against it.

As experienced legislators, you certainly recognize the difficulties which arise when sweeping laws are made based on erroneous or misleading information. That's why we welcome the opportunity to explain our medium to you and to answer questions about the impact which certain of the proposed legislation would have. As one philosopher has said: "The trouble doesn't come from what you know, but from what you know that ain't so!" This certainly is true for many aspects of direct mail, particularly mailing lists, the subjects of our hearings today. Some of the statements made earlier at these hearings—particularly those alleging that all direct mail is unwanted and unread—are certainly based more on emotion than definitive surveys.

Before our witnesses touch on that aspect, however, may I use a broad brush to counter some of common arguments. Let me illustrate how well accepted direct mail advertising actually is. It's old hat to us but news to many.

To determine whether the hundreds of thousands of businessmen who sell goods and services by mail are spending their money foolishly, the A. C. Nielsen Co. of Chicago, one of the Nation's most respected research firms, conducted an indepth consumer attitude study to find out what the American public thinks about the medium. The results are both interesting and revealing. A copy of their summary, "What People Think About Direct Mail" is in front of you. Here are highlights:

One of the most common misconceptions about direct mail is that most of it is thrown away without being opened or read. This just isn't so. The consumer attitudes study revealed that a minimum of 75 percent of the public open and at least glance at all direct mail they receive.

For specific kinds of direct mail, the survey revealed that:

Four out of five (81 percent) of the public open and read thoroughly or glance at the fundraising direct mail they receive.

Three out of four (75 percent) open and read thoroughly or at least glance at advertising and selling direct mail.

Three out of four (76 percent) open and read thoroughly or glance at catalogs.

Samples are usually used by about three out of four people, and more than half usually use the coupons they get through the mail.

Another misconception is that people's mailboxes are flooded every day with direct mail. This also isn't so. The notion of cluttered mailboxes is a myth. For most people, it just doesn't exist.

The consumer attitudes study showed that the average number of pieces of all mail received by households during the 7 days preceding the study was 15.3. Of this, 6.5—or less than one piece per day—was direct mail.

The amount of direct mail an individual receives tends to increase under certain circumstances, including: (a) the more active he is in his community; (b) the higher his income; (c) the more positively he responds to direct mail communications. Such events as a promotion to a new job, purchase of a new car or a new home, marriage, and the birth of children indicate an individual's growing needs and/or purchasing power.

To further show the scope of direct mail, here is a tabulation of the top 10 users of bulk third-class mail as reported by a 1959 U.S. Department of Commerce survey:

#### 10 LEADING USERS OF BULK THIRD-CLASS MAIL

These businesses listed account for the percent shown of total pieces mailed.

	<i>Percent</i>
Periodical publishers.....	9.6
Food stores.....	5.1
Mail-order houses.....	4.5
Department stores.....	3.9
Book publishers.....	3.8
Automotive manufacturers.....	3.6
Newspaper publishers.....	3.4
Drug manufacturers.....	3.4
Book and stationery stores (book clubs included).....	2.5
Home furnishing stores.....	2.1

It is practically impossible to find a business, church, philanthropy, or civic group which does not advertise by mail. I need not tell you the excellent use that political organizations make of this valuable medium. Of the 46,513 holders of bulk third-class mail permits who responded to a U.S. Department of Commerce study, over 41,750—about 90 percent—had less than 100 employees, and almost 24,000 had less than nine employees. We can see from this that in the bulk third-class mail study the great majority were very small businesses or small organizations. So in this study—in terms of number of companies or organizations—we are definitely talking about small units.

Yet this collection of small units adds up to a significant total. Direct mail operations provide employment for more than 1 million persons—creating materials, printing them, distributing them, and processing returns—according to U.S. Department of Commerce figures. It might also interest this subcommittee to see the diversity of uses that direct mail is put to. In the same survey by the Department of Commerce, bulk third-class mail users reported they found it useful for these purposes:

For general advertising purposes-----	33, 043
To obtain orders by mail-----	14, 813
To obtain prospects for personal contact by salesman-----	9, 484
To obtain outlets, distributors, members or subscribers, or to keep them informed-----	5, 468
To provide advertising literature for franchised or other dealers or outlets, mailed under permit number-----	3, 425
To provide advertising literature for franchised or other dealers or outlets, mailed by those dealers or outlets-----	2, 121
To distribute (i.e., to move or transport) the product-----	2, 521
Other uses-----	9, 795

There are two more studies which we believe should interest this subcommittee. One was conducted completely independently—so much so that no one in the industry knew it was done until it had been published. Researchers at agricultural experiment stations in seven States reported that: “seven out of 10 homemakers express a generally favorable attitude toward direct mail.” The report also included the categorical statement that, “the hypothesis that most homemakers object to receiving unsolicited advertising was rejected.”

There is another curious fact about those critics of direct mail. They seldom base their ignorance on facts which can be substantiated. Mostly, it's private personal opinion rather than information generated from any reputable survey. If this weren't so why would the critics ignore this study. Not long ago a group made a survey of physicians' attitudes toward direct mail. It stated that 65 percent of them give at least minimum attention to all the mail they receive—let me repeat—all of it. And, 69.8 percent of these doctors tell the researchers that they actively appreciate receiving direct mail because it gives them useful information on available drugs, formulas, and dosages.

These doctors were then receiving an average of 5,000 pieces of direct advertising each year—roughly 100 pieces per week. This is so far above the national average of one piece per day that if any group would have reason to complain, it would be these doctors. Yet the study proved the opposite. Isn't it curious that all these studies, proving the acceptability of direct mail, are so consistently ignored?

As an ardent advocate of this vital medium, I could go on all morning telling how useful direct mail is, but I believe the point is well made: direct mail is growing as an advertising medium because it continues to prove its versatility and usefulness to more and more Americans.

We have spent this much time, Mr. Chairman, detailing the important role that direct mail advertising plays in all business simply to emphasize that the intelligent use of mailing lists is a keystone to the continued success of this pinpoint medium. Any broad or ill-considered tampering with the continued availability of mailing lists could wreak untold damage and the harmful effects of it could go well beyond what we here might imagine.

Mr. DALY. Thank you, Mr. DeLay, for giving an overall picture of the important role that direct mail advertising plays in our economy and how well accepted it actually is—despite the unfounded criticism which it so regularly receives from its competitors for the advertising dollar and others.

We understand, Mr. Chairman, that while a number of bills have been introduced which broadly affect mailing lists, that today's hearings are of a general nature dealing with the overall subject.

However, if we may, we would like to direct some general comments toward some of the various proposed legislation as we understand it.

H.R. 15309, while undoubtedly well intentioned, could cause severe hardships to our medium. We have no particular objections to the frequently made proposal that mailing list brokers register themselves with the Postmaster General. As a matter of fact, this could be accomplished rather easily and, if the committee desires, we would be delighted to provide a list of those brokers who are members of our association. Note, however, that most lists are not used through brokers.

As far as the other portions of the bill are concerned, the administrative nightmare that this would develop is beyond comprehension—if only because of the variety of ways that people themselves write their names and the almost infinite variety of addresses, to say nothing of address changes, attitude changes, et cetera.

It would appear to us that this bill is really directed toward making all citizens conform to the wishes of that small portion of the citizenry which columnists say do not wish to receive certain advertising mail. If this is truly the case, they already have one remedy and others are about to be made available to them.

It might interest this subcommittee to know that our association—ever responsive to true needs of the consumer—is now developing a method that should satisfy the small but vocal percentage of Americans who claim they do not want to receive any advertising mail of any type. Because the mechanics for perfecting this method will require considerable preparation and adjustment, we cannot present all the details to this subcommittee today. Suffice it to say that DMAA plans to make available soon to citizens who truly do not wish to receive any advertising mail a service that should help them achieve the goal of being shut out from the variety of offerings and information.

H.R. 2730, H.R. 15309 and other proposed legislation which would completely deny the availability of certain specialized lists compiled by the Government is, we believe, too sweeping and drastic a measure. Obviously, we recognize that while this list compilation would never be termed “the highest function of government,” the collection of such data serves a vitally important marketing purpose and its careful dissemination provides a definite economic benefit to the country. It also provides personal and professional benefits to the recipients of data.

There have been references during these hearings alleging that the legitimate use of mailing lists is somehow an invasion of privacy. Those of us who daily work with words believe this is an unfair extension of a perfectly legitimate issue, an issue which should be developed on its own merits and not unnecessarily extended or beclouded. The original concept of privacy invasion usually concerned extracting secret information about persons by unfair and often illegal means, such as wiretapping, eavesdropping, stealth. We agree these methods are abhorrent in a free and open society. We can assure you that they play no part in mailing lists.

To say that mailing lists brokers' operations represent a wholesale invasion of privacy ignores the fact that brokers are serving the needs of business. Brokers do not mail; but sellers of products and services do.

The matter of mailing lists—developed from information provided by individuals themselves and used to tell individual prospects about

ourselves or our offering which could be of valuable service and distinct benefit—is quite another matter. The type of data that is now a matter of open record should not be summarily barred. This subcommittee has heard sporadic testimony relating to a few potential problems, but we fail to note in the hearings any citation of even one actual abuse. If there are abuses or objectively unfair uses being made that derive from the availability of this open record, then naturally these abuses should be corrected.

DMAA is pleased that your subcommittee is carefully studying the matter and hopes that when all the facts are in and the emotions have subsided that—if there are any actual abuses which need correction—your legislative proposals will wield with the skill of a surgeon's scalpel rather than flail a meat ax when working in this delicate area.

If the availability of these selective lists is troublesome in some areas, rather than to put wholesale restrictions on entire lists, perhaps regulations could be carefully drawn which would prevent any of the abuses which seem to trouble some of your colleagues who have appeared before this panel. At the same time, the many positive benefits which are derived from the lists' availability should not arbitrarily be eliminated.

To illustrate how valuable one such list is, we would like to enter into the record the letter just received from a DMAA member, Randall P. McIntyre, vice president of McIntyre Aviation, Inc., of Ronkonkoma, N.Y.

Mr. NIX. Without objection, the letter may be made a part of the record.

(The letter follows:)

McINTYRE AVIATION, INC.,  
Ronkonkoma, N.Y., July 17, 1970.

Mr. JOHN JAY DALY,  
Vice President, Direct Mail Advertising Association, Inc.,  
921 National Press Building,  
Washington, D.C.

DEAR JOHN: Aircraft dealers and flight training schools are heavily dependent on aircraft owners listings and listings of licensed pilots which are supplied by the FAA.

Because there are less than 100,000 aircraft owners in the United States, and less than 1 million licensed pilots, direct mail is about the only efficient way for local aviation service companies to advertise to prospects. There are a number of trade magazines in the field, of course, but these provide a national circulation and therefore are too expensive for the local operator. Likewise, local newspapers or radio stations are also too expensive to reach the very small number of aircraft owners or pilots in a given market.

For example, our market is Long Island where there are less than 1,000 aircraft registered and about 20,000 pilots. It is just too expensive to use a newspaper like Newsday to communicate with such a small segment of the local population and, therefore, virtually all of our advertising is by direct mail.

We would be seriously handicapped if we could not get the aircraft owners and pilots lists.

Sincerely,

RANDALL P. McINTYRE,  
Vice President.

Mr. DALY. Most uses of this list are for offerings that are not only tasteful, but that many pilots—new and old—welcome the opportunity to be kept apprised of. These offerings include new technical data and valuable products and services to increase their skills and pleasure. The same is true for boatowners, ham radio operators, et cetera. These men and women on these lists are not indiscriminately

added to a list. Rather, these groups represent special segments of the population who, because of the interest they have shown, should be allowed to receive new and timely information about products and services that will be helpful to them.

We recognize that postal rates is not the prime subject of these hearings. However, since some witnesses yesterday made unfair and inaccurate allusions to cost coverages of advertising mail, we feel compelled to make these comments, if only to correct the record.

As members of the House Postal Rates Subcommittee know, there have been significant developments in postal costing and methodology in recent years which have finally enabled the Post Office Department to more accurately report the true costs of handling mail. In sum, this new data at last allows the Post Office Department to prove that it actually does not lose money on bulk third-class mail. Indeed, this category is among the most profitable of the classes handled by the postal service.

No less an authority than the incumbent Postmaster General, Winton M. Blount, in testifying before the House Postal Rates Subcommittee on June 24, 1969, states:

Accordingly, the case is made that loss of third-class mail ultimately works to increase the postage required of first-class mail. Without third-class mail, first-class letters would cost mailers more.

In its March 28, 1970, issue, *Business Week's* special report on the Post Office Department quotes Assistant Postmaster General for Finance and Administration, James W. Hargrove, as saying: "We've shown that third-class mail more than covers its added costs." Another official said that it actually helps reduce overhead. "We're better off with it," he said, "than without it."

Now, so we can focus on the important role that mailing lists play in stimulating the economy, it is a pleasure to present to you one of the more experienced mailing list consultants, a member of DMAA's board of directors, Alan Drey, president of the Alan Drey Co., Inc., of Chicago.

Mr. Nix. Mr. Drey?

Mr. DREY. Thank you, sir.

Thank you, Mr. Daly.

I might mention that our main office is in Chicago, Ill., and that we have a branch office in New York City. I am also chairman of the board of Market Development Corp. of St. Louis, a computer-based firm that compiles specialized mailing lists.

Now, the primary thrust of our commercial endeavor is to aid those firms throughout the country who utilize direct mail communication for advertising and marketing to direct their promotional messages to individuals and other business firms who are most likely to be interested in their particular offers.

In direct mail, markets are represented by mailing lists and our job, in working with our clients, is to help them define applicable market characteristics and then to interpret that definition into mailing list terms and, ultimately, to locate appropriate mailing lists that would be available to them.

Mailing lists generally fall into two broad classifications. The first, called compiled lists, are the kinds of lists with which people are most familiar. These are compilations of names and addresses usually derived from published sources such as telephone directories, indus-

trial directories, organization rosters, membership lists, voter and other registration lists, social registers, lists of licensees, company annual reports, et cetera. They represent individuals possessing common denominator characteristics; that is, they may all be of the same occupational persuasion, all members of the same club or society, all may have college degrees, own homes in the same general valuation bracket, and so forth.

By these common denominators we can, to some extent, isolate their common interests. In many cases, the larger compiled lists, such as those assembled from telephone directory sources, are further classified and grouped by geographic area—usually census tract areas—so that average demographic characteristics can be determined as to average incomes of individuals residing in those areas, educational level, homeownership incidence, and valuation, et cetera. In assembling such lists, the compiler has no prior knowledge of any particular action such individuals have taken in response to advertising nor is there a precise indication, based upon known previous purchases, as to their actual interest in any type product or service.

The other broad classification of lists, and the one which I represent primarily in these proceedings, is called direct response. These are actual customer, subscriber, or inquiry lists that are the property of manufacturing, retail and service firms who have accumulated them in the normal course of their business activity and which are made available to other commercial or philanthropic enterprises through list brokerage firms such as ours, for what is called one-time rental use.

In most cases, the firm which owns the list will not make its list available to another firm which is involved in a competitive merchandising endeavor. The interests and attitudes of individuals comprising these lists are ascertained, primarily, by their previous action; that is, they have previously purchased or indicated an interest in—usually by mail order—products, services, or publications of analogous appeal to the product, publication, or service being offered by the user or renter of such lists.

In this regard, we function very much as a real estate broker or stockbroker. The owners of the lists register their lists with us, provide us with the salient data, and authorize us to offer them where applicable to noncompetitive, ethical users of direct mail for one-time rental use.

Our job, in its simplest terms, is to analyze the product, service, or publication being offered by our client, to analyze the available lists, and then to recommend those lists which previous purchases indicate contain the names and addresses of those individuals most likely to be interested in the product, publication, or service being offered by our client. In many cases, our clients may utilize as many as 40 different mailing lists comprising in total, perhaps, as many as 10 million names in a single selling campaign. I might interject that such a mailing campaign is a very large one.

The owners of these lists charge a rental and production fee for our clients' use of them, less a brokerage commission. We, in turn, invoice our clients for the rental of the list and remit to the list owners upon receipt of the client's payment.

In virtually all cases, samples of the mailing pieces to be released to the lists we rent are submitted for our approval and the approval of the list owners. The objective here is to be sure that the product,

service, or publication being offered in the mailing is not competitive to the owner of the list being used and that it conforms to the DMAA standards of ethical business practice in that it is a legitimate offer, presented in good taste, and so forth.

The exchange of customer lists between business firms has developed extensively in the last 20 years. We believe that the use of this type list tends to confine a sales message to its most logical market. An individual, for example, whom we know has previously purchased sophisticated decorative items for the home usually is more likely to be interested in an offer of fine luxury food products than an individual who is part of an assembly of names and addresses derived from directories and mailed across the board without having demonstrated previously an interest in any particular category of product, service, or publication. We further know that individuals who have previously responded by mail to a direct sales appeal are much more likely to respond to another direct mail appeal than individuals who have possibly never done so in the past.

We believe that the response rate to direct mail marketing messages is actually greater than the response rate to most kinds of general advertising. The major automobile manufacturers spend millions of dollars to reach virtually every family in the United States, through one medium or another, and yet, in any given year an automobile manufacturer is satisfied if less than 1 percent of the families exposed to his sales message respond by actually buying. In direct mail or mail-order marketing, response or purchase rates often run as high as 7 and 8 percent with an average—depending on the product being offered and its price—of 1.5 percent to 4 percent.

I hesitate to cite even this range of figures lest they be misinterpreted for it is absolutely true there is no magic rate of response which can be quoted as the ideal figure or goal. The best percentage of response varies with each offer.

We also caution that you should not interpret this figure to mean that the remaining nonrespondents were not interested in the offering received. It simply meant that they did not buy at that particular time. Many enjoy receiving the mail and learning of new offerings and buy at a later time. Catalog houses regularly report they sell from offerings made months and even years earlier. We would not categorically say all advertising stayed forever, but simply point out that the percent of response cited here does not necessarily mean that nonrespondents are not interested.

There can be a million and one reasons why 96 percent, or 97 percent or 98 percent of the particular direct mail audience refused to respond. But to that remaining, 2, 3, or 4 percent, we believe the direct mail medium, through direct response type lists, performs a genuine public service by making available an opportunity to buy what the recipient has usually already proven or implied he is interested in.

Until about 4 years ago, we all suffered with the problem of duplicating names. That is, a prospective customer receiving 2, 3, 4, or even more identical mailing pieces at virtually the same time. This was, of course, uneconomic for the merchandising firm and implied great waste and, if you will, a degree of disdain for the consuming public. This situation occurred when large users of direct mail employed many different lists in their selling campaign, each list coming from a different source. It was physically and economically impossible to

manually compare millions of names against each other in order to weed out duplicates.

We recognize that this elimination of duplication is a problem that has plagued the direct mail advertising and marketing industry for quite some time. We grant that it is an area of considerable concern and are pleased to report that a solution is near at hand. Ironically, the solution came to us with the computer. As all of us in the room know, the computer presents other kinds of problems but, as far as being able to enable mailers to largely eliminate most duplications, it has proved its worth.

The computer, however, has now provided us the facility for accomplishing, in great measure, the elimination of duplicate names. Our firm, for example, has invested over \$300,000 over the past 4 years in the development of a system and the installation of computer equipment to accomplish this end. We are pleased to report that many of the Nation's leading users of direct mail marketing are employing our technique, and consumers today are receiving fewer and fewer duplicate mailings. We hope that in the near future all direct mail marketers and advertisers will employ our techniques and that the bugaboo of duplicating mailings will be completely eliminated from the direct mail marketing scene.

Because direct mail is the most selective of all advertising and marketing media, it should create, perhaps, the least annoyance of all promotional communication. We are, nevertheless, continually attempting to become even more selective in our use of the mailing list vehicle. For example, through the wonder of the computer, we are not only able to make available lists of individuals who have previously indicated their interest by prior purchases of similar items, but we are able to segment even those lists into demographic sections.

If an individual, for instance, previously purchased an inexpensive book on child care, we can select from the list of those purchasers individuals of relatively higher purchasing power who might be interested in a more expensive set of books dealing with child care and general family health. This is done by selecting addresses from ZIP code areas of higher average income and education.

The flexibility of the direct mail medium allows for hundreds—even thousands—of interesting variations on the presentation of the merchandising message, a factor which accounts for the increasing responsiveness and growth of direct mail in recent years.

Circulation determination is one facet where direct mail radically departs from practices in other media. An advertiser using a newspaper or magazine to reach potential customers buys, in effect, the publication's circulation which, in fact, becomes a mailing list. In direct mail, the advertiser creates his own circulation. He attempts to reach only his logical prospects.

The reason that list rental is so widely employed is that in today's fast changing society, relatively few merchants can afford to develop—or even maintain—a substantial number of lists of prospects.

When he rents a list, the advertiser normally never sees it. Lists are too precious. Rather, through a broker, he makes arrangements to use the list, and the list owner, through the broker, advises him when and where to send his envelopes, cards, or labels to be addressed.

In summary, it might be useful to reoutline the three types of list suppliers that advertisers in direct mail are mainly concerned with.

A list broker is a specialist in virtually all types of lists and generally knows as much about the lists that are available—which are most effective for which type offers and which are the most reliable—as anyone in direct mail. He also should be a direct mail marketing authority. He is a middleman between the prospective renter-user and the list owner. He earns a small fee per thousand names rented from the owner in return for locating prospective renters, securing orders, making sure the procedure goes smoothly. Generally, a broker does not own lists himself, although there are brokers who do. Some brokers are also compilers, just as some compilers are also brokers.

A compiler is just what his name implies. He compiles lists from a variety of sources. These names are either sold outright or rented on a one-time basis to users. Compilers rely heavily on published directories, but also cull additions from newspaper clippings, court records, auto registrations, et cetera. The largest compilers work with telephone owners or auto registrations and offer names in the millions to mass mailers. Other compilers can offer large lists of, say, boatowners, or small lists of less than 100 people who, by the nature of their occupation or avocation, put themselves into a special category.

A list owner is a man in any given line of business with a list to rent or sell. The list owner is the one directly responsible for the addressing of the material sent to him by the renter. He will normally supply any reasonable breakdown on test mailings, and usually will protect an advertiser's or a mailer's date by scheduling other offers at least a few days away from each other. A compiler, of course, is also an owner.

Lists are so important to business that there are lists of lists and directories of list sources, some of which are published by the U.S. Department of Commerce as part of the Government's efforts to encourage business development.

There are many sources of compiled lists based on data such as sales records, call reports, et cetera; general correspondence, distributors' lists, sales force recommendations, technical and service force recommendations, advertising inquiries, lead-producing publicity, specific requests, trade show registrants, directories, trade publications, association membership lists, inquiry lists, telephone directories, community directories, industrial directories, horizontal directories, school lists, convention registration lists, clipping services, recommendations by customers, cultural interests, contributors, mail-order buyers, and expires.

In the direct mail advertising and marketing medium, the efficient and adroit use of mailing lists is perhaps the most complex and far-reaching facet. In the few moments that have been allotted to me today in this presentation, I cannot possibly cover all of the important and interesting aspects of it. I hope that the foregoing has provided you information and knowledge that you did not possess heretofore and that it will trigger questions and discussion of other aspects of mailing list usage which time has not permitted me to cover.

I thank you.

Mr. DALY. Thank you, Mr. Drey.

I am sure Chairman Nix and the subcommittee appreciated learning firsthand how mailing list brokers actually work. May I emphasize that yours is not, as some earlier witnesses have unfairly alluded, a

nefarious operation. Rather, it is a business conducted under our association's standards of ethical business practice; it is a business which serves an age-old useful function for society by bringing seller and prospective buyer together, to their mutual benefit. In so doing, of course, your business and those like it benefit the Nation's economy.

Mr. Chairman, we realize this has been rather long testimony, but at the opening you said you wanted to explore the important facets. We believe the issues that have been raised here are important. We would like to emphasize that it is not hundreds of government lists which are made available, but only a few. Even if these few were summarily no longer made available, we do not contend that individual businesses would wither and die; but, as Mr. McIntyre said in his letter for the record. "They would be seriously handicapped." We think that society would suffer. It may sound corny, but in our open society there are many more benefits to the recipients of mail than columnists and advertising competitors might have you believe.

Those pilots, boatowners, ham radio operators, gun dealers, and others who receive specific timely information because their names are registered should be entitled to receive information of value to them. We do not think they should automatically be disenfranchised because of some emotional reasoning.

We ask two simple questions:

(1) What specific abuses is anyone able to cite that have resulted from the availability of these lists?

(2) Has anyone asked all of the thousands of these lists whether or not they object to receiving the data that becomes available to them?

The Direct Mail Advertising Association would volunteer to work with you or your counsel, Mr. Kennedy, to develop an objective, valid questionnaire so you can obtain this kind of information.

Now, while a small minority might reply in the negative, we believe that the vast majority would say they would rather retain the freedom of choice by determining what is in their particular interest at any particular time and to be able to be alerted to new developments and changing information that is presented to them.

In sum, Mr. Chairman, we have yet to learn of any specific actual abuses of mailing lists and, as we stated earlier, if there are, we certainly believe that they can be corrected by legislation using the skill of a surgeon rather than the clumsiness of a meat axe. We are also firm believers, as our standards of ethical business practice indicate, in self-regulation. We simply need to know what the abuses are and what needs to be done to clear them up or correct them.

Thank you Mr. Chairman. Mr. Drey, Mr. DeLay, and myself welcome the opportunity to answer any questions that you might wish to raise.

Mr. Nix. On behalf of the committee, I wish to thank Mr. Daly, Mr. DeLay, and Mr. Drey for presenting a most comprehensive statement. You have sought to meet the issue raised, and, because of the fact that the House will convene at 11, I am circumscribed.

Now, I only will make the observation that the issue before the subcommittee will be: Does the current operating of the mailing list business infringe upon the basic rights of a great segment of the population?

If not, then we should analyze all the testimony and come to the conclusion that the complaints are without merit.

If it is found that rights are encroached upon, we should decide whether or not it is in the interests of the great majority of the American people to supplement encroachment or not.

But in all events, I give you my assurance, and I reflect the views of the other members of the subcommittee, that we are going into the question with the greatest possible care, keeping in the forefront of our minds the varying and, perhaps, conflicting interests involved.

Again, I wish to thank you personally and on behalf of the subcommittee for appearing here, and particularly for the kind of statement that you have submitted. Thank you very much.

Mr. DALY. Thank you, Mr. Chairman.

(A portion of the material submitted for the record follows. Other items are retained in subcommittee files.)



## ONWARD AND UPWARD WITH THE ARTS

### YOU CAN'T WEAR OUT A LIST

**T**HERE'S a certain cachet in getting mail," Harry Maginnis, the president of the Associated Third Class Mail Users, has said. "If you don't get any mail, you're probably a credit risk and uneducated. A dead-beat. A bum. A guy who doesn't get any mail, watch out for him." Anyone who does get mail, on the other hand, probably has a name that is considered valuable enough to be rented out, or valuable enough to be traded for an equally treasured name. He has been included in a marketable mailing list. Anyone doubting Maginnis's Law need only read through some of the descriptions of lists that are distributed to potential customers by list brokers, or glance through the advertisements that sometimes appear in a trade magazine called the *Reporter of Direct Mail Advertising*; the man they depict is in no danger of being categorized as a bum. His financial status is attested to every time his name is rented out, for two and a half cents, as an American Express credit-card holder ("88% earn over \$10,000 a year") or, for three cents, as a key-holder in Playboy Clubs International ("All paid \$25.00 to \$50.00 for membership and are credit rated and in

above average income levels"). His willingness to travel may be certified by his name's having been rented out, for two cents, as a former guest at a Schine Hotel ("High-income traveller and resort vacationist") or, also for two cents, as a former subscriber to *Commentary* ("70% travelled abroad in past five years, 20% visited Israel, 95.3% travel fifty miles or more a year") or, for about a penny and a half, as a person who has had some correspondence with the Florida Chamber of Commerce ("Men and women who wrote to the Florida Chamber of Commerce for information on where to spend vacations or where to retire in Florida"). He has probably been stamped as a participant in the cultural explosion; he may have been rented out, for two and a half cents, as a donor to the Musicians' Aid Society ("Particularly interested in cultural appeals") or, for one and three-quarters cents, as a former subscriber to the *Reporter* ("Active, cultured individuals") or a customer of Brentano's ("Cultured well-to-do individuals") or, for three cents, as a current subscriber to the *Partisan Review* ("Heavy readers"). A recipient of third-class mail may have

been dashing enough to have had his name rented out by Bachelor Party Tours ("The emphasis is on fun, and most of these travellers are single"), or prudent enough to have been rented out as a former policyholder with National Liberty Life Insurance ("Non-drinkers' health-and-accident insurance policy at a preferred rate"). Even if someone receives mail only because he is in the phone book, it speaks well for him. The O. E. McIntyre company, which compiles lists from phone books, notes in its catalogue that "telephone owners have more than twice the income of non-telephone owners." In other words, anyone whose name has been rented out by the owner of each of these lists may think that he has merely received a dozen offers from record clubs and magazines and credit-card companies, but what he has really been sent is certification that he is a wealthy, cultured, dashing, prudent, credit-checked American. And the people who have provided him with that certification have made only about twenty-five cents from his name.

The mailing-list business is a concentrate of American free enterprise. No one tries harder than a mailing-list broker to emulate the Midwestern meat-packer who managed to sell everything but the squeal. No other businessman is so horrified by the sight of a potential source of profit lying fallow. A broker or a compiler of mailing lists is often haunted by this sense of waste, because he can see a potential source of profit where others see only a list of names. And he can see a list of names where others see only a method of licensing automobiles or delivering magazines or giving away free recipe booklets. In the eyes of someone in the list business, no transaction is quite what it appears to be to the less advanced practitioner of free enterprise; it is what it appears to be plus a list. A

mailing-list broker assumes that people who have enough in common to be on the same list have enough in common to constitute an excellent market for some product, and he is likely to feel professionally unfulfilled until he figures out what the product is. Arthur Martin Karl, of Names Unlimited, a veteran list broker, has even managed to find a use for the No List. The No List is the result of a phenomenally successful direct-mail technique pioneered by the *Reader's Digest* and known as a sweepstakes. The recipient of a sweepstakes mailing can send in a reply card that makes him eligible to win one of a million dollars' or so worth of prizes offered in the sweepstakes drawing and, at the same time, carries his order for whatever merchandise is being sold. He can also say no—that he would not like to buy the merchandise but would just as soon have his reply-card number remain in the sweepstakes anyway. The No option prevents the sweepstakes from being an illegal lottery that requires a purchase as the price of entry; also, as it happens, the inclusion of the No option always increases the number of people who say yes—even when no sweepstakes is involved and the person who sends in a No card has nothing whatever to gain. Some merchants might consider this double blessing enough to justify the existence of the No option; a list broker would look upon such merchants as people who are willing to tolerate unconscionable waste. The returned Nos are a list, and a list that is not being rented out is a by-product wasted. But who could use a No List? It is true that the people on it demonstrated some activity by taking the trouble to mail in the reply card—and activity of any sort is highly valued in the list business—but the only other characteristic they had in common was a willingness to walk to the mailbox in order to take a chance on

winning something for nothing. Karl eventually thought of the Puzzle Lovers Club, an organization whose members receive cash prizes for solving puzzles published in the *Puzzle Lovers Newspaper*. The Puzzle Lovers Club was willing to send a test mailing to three thousand names on one of the No Lists that Karl offered. The percentage of response was so high that the club ordered twenty-five thousand more No List names, and then five hundred thousand more.

Anyone who spends much time among list brokers eventually begins to suspect that a list broker can find a use for any list. The suspicion grows that if somebody defied Maginnis's Law and wrote in to demand that his name be taken off a list, he would be placed on a list of people who have demanded that their names be taken off lists.

"No, there's no use for that one," a list broker told a visitor recently.

"How about renting it out as a soreheads list?" the visitor asked. "It might do for selling products to people who want to be left alone—ammonia to squirt in dogs' eyes, or electrified fences, maybe."

The list broker smiled and shook his head, and made a note on his desk pad.

People in the list business find it natural to turn a dollar on what less resourceful people would probably not recognize as a marketable commodity. The O. E. McIntyre company, for instance, which has annual sales of several million dollars, has built its entire business on the names in phone books and statistical information available to anybody from the United States Bureau of the Census. Bernard Fixler, of Creative Mailing Service—a Long Island company that specializes in compiling business and executive lists—has said, "We have forty-three hundred telephone books and Dun & Bradstreet,

and for the main part of our business that's all we need." List compilers often take the trouble to copy down what is available to everybody anyway. Then they sell it. They go to Washington to copy down the names of contributors to campaign funds, which both parties are required to disclose after each Presidential campaign, or they copy down the names of the people in the New York telephone directory who have more than one telephone number. It is common for a list compiler to sell the names of the members of a professional society merely by making the society roster into a list.

List brokers, possessing the optimism of the truly enterprising, are only briefly distressed if a list of marketable names seems unavailable; often they can simply hunt around and turn up a list that contains the same names. Financial-advisory services are not permitted to advertise in the *Wall Street Journal* and cannot rent the list of current *Journal* subscribers. (The *Journal* does, however, trade the names of former subscribers, known in the business as "expires," with other publications.) However, a financial-advisory service *can* rent a list like "Mail Order Buyers from *Wall Street Journal*," which is composed of people who have purchased sports equipment and other merchandise from a company named Scott-Mitchell by answering its advertisements in the *Wall Street Journal*. Scott-Mitchell customers make up only a small percentage of the *Journal's* readership, of course, but they have demonstrated that in addition to being people who read the paper they are people who are willing to buy through the mail—the sort of activity most highly valued in the list business. If a list broker cannot find an alternate list, a list compiler can always create one. Not long ago, Herbert Oza, the chairman of the Dunhill In-

ternational List Company and one of the industry's most aggressive compilers, happened to mention to a reporter a list of contributors to the United Jewish Appeal.

"But I just spoke to the U.J.A. yesterday," the reporter said. "They told me they don't rent their list to anyone. They don't even trade it."

"That's right," Odza said.

"Then how did you get it?"

Odza looked disappointed, as if he found it distressing that anyone could fail to see such an obvious bit of business strategy. Eventually, he said, "Well, the U.J.A. has dinners attended by the big contributors, right?"

"So you subscribe to the Jewish press, and if it covers the dinner you get some of the names."

Odza smiled patiently and shook his head. "There are only twelve hundred hotels with banquet halls used for that kind of dinner. They all print programs for the dinner, and the bell captain gets a copy of the program, right?"

"Right."

"Well, we have arrangements with nine hundred of the twelve hundred bell captains. Then we add to that information whatever is in the U.J.A. newsletters, and we subscribe to all the papers. We put together a list of eighteen thousand of the largest contributors. Of course, we don't sell it as the U.J.A. list. We call it 'Large Contributors to a Jewish Charity' or something."

The list business easily meets the most important test of free enterprise: the profit margin is enormous, and business is booming. According to list brokers, companies can make so much money renting out lists of their customers that some mail-order firms are willing to break even on their merchandise and make their profits from the rent brought in by their lists. People in the trade estimate that the Diners' Club,

which now has a list of about a million names, makes about five hundred thousand dollars a year—almost pure profit—from renting it out; an executive vice-president of the Diners' Club acknowledges that the figure is "in the hundreds of thousands." The actual business of compiling and renting out lists is estimated to have an annual dollar volume in the hundreds of millions, and it forms the basis of the entire direct-mail industry, which now draws about as much advertising expenditure as television. In the forties, mailers invested some two hundred and fifty million dollars a year in production costs and postage for direct mail; in 1965 the figure was two billion four hundred and eight million. The volume of third-class mail has gone from roughly four billion pieces a year in the forties to roughly twenty billion pieces last year. About fifteen billion pieces of that were bulk-rate third-class mail—and every one of those fifteen billion pieces owed its existence to a list.

AS purists in free enterprise, list brokers often have to help along the ordinary American businessman who, probably through ignorance rather than any desire to slow up the economy, may be neglecting an immensely marketable by-product of his business. In the writings and conversation of list brokers, a scenario of enlightenment emerges:

"The walls are coming down," an advertisement for Lewis Kleid, one of the leading list brokers, declares. "Big national companies are rapidly recognizing the income potential from the rental (not sale) of consumer-list properties. This includes: coupons from space advertising, warranty registrations, premium buyers, contest entrants, product inquiry, and customer names."

"But I can't go around renting out

my own customers," says the Unenlightened One.

"Some mailers . . . don't want to subject 'their' customers to a lot of extra mail," says a direct-mail newsletter called *Briefs from Bringe*. "There is a feeling that rental would be 'breaking faith' with the customer. The assumption is that the mailer can control the mail his customer receives, and even that he has some right or duty to do so. It overlooks the fact that the customer receives mail from many sources, wants to get such mail, and has not given anyone the authority to decide what he should or should not receive."

"I'd be crazy to give out the names of my customers to somebody else."

"You wouldn't be giving out anything," say the brokers. "You would rent out the names on a one-use basis; either the renter sends his envelopes to you for addressing or you send him labels. The only names of yours he has when it's over are the ones who have responded to his mailing piece, and that's probably only two or three per cent. You wouldn't rent out to competitors."

"How about all that smut-through-the-mails I'm always reading about?"

"The renter will submit his mailing piece to you for approval, and if you don't approve, or if you want to use the list yourself that week, you don't have to rent it out."

"It just occurred to me that even someone with an inoffensive mailing piece could copy the names off the labels I send him and use them forever, the thief."

"Never. In the first place, there is a great deal of trust in this business. In the second place, you can require a guarantee in the contract that this won't happen. In the third place, anyone who rents out his list keeps dummy names on it, so that anyone who is tempted to steal it knows that he is

about to send one of his mailing pieces to a misspelled aunt or a peculiarly initialled secretary of his victim, who will have him ostracized."

"Sending my customers all those other offers is obviously going to cut down what they buy from me."

"List owners have a tendency to overprotect their names and to resist frequent usage," Lewis Kleid has written. "Mail-order experts contend, however, that you can't wear out a list. If anything, frequent mailings help condition and improve the quality of the names."

The most irresistible argument that a businessman can hear from a list broker concerns profit. The profit margin in list renting is what might be expected of a business that takes free enterprise seriously. Anyone who has a list of reasonably desirable names can usually rent it out for something like twenty dollars for every thousand names. That amounts to ten thousand dollars for a list of five hundred thousand names, and, except for a broker's fee of twenty per cent and expenses of two or three dollars per thousand for addressing, it is pure profit. "The company which fails to seek revenue from its names is doing its profit picture an injustice," the Kleid advertisement says. "For a company which nets ten per cent, a hundred thousand dollars in list-rental income is equivalent to a million dollars in sales (the hard way)."

Some firms are so anxious to avoid doing their profit picture an injustice that they market the names of their customers with almost as much energy as they devote to merchandising their principal product. At a congressional hearing in 1963, the direct-mail manager of McGraw-Hill testified that his company had two hundred and ten lists available for rental. Until recently, McGraw-Hill published a catalogue

just of its own lists. The list manager of Doubleday estimates that his firm has thirteen million names available for rental. Sunset House, a California company that sells a variety of merchandise through the mail, now publishes its own brochure describing the various ways in which its three and a half million buyers can be sliced up to meet the renter's specifications. Anyone renting Sunset House customers can select them by geographical regions or states, and can rent only the names of people who live in large cities, or only the names of people who do not. The renter can select the names of people who bought something from Sunset House after seeing an advertisement in a newspaper or magazine, or of people who responded to a mail-order catalogue. He can rent the names of people who have made more than one purchase, or of people who have purchased recently. ("Fresh" names are prized among list users.) The Sunset House list can be sliced up in so many ways that Arthur Karl—who, like most list brokers, keeps a dummy name on many lists in order to follow the movement in the trade—has to maintain six buyers of Sunset House merchandise across the country just to keep track. Anticipating some of the suspicions that mailers harbor about any list they are about to rent, the Sunset House brochure even includes a statement from an independent auditor that the size and description of the list have been fairly stated, and a guarantee from Sunset House that the list is "cleaned" five times a year. (Because about twenty per cent of the population moves every year, a list will soon include many names with wrong addresses—known in the trade as "nixies"—unless these names are cleaned off regularly. Undeliverable third-class mail is ordinarily thrown away by the post office, so in order to clean a list the mailer has to place a "Return Re-

quested" notice on the envelopes of a mailing—guaranteeing the post office that he will pay an eight-cent fee for every piece that is returned—and then remove the nixies from the list.)

Many corporations have always sent mailings to their own lists—magazine publishers like Time, Inc., and the *Reader's Digest* have found that their lists constitute ready-made markets for expansion into book publishing and record selling—and, to some extent, the Lewis Kleid advertisement is correct in stating that the walls against renting out customers to other companies are coming down. "Data cards"—the five-by-eight cards that brokers circulate on each list they are offering—now exist for such respectable organizations as the Harvard University Press, the Polaroid Corporation (customers who have returned warranties), the New School of Social Research, Mutual of Omaha (purchasers of air-travel insurance), and the Modern Language Association of America. Still, there is a reluctance on the part of some list owners to rent out their lists on the open market, and a good deal of business is carried on through informal agreements that do not involve brokers. Some firms that do deal through brokers prefer to rent out their lists anonymously, the result being data cards on lists such as "Donors to a Liberal Cause" ("Liberal and mostly intellectual individuals who believe in civil rights"), or "Subscribers to Stock Brokerage House Newsletter," or "Buyers of an Item Used in the Graduation Ceremony" ("The character of the purchase immediately preselects this group as being among the graduates of the better Catholic, private, and public grade and junior high schools"). Large corporations that have made a business of renting out

their lists often seem to find some way in which they are not in the business—some aspect of list renting that they would never indulge in. "We don't have salesmen selling our list, the way American Express does," says Matty Simmons, an executive vice-president of the Diners' Club.

"We don't pay brokers a brokerage fee for renting out our list, the way the Diners' Club does," says the man at American Express who is in charge of finding renters for the credit-card list. "We really do this more as a service to our customers. We're really not in the list business, the way somebody like Dun & Bradstreet is."

"We are not in the list business," says George Paul, a public-relations man at Dun & Bradstreet. "Get that out of your mind."

(The Diners' Club list is rented out through brokers. American Express is one of the few firms that do not pay brokers' fees, but, unlike the Diners' Club, it merchandises its own list vigorously through salesmen and advertisements in the *Reporter of Direct Mail Advertising*. Dun & Bradstreet has been in what everybody else considers the list business since 1964—it employs list salesmen and publishes a catalogue of its lists—but its public-relations department does not like to use the term.)

**ARTHUR MARTIN KARL** has said, "An individual act always indicates a predisposition to perform a related act." People who have asked for a TWA travel booklet, or have sent in money to pay for the miniature license plates they received from the Disabled American Veterans, or have opened charge accounts at Peck & Peck have, in the eyes of a list broker, held up their hands and challenged him to find an act that is related. Some

connections are, of course, obvious. Anyone who wants to sell a food item through the mail is likely to be offered such lists as S. S. Pierce customers, former subscribers to *Gourmet*, mail-order customers of the Wisconsin Cheesemakers' Guild, members of the Society of Gourmets, and buyers of any

one of a dozen cookbooks. A firm selling automobile accessories can choose among fifty or sixty lists in the Auto Classification provided by Jack Oldstein, of Dependable Mailing Lists—from forty thousand people who have purchased a battery additive from the Campbell-Smith company to fifty-one thousand who are members of the Automobile Club

of Washington. Anyone who wants to sell a book that happens to deal in some way with sex may try to rent the list of people who have bought "The Ravishers" and other books from Ignis Company and Marital Publications ("Sex Book Buyers"), or those who have bought one or another of Albert Ellis's books from Lyle Stuart, Inc. ("Dr. Albert Ellis' Sex Book Buyers"), or those who have bought books from Grove Press ("Most of the classics, including the writings of controversial authors such as D. H. Lawrence, Henry Miller, and others").

Although a list is created or enlarged every time a list is used—the names of the people who respond to the mailing become the property of the list renter—a heavy mailer can soon run out of names in the obvious categories and must then start looking for connections further afield. Sometimes the connection is only one step away. In selling self-help books, Doubleday does well with a list of people who have purchased rapid-reading kits from the Bet-

ter Reading Program—people who presumably want to help themselves and also need books in order to utilize their improved reading skills. The “list universe” of the Puzzle Lovers Club—that is, all the lists that regularly unearth a profitable percentage of puzzle lovers—includes not only the No List but almost any list having to do with astrology. Books on birds have been successfully sold to a list of people who have purchased binoculars by mail—a list that itself may have been built partly from the replies to a binocular offer mailed to people who had purchased books on birds. A *Wall Street Journal* circulation specialist has been quoted as saying that the list of subscribers to *Playboy* was the best list the *Journal* ever used. Mailers are constantly testing lists—mailing to a few thousand names on each one and keying the reply cards to measure results—and anyone who is willing to experiment can occasionally stumble onto connections that would not have appeared so obvious before they were demonstrated. Boyce Morgan, the director of sales for the Kiplinger company, has said, “In the forties, we were using mostly investment lists for our Washington newsletter. Then I tried some crazy testing of other lists. One of them was people who had bought Klipette, a device to remove superfluous hair from the nose. It was a dilly. Why did it work? Well, first, people of an age to have hair in their nose and ears might be the ones we were looking for, and then it does show a certain fastidiousness. In a way, it was a back-door look into the executive suite.”

The best list that has ever been used by the Republican National Committee is, not surprisingly, a Doubleday list of people who purchased “Six Crises,” by Richard M. Nixon. Unfortunately for the Republicans, the list contains only about fifteen thousand names. The Republicans have had good results with

expensive-gift lists, but their most remarkable success was with the Kozak Drywash list—advertised by Kozak as a list of half a million “upper-income men and women who buy Kozak Drywash Cloths by mail to keep their expensive cars spotlessly clean every day the sun shines.” According to the Kozak company, the National Committee found Drywash customers so responsive that it rented the list twice during the 1964 campaign. This might be precisely the Democrats’ image of a Republican—a miserly old man standing in front of his two-car garage scrubbing down his expensive car, too stiff to get himself a bit wet while doing it—but the Kozak company says that there are more Democrats on the list than Republicans, that the list has worked for American Heritage books as well as for the *Wall Street Journal*, and that it would work just as well for the Democratic National Committee if the Democrats would only try it. But Guy Yolton, the direct-mail consultant who has been advising the Republicans, says, “There definitely is a connection. People who take care of their things tend to be the type of conservatives who lean toward the Republican Party. We’re now trying another cleaning-rag list, and also a list of people who bought plastic garages to cover their cars. Maybe people who buy burglar alarms would be good, if we can find a list of them, or automatic sprinkler systems, or home fire extinguishers.”

There is always disagreement in the list business about what kind of lists work best for what kind of products—partly because there are always other variables, such as the cleanliness of the list, the attractiveness of the mailing piece, and the price of the items offered. A layman wandering through the list business is often tempted to make some leaps of amateur psychology. Recently, while talking to a visitor, Karl Brussel, who sells books—usually about sex—

through the mails, was leafing through the lists he had used for selling "An ABZ of Love." He noted that a list of people who had bought automobile accessories had worked very well. Then he turned a few more pages in his scrapbook and found that he had also had great success with purchasers of night-driving glasses.

"You should try purchasers of hood ornaments and you'll hit the jackpot," his visitor said.

"No, I don't think it would make much difference," said Brussel. "Sometimes I think I could toss all the cards up in the air and use the ones on top to sell my books. This is a lonely, fractured society, and people are reaching out." Brussel was also successful in selling "An ABZ of Love" to a list of Vermont ski enthusiasts and to alumni of the Harvard Business School.

Some lists are so responsive that an offer in a completely unconnected field is likely to draw a response from a profitable percentage of the names—a profitable percentage in the direct-mail business being perhaps as low as two or three per cent, depending on the product and its price. The subscription list of *Eros*, now cleaned down to a hundred and ten thousand names, rents for thirty-five dollars a thousand and is so effective at selling expensive merchandise that anyone who wants to rent it must wait his turn. The name most often mentioned by brokers when the subject of "hot lists" comes up is Ambassador Leather Goods, one of the free-enterprise success stories of the list business. Only about five years ago, a couple in Niagara Falls, Mr. and Mrs. Murray Hall, first offered by mail a walletlike item called the Continental, which had windows for twelve credit cards, a money slit that could easily accommodate the small amount of cash that anybody with that many credit cards was likely to carry, and free "per-

sonalization" (initials) in "14kt. raised gold-plate." The Continental was an immediate success. The Halls—using rented lists and the steadily increasing list of their own customers—went on to develop a full line of wallets and other leather goods. At the same time, they developed a list of five hundred thousand customers who are likely to buy anything offered them—from clothing to magazine subscriptions. One list broker said recently that anything that cannot be sold to the Ambassador Leather Goods list or to the subscription list of a health magazine called *Prevention* ("Mature, intelligent men and women seeking a constructive personal health program") cannot be sold through the mail.

**M**ANY list brokers believe that the most significant bond that holds together the people on a mail-order list is not the particular product they bought but the fact that they bought it by mail. The mail habit is considered important enough to have a value in the market. The Curtis Publishing Company, for instance, one of the relatively few large magazine publishers that rent out lists of current subscribers, gets five dollars per thousand more for subscribers who ordered through the mail than for subscribers who ordered through news agents. There is little argument in the list business that a list of mail-order customers is more responsive than a list reflecting any other common activity. However, the rest of the population is not forgotten; it is compiled. People on compiled lists have preselected themselves as lawyers or mothers or boat owners or plant managers or phone users or high-school seniors without having had to go near a mailbox. There are times, of course, when a compiled list works better than a mail-order list, and other times when mailers prefer to know more about their

potential customers than a mail-order list can tell them. Magazines, for instance, are often concerned about gaining circulation among people of a certain age or income, so that surveys of their readership will produce the type of audience that advertisers are trying to reach, and, according to Margaret Hill, of *Time's* circulation department, "All we know about someone on a mail-order list is that he's bought false teeth or something." Even in cases where mail-order lists are preferable, most heavy mailers use up the names on them and have to turn to compiled lists.

Compiled lists are produced in a flurry of individual initiative. "Everybody is in business locally," says Jack Oldstein. "A county clerk has four carbons, and he's running a little list business. I heard of a guy in New Jersey who was doing homeowners through mortgage papers and other records, and when I offered to market the list for him for twenty dollars a thousand he laughed at me. He's getting as much as a dollar a name from the local milk company." Almost anything that requires a license or a permit—dogs, marriages, barbers, swimming pools—is a matter of public record and is probably being noted down by a list compiler or an energetic part-timer. There is said to be one independent operator who makes a specialty of collecting the names of people who have been brought to court for non-payment of debts and then selling the names to loan companies. There are firms that take pride in being able to compile every conceivable type of list, and there are specialized firms, with names like Catholic Lists, Inc.; the Educational Directory; Teen-Mail, Inc.; and Investors' Listing Company. A low-salaried employee of a bank that acts as a registrar for a large corporation could offer a list of the corporation's shareholders to a stockbroker without

going through any kind of list company.

"If it's a printed list, it's available," Stanley Woodruff, of the Ed Burnett list-compiling company, said not long ago. "Anything on paper is fair game." Woodruff has a corollary to cover anything that is not on paper: "Anything is available if you're willing to pay the price per name it costs to compile it." Herbert Odza has always recognized the necessity of going to some lengths to acquire certain names. "When there's a proxy fight for control of a company, the company has to turn over the list of its stockholders to the court, and you can buy a copy of that," he said recently. "It's not illegal and not immoral, although it might be unethical. Birth names are usually bought from somebody in the hospital administration office. This type of thing is being done every day. In business, you must do things like this. A lawyer asks a question that he knows the court will strike from the record, but he wants the jury to hear it. You might think this is unethical, but it happens every day." In this diverse marketplace, most established list compilers concentrate not on underpaid clerks but on such widely distributed documents as trade directories, annual reports, and association rosters; their only subterfuge is to request a copy of a report or a roster in the name of a research company or a library or a student doing a research paper. The library of directories that a list compiler accumulates in this quest is often so extensive that he lends volumes to orthodox business libraries—although he would, of course, prefer to trade for a directory he doesn't have, so he could copy it during the transaction.

As practitioners of private enterprise, veteran list compilers, such as Jules Sherman, of Dependable Mailing Lists, are at their most impressive when they are squeezing marketable

names from a document that most citizens would consider of limited interest and no commercial value. In the hands of Jules Sherman, a concert program from the Denver Symphony Society is a treasure. It has a list of patrons. It has a list of sponsors. It has a list of sustaining members, subscribing members, and contributing members. And Jules Sherman has a Denver telephone book. He also has the annual reports of a number of other symphonies, and a telephone book to match each one of them. Compilers are constantly improving what they can do with directories. Creative Mailing Service can now mine the standard directories of lawyers in a way that will send a mailing piece to only one lawyer in each firm—and the customer has a choice of reaching the senior partner or the man next in seniority or the man after that. If asked to put together a “custom-compiled” list, compilers are happy to extend their search far beyond the directories. For the Dictaphone Corporation, Ed Burnett once put together a list of “Business and Professional Markets (Individuals)” that drew names from nearly a hundred sources, including lists of yacht owners, church executives, missile-project directors, vanity-press customers, veterinarians, and buyers of mailing lists. (Dictaphone could hope to recover some of the expense by means of its own list-rental business; it offers four or five different lists of its customers.) Dunhill, Odza’s firm, has offered a list, originally compiled for Rolls-Royce, called “Socially and Financially Elite Families” (“Included in this list are: holders of boxes at the Met. Opera House, Owners of Boats over 40’ in length, Contributors of \$500+ to the Senatorial Campaign of Jacob Javits, Millionaire Members of the N.Y.C. Social Register, and the top Real Estate Syndicators”). Odza says that he received so many requests for a

list of union pension funds—institutions that have considerable money to invest—that he went to Washington, where all the funds are registered with the government, found a little-known regulation that permits public inspection of the papers on record, put six accountants to work copying down the information he wanted, and has since been renting the resultant list steadily for a dollar a name.

Efforts to compile marketable lists produce such collections as “Men with Expensive Hobbies,” “Special Formula—Individuals of Above Average Income and/or Intelligence,” “Wealthy Families with Teenage Children,” and “Women in the New York Area with \$100,000 or More in Holdings.” Probably the most widely used compiled lists, though, are simple compilations by profession. The American Medical Association list of doctors—which is rented by several medical-list companies that the A.M.A. franchises in return for a royalty of three dollars and fifty cents per thousand names on each rental—is considered an excellent list not only for drug-company advertisements but for magazine subscriptions and merchandise. Magazine publishers occasionally speak of doctors as “performing well”—meaning that they can usually be depended on to pay their bills and renew their subscriptions. According to Guy Yolton, the Republican National Committee first ventured into direct mail by sending a fund appeal to doctors during the first debate on Medicare, and a fund appeal to people on financial lists during the debate on withholding taxes from dividends and bank interest. Both were profitable. The *Army Times*’ list of servicemen is also considered effective for merchandise and financial offers. The reason,

some direct-mail specialists believe, is that Army bases are away from large shopping centers, and that servicemen have steady incomes; others think it is merely a matter of soldiers' looking forward to mail call. Army doctors who have bought credit-card wallets from Ambassador Leather Goods must dance through the dreams of list brokers.

Even in compiled lists, mailers crave some sign of activity. A particularly valued type of compiled list is one composed of men who have recently been promoted or have just joined a new company. Compilers such as Creative Mailing Service and Ed Burnett cull trade magazines and newspapers and gather up four or five thousand names a month to add to lists called "Men in Motion" or "Newly Promoted Executives." The attraction of a man in motion only begins with the raise that he presumably received. A man who has just been promoted is likely to think about his role in the company, and might want to buy a book on executive management or subscribe to *Fortune* or the *Wall Street Journal*, both of which find such lists effective. He might also be musing on his new role outside the office and have concluded that he has reached a station in life that is properly accompanied by a bit of culture—perhaps a record club or a book club. One of his most appealing qualities is that he probably has not been included on many lists at his new office address and might be happy to read whatever mail he gets.

Most of life's milestones are celebrated profitably by the list business. There is a steady demand for lists of engaged girls and newly married couples; there is even a data card on a list called "Life Begins at 40" ("Men and women over 40 who have recently become in-laws. Top market for luxury and impulse buying"). The most profit-

able milestone of all produces what is known in the trade as the Birth List—although it is actually a list not of births but of new parents. A businessman with a less profound understanding of free enterprise than exists in the list business might think that couples on the Birth List would make good customers for diaper services and baby products, and he might even extend the analysis to include a greater use of detergents.

This is quite valid, of course, and is used by owners of Birth Lists, but for them it is only the beginning. New fathers, for instance, are known to be good prospects for correspondence courses. Doubleday finds that new mothers are fairly likely to become customers of its Dollar Book Club. Having children is ordinarily an activity of young families, and the *Reader's Digest* has used the Birth List partly to lower the average age of its readers for advertising purposes.

The Birth List has been greatly affected by the electronic age. At one time, collecting the names of new parents was a local affair. A diaper company would pay somebody in the hospital admissions office for a carbon of maternity admissions, or somebody in a laboratory would leak the names of expectant mothers to a baby-picture studio. There are still local birth lists—and local "prenatal lists"—but there are also two companies that specialize in births nationwide. The one in New York—the National Birth Record Company—claims that it can provide information on three million four hundred thousand of the four million one hundred thousand births that take place in the country every year. Marvin

Monsky, one of the company's executives, says he has computers running twenty-four hours a day to keep track of the births; an advertisement for his firm in the *Reporter of Direct Mail Advertising* is headed "We punch holes in new parents." When all the holes are punched, Monsky knows much more than the fact that a baby has been born. He knows, for instance, whether the baby was born in a private or a public hospital, and if that is not a strong enough indication of the parents' income, he can feed in information available from the Census Bureau about the median income of their neighborhood. "Age, race, income, religion—this is all possible to a degree," Monsky said not long ago. He can provide lists of new parents in particular parts of the country ("We can sell an Eastern name better than a Southern name"), a list of new parents above a certain income level, and a list of new parents who are new at being new parents and presumably have not yet formed buying habits for family shopping. Monsky considers his exact source of names a professional secret, but he acknowledges that he has to pay for every name. According to Monsky, each hospital presents a different problem in supply, and he is confident that National Birth Record can find the best supplier. "We normally spend more money securing names than our competitors," he has said. "All our people are well-qualified sources. If you buy names from a local dealer, he may hold on to them for a while, sell them to local clients while they're fresh, and then send along old names." The danger of getting old names also precludes the use of public records. "Those names could be sixty, seventy days old," Monsky says. "If you can't get in there fast, you're not selling a birth list, you're selling a list of people with children."

As it happens, Monsky sells a list of

people with children, too. He says that a detergent company suggested to National Birth Record not long ago that a list of families with two or more children would be a list of families that would buy more of everything. Monsky now collects the names and addresses of all those who have appeared more than once in the Birth List over the past several years, changes the names to "Occupant," on the theory that even if the family has moved, another family with two or more children has probably replaced it, and comes up with a list of some six million two hundred thousand households. Monsky says that for merchandising such products as Pillsbury's Funny Face drinks for children it is the best list in the industry. He also takes pride in the Birth List. "We believe that what we do is good, on the whole," he has said. "It's good for the people who receive it—information on how to take care of children, coupons worth a lot of money, and so on. In the unfortunate case that a woman loses a baby three or four days after the birth and she writes in, we do everything we can to clean her name off the list, and we send her a letter of apology and sympathy."

SOME people in the trade believe that computerization will eventually result in great master lists of all magazine readers and all gadget buyers. A man in Washington who specializes in the names of people who have contributed to conservative causes is now reportedly able to produce the names of three hundred thousand right-wingers, sorted on tape to avoid duplication. The Diners' Club will soon be able to rent out its members sorted by profession. Dun & Bradstreet can now produce a list that selects by type of industry, number of employees at each establishment, number of employees in the entire company, geographical loca-

tion, sales volume, age of business, and (if the customer subscribes to the Dun & Bradstreet credit service) net worth and Dun & Bradstreet credit rating. Computers have had an almost revolutionary effect on the master lists that already exist—the four or five lists, sometimes called “horizontal lists,” that include almost every person in the country who might ever be expected to buy anything. Firms with direct-mail programs of a certain size—mass-circulation magazines, mass-appeal charities, food companies that use coupons—eventually depend on horizontal lists almost exclusively, and computerization has made it possible for them to pick their best potential customers from the mass with extraordinary sophistication. There are about fifty-five or fifty-six million households in the United States, and a list of some forty-one million of them can be compiled either by collecting all the names that appear in phone books, as O. E. McIntyre does, or by collecting all motor-vehicle registrations, as R. L. Polk & Co. does. The Reuben H. Donnelley Corporation combines the two sources—catching some people with no telephone (or no listing) who have automobiles, and some carless city dwellers who have telephones—and builds the “Donnelley Quality Index” of some fifty million names.

McIntyre’s system of maintaining its list could hardly be simpler. There are approximately five thousand telephone directories published annually in the United States, and McIntyre buys a new copy of each one of them. When a new Kansas City telephone directory appears, a clerk in McIntyre’s plant in Westbury, Long Island, compares it with a stack of punch cards that were produced from the previous Kansas City telephone directory. She draws a blue line through all the names and addresses that are identical to those she

has on the punch cards and through all the business listings, and throws away the punch cards containing names that do not appear in the new directory. Another clerk makes a new punch card for every name in Kansas City that does not have a blue line through it, and then a machine re-sorts the cards from alphabetical order to street-number order for inclusion on the master tape. Some of this work is farmed out to housewives; in some parts of Long Island drawing lines through names for McIntyre forms a sort of cottage industry.

Polk has a similar system for keeping its list fresh—it folds in names as cars are registered throughout the year, then begins a new list for each state as the new year’s registrations become available—but it has a more complicated problem of original supply. Polk, like National Birth Record, must make a separate arrangement with each source—and it must get all fifty states for a complete list. In some states, the company can simply buy a directory containing all the information needed. In New Jersey, Polk is given all the information free in return for looking up the names and addresses of parking violators. In New York, the law permits the Bureau of Motor Vehicles to sell rights to the information. In 1961, both Polk and Donnelley were outbid in New York by a mailing house called Circulation Associates. According to a suit filed in 1963 by Circulation Associates (and still in litigation), Polk, having been denied the registrations itself, arranged with the Commissioner of Motor Vehicles to microfilm something called the MV-50 forms, which, it turned out, contained most of the information that is found on motor-vehicle registrations—except in more legible form. The Commissioner did not deny that; he said he had decided that the MV-50 forms were

public record. Circulation Associates alleged that the Commissioner had "developed a personal acquaintanceship" with some of the officials of Polk—a phrase that might be said to represent a side of the list business that has existed since the first county clerk met the first list compiler many years ago. (Polk won the bid the next time it was offered, but Donnelley also continues to advertise a complete list. The two companies regularly share the cost of transforming the registration information into usable form, share the list that results, and, in some states, do not compete against each other in trying to rent it.)

A list of eighty per cent of the families in the United States is of practically no value unless it can be refined into categories of people who have more in common than ownership of a telephone or an automobile. The greatest single aid the compilers have for making this refinement is the Census Bureau. In order to maintain consistent statistics on the population, the Census Bureau, with the advice of a local committee, permanently subdivides a metropolitan area into tracts that contain roughly a thousand relatively homogeneous families. Within each tract, census-takers gather information from one of every four families, and on the basis of that sampling the Bureau publishes statistics on the median income and education of the people living in the tract, as well as a good number of percentages and averages concerning their housing, their professions, the size of their families, and their ethnic backgrounds. Tracting began with a few cities in the 1910 census, and now covers almost sixty per cent of the population, including practically everyone who lives in a city. The list compilers fold the tract information into their master tapes, so that for a financial magazine, say, their computers can immediately pick out people who live in tracts where median

incomes are nine thousand dollars or more, median educations are of more than twelve years, and the percentage of "managerial and professional wage-earners" is high. McIntyre offers twenty-five variables for selecting tracts, including value of owned homes, percentage of married couples with husbands under forty-five, percentage of married couples with husbands under forty-five and children under eighteen, and percentage of owner-occupied housing units. Donnelley has about the same number of selectors programmed into its master list, including the percentage of multiple-dwelling units and the percentage of non-white housing units. As it turns out, one of the minor disadvantages of being a Negro slum dweller in the United States is being deprived of a fair share of orange-juice coupons.

Although the average merchandiser might be delighted with such extensive statistics based on such a large sampling, the resourcefulness of the big list-compiling companies only begins with census tracts. The real skill is what is occasionally called "getting inside the tract." Since the tape of a compiler of telephone lists is arranged by address, he can easily reach only people in single-family dwellings (more children) by instructing the computer to skip over any address that has more than one name listed. The computer can also skip any telephone listed under a female name (lower income). It can select only families that have been on the list for a specified number of years (older; fewer children). The McIntyre list is carried on reels of magnetic tape that hold two hundred and forty thousand names each—the entire list of forty-one million families looks like a largish home-movie collection—and in three minutes the computer can pick out of a reel the names suitable for, say, a "TV food-snack" mailing, eliminating tracts below forty-five hun-

hundred dollars' annual income, female names, apartments, and families that have been at the same address more than eight years. For coupon offers, the McIntyre computers can replace names with "Occupant," which is less personal but more deliverable, and for magazines that prefer not to send subscription offers to their own subscribers, such as *Time* and the *Reader's Digest*, it can match its tape with the magazine's tape and eliminate the names of people who already subscribe.

If a man who earns ten thousand dollars a year happens to be hiding in a tract with a median income of eight thousand dollars, a compiler is likely to flush him out sooner or later. Polk and Donnelley know about his two cars, and they know the make, model, and age of both of them. That information is, of course, of some use to automobile manufacturers—Ford once won a prize from the Direct Mail Advertising Association for a mailing that it sent to owners of Chevrolets and Plymouths—but it can also be used by any merchandiser who wants to add to the number of people available in ten-thousand-dollar tracts by dropping to eight-thousand-dollar tracts and selling only owners of more than one car. Polk has now perfected what it calls the "Current Market Value Index," a program of checking the value, as listed in the standard used-car manual, of each car registered to a family, adding up the figures if there is more than one car, and then assigning each of the forty-one million car-owning families in the United States a number, from zero to nine, that represents the total value of its automobiles. At the same time, Polk is converting to magnetic tape its "Household Census List," which is composed of information that the company acquires in the course of putting together the city directories it publishes in most major American cities (except

the four largest). When the list is completely converted, sometime next year, Polk advertises, it will "contain more vital selection factors on a household-by-household basis than any mass list ever compiled." For the twenty-four million families that will eventually be on the "Household Census List," Polk will know—not by statistical probability but by precise information on each individual—"occupation of head of household and all persons over 18, marital status, wife's name, whether wife works, number of children, age range of children, total persons in the household, total employed persons in the household, occupancy status (owner or renter), primary families, sub-families, and secondary families, type of dwelling (single or multiple), length of residence at current address, age of structure, telephone number if there is a phone, spending index (estimated annual expenditure for current consumption)." The finished product will be what Polk calls a "precision marketing tool."

Somehow, despite the skill of the list compilers and the enterprise of the list brokers, there are names that cannot be rented. Most magazines will release the names of their active subscribers only in exchange for other active names, usually on a one-for-one basis, and will rent out only the names of "expiries." A number of magazines, such as *Time*—which trades "actives" with firms like the Book-of-the-Month Club, the Columbia Record Club, and *Harper's*—will not rent out even expiries, and a few magazines will release no names of subscribers, actives or expiries, for rent or for trade. There are firms in almost all fields of business that rent out lists of their customers—Kaiser-Roth, a wholesale clothing manufacturer, has gone as far as to rent out a list of the retail stores that carry its products—but even in businesses that

involve credit cards there are some companies (notably car-rental firms) that do not rent out their lists. According to list compilers, an up-to-date alumni list of some colleges can be obtained from the secretary of the alumni association, but the graduates of other colleges have to be collected from the alumni directory, which is, of course, out of date by the time it is printed. Many department stores do not rent out their lists, and the credit bureaus used by department stores to clear charge accounts ordinarily do not put the credit-checked names on the open market, although some of them will provide a "custom-compiled" list for, say, an oil-company credit-card mailing or a promotion mailing for a new branch of a department store. Large charities normally do not rent out their lists, although small charities often sell their lists to a broker, who combines them to create something like "Catholic Donors" or "Donors to the Cause of Peace." Aware of the fact that a large organization's roster is always obtainable, some societies and clubs try at least to make some money from the situation by having their lists marketed and policed by a list house—Polk offers two hundred and forty thousand Junior Chamber of Commerce members at twenty dollars a thousand, and fifty thousand Jaycee officers, all of whom have demonstrated intense activity, at thirty-five dollars a thousand—but other societies put dummy names on their rosters and object strenuously when they discover that the list has been used. List compilers say that they do not continue to use a roster or directory of an organization that has formally objected. In creating lists that have to be collected from a number of sources, compilers invariably miss a few names. Even a man as resourceful as Herbert Odza has no arrangements with three hundred of the

twelve hundred bell captains of hotels that hold U.J.A. fund-raising banquets. And some seven hundred thousand babies manage to get born in this country every year without revealing to Marvin Monsky the name, age, race, and probable income of their parents.

"PEOPLE are always asking me how to get off mailing lists," Myron Shapiro, of the Mid-Century Book Society, said recently. "I tell them there is only one way—and dying is not it." Dying will have no effect on a mail-order list until the list is cleaned and an envelope marked "Return Requested" is actually returned; even then, the name may be picked up again from a directory or a roster by a compiler. Shapiro's advice for anyone who wants to risk being considered a bum by Harry Maginnis is to move and leave no forwarding address, not even for first-class mail. Of course, Shapiro's friend, once moved, would have to give up a few habits he had at the old place. He could not have a listed telephone, and he could not own a car, unless he wanted to take a chance on driving it without license plates. He would have to give up such conveniences as subscribing to magazines and ordering theatre tickets by mail. He would be forced to ask his university to strike his name from the alumni rolls (or, at least, he would not inform the alumni association of his sudden move), and he would resign from any club or professional society that might want to know the address of its members—even members who had no credit cards and refused to contribute to charity. He would, of course, abandon the ballot, and, to be perfectly safe, he and his wife would have to be satisfied with the number of children they already had.

"I hope he's not moving into one of six hundred and forty luxury apartment buildings in New York," Herbert Odza said not long ago, in a discussion of Shapiro's hypothetical friend.

"Why not?"

"We pay the super or someone in the management company of each building for the names of people who move in."

"He is not moving into one of those apartments."

"And he's not voting?" Odza asked.

"That has already been decided."

"And he's not writing his congressman, of course."

"His congressman!"

Odza explained patiently that people who write their congressmen often show up on lists of people who write their congressmen; they have, after all, shown themselves to be somewhat active. In fact, Odza said, one of the most successful lists in the financial field for a while was a list of people who had written to their congressmen objecting to the proposed withholding tax on bank interest and dividends—an indication that they had some bank interest and dividends to be taxed.

"He will not write his congressman."

"Even if he doesn't," Odza said, "the lady in the apartment next door may be selling Christmas cards, and the Christmas-card company may ask her to suggest names of any neighbors interested in making some extra Christmas money."

To avoid being betrayed by a casual acquaintance, Shapiro's friend will have to take the final step of withdrawing completely from society—tutoring his own children, and permitting his wife to go out only for groceries, with instructions to pay in cash and speak to no one. Asking customers for names

of acquaintances seems to be an increasingly popular device. "Your best prospects are your current customers," Lewis Kleid once wrote in a column that appeared in the *Reporter of Direct Mail Advertising*. "Ask them to recommend names of friends.

Ask them to sell their friends. The names received from this source constitute an unusually responsive audience, and the lists which result from this effort can, in addition, be rented to produce additional revenue."

Anyone whose reaction to a particular piece of mail is an urgent desire to have his name removed from that particular mailing list has at his disposal no foolproof method short of the address-changing that Shapiro advised for getting off all lists. Some list owners will remove a name from their list upon request, but a good many find that removing one name is mechanically impossible or financially impractical. The Diners' Club can (and does) remove a member's name from the rental list if he requests it. However, unless the member has spelled his name in an unusual way on his application or has some other method of identifying the Diners' Club address plate, there is no way for him to know that if he objected to the totem pole he received, along with a fund request, from the St. Labre Indian School, or did not want to receive membership offers from the Playboy Club or the Record Club of America, he should complain to the Diners' Club. Complaining to the firm that sent the mail is a common mistake. It is likely that the unwanted piece of mail is the result of a rented or traded list; the firm that sent it used the list on a one-time basis and would not even know the complainant's name—until he complained. There are people who indicate their desire to be

removed from a particular list not by a polite letter but by filling the reply envelope with weights, or by sending back the reply card of one offer in the reply envelope of another, or by punching additional holes in reply cards that are in the form of punch cards. Like most people who have become desperate enough to resort to guerrilla tactics, they are fighting impossible odds. They often send their symbols to the wrong firm, of course, and even if they reach the right firm, the list remains unaffected, since most of the more demonstrative guerrillas—such as the one who taped a Kiplinger reply card to a box full of dead rats—prefer to remain anonymous.

Not paying for something ordered through the mail is an easier way to get free merchandise than shoplifting—after about six months and a few threatening letters, most companies charge off the loss—but it will not remove the non-payer's name from whatever list directed the merchandise to him in the first place. There is now a credit service—the Hooper-Holmes Bureau—that collects the names of non-payers (universally known in the mail-order business as deadbeats) from subscriber firms, which can, in turn, check the deadbeat file before mailing out merchandise on credit. In only three or four years of operation, Hooper-Holmes has managed to put together a magnetic tape containing the names of more than five million certified American deadbeats. However, the tape is normally not checked until after merchandise is ordered, so being one of the Hooper-Holmes five million does not mean removal from a mailing list. To a student of the mailing-list business, of course, a deadbeat—like anyone else who demonstrates activity of any sort—is a person who has preselected himself into a category. There was an earlier deadbeat file in the trade, and using it only to check credit struck at

least one broker as being about as shortsighted as using a list of magazine subscribers only to distribute magazines. "I finally figured it was a swell list of people for cash offers," Arthur Martin Karl recalled recently. "The man who was running the association was horrified at the thought. He looked on those deadbeats as vermin, and wouldn't think of renting them out to anybody." Hooper-Holmes, a modern company, does not consider its deadbeats vermin, or even deadbeats—"We prefer to call them delinquents," the man in charge has said—but it has no plans to rent out their names.

About the most dependable strategy for someone who wants his name removed from a list is to try to clean himself off it. He can carefully read every envelope he receives by third-class mail until he comes across one that has a "Return Requested" notice on it. That one he will refuse to accept. Ordinarily, rejected third-class mail is thrown away by the post office, but rejected third-class mail with a "Return Requested" notice on it is returned to the sender, who, having list-cleaning in mind, will presumably remove the name. The man who has devoted all this energy to having his name removed from a list will have the comfort of knowing not only that he has been removed but also that he has cost the mailer eight cents—probably as much as the list owner has made from his name in four rentals.

**W**HY anyone would ever want to go to all that trouble just to get off a list is a mystery to people in the list business. The only consequence of being on a list, after all, is receiving mail, and a survey taken by the A. C. Nielsen Company for the Direct Mail Advertising Association a few years ago concluded that eighty-five per cent of the population had "no general dislike of direct mail." (The D.M.A.A. tends to see things on the bright side; the

eighty-five per cent included people who "like some, not all" and people who "don't care one way or another.") Representatives of the direct-mail industry would never dispute the notion that it is rather difficult for an adult American to stay off mailing lists. They emphasize that an American is on a list from the day he is born (or, if he happens to make one of the prenatal lists, from quite a few days before he is born). If the American is Shapiro's friend, he may argue that he has some ownership rights to his name, and that they are being violated by the people who rent it out. "Names are not captives," the Lewis Kleid advertisement says. "They can't be fenced in. They are not secret or confidential. Names are found in phone books, directories, voting lists, auto registrations, newspaper clippings, and many other places." How can there be a violation if, as Arthur Martin Karl has said, "there is no such thing as a virgin name"? It is constantly stressed that commerce in names is a normal part of American life and an important part of American business—and, to an increasing extent, it is. Bernard Fixler, of Creative Mailing Service, has said, "People who criticize direct mail don't realize what kind of country we're living in; it's based on advertising and selling." Although the list business itself has been almost ignored by the public, those engaged in it are reminded of public resentment against the mail it produces every time there is a reference to "junk mail"—a phrase that they find extremely unappealing as a description of the source of their livelihood. Boyce Morgan, of Kiplinger—one of the few people in the industry who speak as if any of the resentment could be created by the way lists are rented and traded—has been particularly concerned about finding a way to avoid the duplication caused by the common practice of using a num-

ber of lists for one mailing. "It is perfectly possible for a prospect to receive a dozen identical Kiplinger solicitations within a few days of each other, or even on the same day," Morgan once said in a speech before the Hundred Million Club, a Manhattan direct-mail organization that was originally composed of mailers who sent more than a hundred million pieces of mail every year. "And make no mistake: when this happens, that Kiplinger mail is pure, unadulterated 'junk' to the recipient." There is, however, a widely held theory in the field that duplication is not only harmless but probably beneficial. The *Reporter of Direct Mail Advertising* has quoted Lewis Kleid as saying, "Irrespective of the irritation factor, most mailers argue that duplicates can be a plus if mailings to similar lists are staggered to insure that recipients will not receive two or more identical pieces on the same day. . . . The recipient who ignored the first letter might be impressed by the second or third impact."

Many people in the industry believe that attacks on direct mail can often be traced to fear of economic competition on the part of the newspapers. Discussing the role of newspapers not long ago, Henry Hoke, Jr., publisher of the *Reporter of Direct Mail Advertising*, said, "I hate their guts." Hoke and other defenders of direct mail immediately answer any newspaper article that gives suggestions to the anti-direct-mail guerrillas or that dwells on the fact that the post office loses several hundred million dollars a year delivering bulk-rate third-class mail—meaning that the guerrillas are paying taxes to subsidize the mail they are doing their best not to receive. The offending newspaper is likely to receive a letter from a congressman who appreciates the role of the direct-mail industry in the free-enterprise system and who will re-

mind the editor that the post office loses less money delivering a piece of third-class mail than a piece of second-class mail—a class that includes newspapers. When Philip Weld, publisher of the Beverly, Massachusetts, *Times*, offered to send interested readers an “I Hate Junk Mail Kit”—an episode that is occasionally referred to in the direct-mail press as “the ugly Beverly, Mass., affair”—Henry Hoke, using the tools of the trade, mailed his counterattack to every home in Beverly, every United States senator and representative, every retailer in Beverly, and six hundred editors of “retailer-oriented trade magazines.” (“We’re indebted to John Jacobs, of *Mailways of New England, Inc.*, Manchester, N.H., who contributed the Beverly names from his 3½ million occupant names in New England,” Hoke wrote.) The unkindest cut was that no list broker approached Weld about renting the list of the people who had sent in for the kits.

One reason the direct-mail industry reacts so quickly to public criticism is that it is particularly dependent on the good will of public institutions—Congress, the Post Office Department, the Census Bureau, the various government departments that serve as sources of lists. Even the legislature of a single state could disrupt a nationwide business, such as compiling the motor-vehicle list. The current governmental crisis in the industry is the Post Office Department ruling that after January 1, 1967, any bulk-rate third-class mail that is not Zip Coded will go at the third-class piece rate of four cents instead of the third-class bulk rate of two and seven-eighths cents. Although the large lists are already Zip Coded, some mailers are expected to decide that a number of lesser lists—particularly premium lists (“These people sent three PET DOG FOOD LABELS plus \$2.00 for

either a dog tag or collar embossed with the name of the pet”) and lists that are rarely rented—are not worth the expense involved in adding a Zip Code number to each name, and some people believe that the volume of third-class mail will probably decrease for a while.

The more characteristic crises concern legislation. The list business always seems to be under threat of some proposed piece of restrictive legislation that is unlikely ever to become law. Pornography is usually the intended target. Congressional hearings that are of interest to the list business seem to consist mainly of testimony by the *Citizens for Decent Literature* or the *National High School Program to Obtain Freedom from Filth*. A bill introduced by Congressman Glenn Cunningham, of Nebraska, and passed by the House would make it possible for anyone who receives a piece of mail (or whose child receives a piece of mail) that he considers “obscene, lewd, lascivious, indecent, filthy, or vile” to arrange with the postmaster to have his name removed from the list responsible for directing the lewdness to his door. “The reason that I came upon this scheme was that when my boy was a Boy Scout, aged about fourteen, he took a Boy Scout magazine,” Cunningham said in committee hearings. “In the magazine there were advertisements, and there was one which said, ‘Start a stamp collection. Send twenty-five cents for various types of stamps.’ He did this. He sent the twenty-five cents in and got his stamps—a legitimate transaction. No argument about that, and most children start stamp collections between the ages of twelve and sixteen. About two years later, he started getting this obscene type of advertising through the mail.” Another bill, also aimed at pornography, would make it mandatory for list bro-

kers to register with the government and furnish information on their transactions.

It is customary for the sponsors of such legislation to emphasize their admiration for the established direct-mail industry and to make it clear that they are interested only in foiling the purveyors of filth. Despite these assurances, the direct-mail industry (as well as the Post Office Department and the American Civil Liberties Union) regularly testifies in opposition to bills like the one introduced by Cunningham. The president of the D.M.A.A., Robert DeLay, flanked by representatives of respectable publishing houses, arrives at the hearing carrying a copy of the D.M.A.A. Code of Conduct and a list of the distinguished corporations that have won the D.M.A.A. Gold Mailbox Award. He points out that smut peddlers do not deal with legitimate brokers but with each other, and that legislation would permit any crank to disrupt the operations of a section of the economy that is responsible for some thirty billion dollars in sales annually. On one of these occasions, DeLay said, "To kill a few cockroaches in the cellar, as it were, these bills would set fire to the entire house of American business."

The State of New York, where a good part of the list business is situated, provides at least its share of legislative threats. Two years ago, a New York assemblyman introduced a bill that would end the practice of selling the state's motor-vehicle registrations to the highest bidder. After a small outburst of editorial approval, the bill was more or less forgotten. More recently, a bill was introduced that would prohibit a bank or a brokerage house or any other firm that has a traditionally confidential relationship with its customers from renting out their names without written permission. The bill is unusual in that it actually questions the practice of rent-

ing and trading names. Discussion of direct mail—whether in legislatures or in newspapers—usually concerns only the mail itself. Newspaper stories discuss "junk mail" and "the sanctity of the mailbox," but they rarely raise questions about the ownership of names. The Direct Mail Advertising Association has not had A. C. Nielsen take a survey on what percentage of the population has "no general dislike" of the fact that someone is making money from renting out their names, or what percentage would consider this perfectly all right as long as the owner of the name received a percentage of the price. No one has proposed legislation that would require a company to inform its customers that their names will be rented out—so that a reader who is invited to vote in the *Playboy* Jazz Poll would do so with the understanding that *Playboy* will then rent out his name, or a camera owner who sends films to be developed at the Minox processing laboratories would know that Minox is advertising that such transactions keep the addresses on its warranty list up to date and therefore more rentable. No one has suggested that the application for an American Express credit card should contain a footnote saying, "I understand that if the information I have listed above demonstrates an acceptable credit rating, American Express will use that fact as a marketing aid in renting out my name," or that the Book-of-the-Month Club coupon should be changed to read, "I have the right to cancel my membership any time after buying these three books, and I am aware of the fact that my name may be traded to *Time*, the Weekly Newsmagazine."

People in the direct-mail industry would undoubtedly argue that such disclosures would be harmful to business, and in the past such arguments have been successful. Congressman Morris Udall, of Arizona, once introduced a

short-lived bill that was much more threatening than the Cunningham bill—it would have permitted a recipient to demand removal of his name from a list if he considered a piece of mail “obnoxious”—and during the hearing on the bill he asked, “Why is it, in this great country, that if some poor housewife or some poor congressman or some poor citizen does not want to be on a mailing list, or does not wish, for any reason, to receive these materials, he cannot simply get off the mailing list by making a reasonable, rational request?” The industry witnesses gave Udall some complicated explanations about the immense expense and confusion that could be caused by trying to

remove one name from a list; in summary, they said it would be bad for business. A student of the list business as a concentrate of free enterprise could find the answer in one subhead of the hearing testimony, which reads, “Lists Are Precious Commodities.” Udall was impressed with the industry’s presentation. “By the time they got through,” he recalled recently, “they were saying that fifty thousand people would be put out of work, the economy of the whole country would be damaged, and all the universities and charities of the country would go broke. I told them that all I wanted to do was get off their damn list.”

—CALVIN TRILLIN

Mr. NIX. Our next witness—and I regret that we did not have as much time as I anticipated—is one of our distinguished colleagues, the Honorable Frank Horton, Member of Congress from New York.

It is a pleasure to see you, and you may proceed.

**STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF NEW YORK**

Mr. HORTON. Mr. Chairman, I want to thank you for offering me this invitation to testify before the subcommittee on this very important matter, and also to say that it is my privilege to come before you to urge a limitation on the sale or distribution of mailing lists developed by various Federal agencies in carrying out their designated duties.

Throughout the entire Nation today there is concern about the growing intrusion into individual privacy. It was this concern that led me, in February of this year, to initiate an extensive study into the policies of Federal agencies and departments dealing with mailing lists.

This issue was brought to my attention by a constituent who had registered as a gun collector, under the 1968 Gun Control Act, and suddenly found himself receiving solicitations from a gun supply shop using the identical mailing label as the one the Internal Revenue Service, which administers the Gun Control Act, used for its official mailings.

I was shocked when I asked IRS about the practice and was astounded when my followup study revealed a total lack of a governmentwide policy with regard to the sale or distribution of mailing lists.

The Internal Revenue Service said it prepared the mailing lists as directed by the Gun Control Act which required the agency to distribute State and Federal gun rules and regulations to persons registering as gun dealers or collectors. Once the list of 143,000 names was prepared, IRS then contended it was required by the Freedom of Information Act to sell the list to anyone who could pay \$140, or less than a tenth of a cent a name.

My inquiry to other departments and agencies, 50 in all, revealed that some agencies were providing lists routinely while others did not. Interestingly enough, almost all cited the Freedom of Information Act as the basis for their decisions.

In addition to the sale by IRS of the names and addresses of gun dealers and collectors, I discovered that the Federal Communications Commission sells the names of 265,000 amateur radio operators, and the Federal Aviation Administration sells a list of 680,000 licensed pilots. The Coast Guard also sells the names of motorboat owners who are registered in New Hampshire, Washington, Alaska, the District of Columbia, and Guam.

Since starting my investigation, I have received letters from individuals all over the country. Almost all these letters complain about invasion of privacy through the mailbox.

I strongly question, as do many of our colleagues, the right of the Federal Government to enter into the field of mailing list sales.

In the case of my constituent who I mentioned earlier, the gun collector, he claimed his life was placed in jeopardy without his even

knowing about it. The IRS mailing list was prepared in such a way that any criminal, intent on securing a large quantity of high quality weapons, could purchase a highly organized list for merely \$140. This list, as you can see, is broken down by ZIP code and lists every gun dealer and collector in the country. What could be easier than to have such a ready guide for gun thieves?

To the credit of the Internal Revenue Service, Commissioner Randolph Thrower immediately removed the names of gun collectors from public distribution and sale when I brought the situation to his personal attention. The damage, however, had already been done. My constituent was forced to go out and install at considerable expense a security system for his home.

Unfortunately, the administrative action of removing the names of the gun collectors is only part of the answer and is no assurance that they could not be added on at some future date or that there might not be another dangerous list lying unnoticed in some Government file.

Following my survey of the 50 departments and agencies I concluded that the problem resulted from a gap in the Freedom of Information Act which was enacted in 1967 to provide the public with as complete access as possible to public records.

Many other colleagues have concluded that legislation is needed to combat this problem. A number of bills are before you today. While making my study of this matter, I found a very strong temptation to jump immediately to an outright ban of mailing lists.

Such a ban would go too far. I feel it would present more problems than it would solve.

It is impractical and possibly unworkable to totally prohibit all Federal agencies from making available any mailing list or other list of names or addresses for any purpose whatsoever. In my opinion that would close off Federal records and documents containing names from even legitimate public inspection. We have all seen what happens when information is kept from public scrutiny.

What is necessary is to stop the use of Federal mailing lists for commercial or other solicitations or for any illegal purpose. This is what my legislation, H.R. 17990, does. It also provides for a sufficient penalty to enforce the ban and it provides the individual with recourse in the event his name and address do appear on an illegally sold mailing list.

I drew up legislation which I sincerely believe is a proper balance between protection of an individual's right to privacy and the public's right to know.

Mr. Chairman, 81 of my colleagues from both parties, spanning the Nation from coast to coast and even to Hawaii, have joined me in seeking to close this gap in the Freedom of Information Act. My legislation is presently pending before the Foreign Operations and Government Information Subcommittee of the Government Operations Committee. I am a member of this subcommittee and have been assured by Chairman John Moss that the measure will receive serious consideration.

Mr. Chairman, I would like to commend your committee for taking up this urgent matter at this crucial time. I feel it is important that we give it a thorough study and develop positive action on which the Congress as a whole can act.

When you draw up your bill, I would hope that you, too, will give serious consideration to the language I have prepared. If any of the

committee members or staff wish, I would be more than happy to open my complete files to you on this matter and offer you my assistance.

The language of my bill offers protection to the individual's right to privacy and at the same time allows full access to Federal records and documents. The Federal Government has no place in the business of preparing and selling mailing lists. I strongly urge you and your subcommittee to take positive steps to eliminate this problem.

Mr. Chairman, for the information of you and your subcommittee, I would like permission to include as part of my testimony my remarks in the Congressional Record, which includes correspondence with the Internal Revenue Service and the other departments and agencies, as well as the text of H.R. 17990.

Mr. NIX. Without objection, it is so ordered.

Mr. HORTON. This was in the Congressional Record of June 9, 1970. It contains a copy of the bill, a list of the sponsors, and also correspondence that I received from the various agencies which I thought might be of assistance to your subcommittee in looking at this problem. I think it might be of some help, and you might be interested in what some of the agencies had to say on this.

Mr. Chairman, as you look through it, you will find, as I said earlier, that some of the agencies have a very strong policy in accordance with the direction of the Freedom of Information Act to make available these lists; and on the other hand, some of the agencies say, "As a result of the Freedom of Information Act, we cannot make these available."

So I think that there is a great deal of confusion about the application of the Freedom of Information Act. I am sure that as your subcommittee looks at this, you will come to the same conclusion that I did with regard to this confusion; but I do think it is very important to protect the people's right to privacy but at the same time to preserve the right of the public to know what we are doing.

Mr. NIX. The article you referred to is "Horton Legislation Bans Sale of Mailing Lists by Federal Agencies for Commercial and Other Solicitations"?

Mr. HORTON. Yes, sir; that's right.

Mr. NIX. The June 9, 1970, Congressional Record?

Mr. HORTON. Yes, sir.

Mr. NIX. Without objection, that may be made a part of the record at the end of these proceedings.

Mr. HORTON. That concludes my statement, Mr. Chairman, and appropriately, I guess, as the bell rings for us to go into session. But I do want to thank you for giving me this opportunity to testify before you on this matter that I feel very strongly about, and one which I am sure you and your subcommittee feel very strongly about.

Mr. NIX. Thank you. We are very pleased to have you. As you said a moment ago, you just stopped in time. I will take the liberty to make the observation that this is one area in which we do not have to reform the congressional rules. We stop on time. Thank you very much.

Mr. HORTON. Thank you, Mr. Chairman.

Mr. NIX. The Subcommittee on Postal Operations will stand adjourned.

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

(The article submitted by Congressman Horton follows:)

**HORTON LEGISLATION BANS SALE OF MAILING LISTS BY FEDERAL AGENCIES FOR COMMERCIAL AND OTHER SOLICITATIONS**

**Mr. HORTON.** Mr. Speaker, a serious gap in our Federal laws encourages the invasion of an individual's right to privacy, and in some cases, threatens his safety. Over the past 2 months, I have been studying the question of mailing list sales by the Federal Government.

After making a survey of 50 departments and agencies, I was astounded to find the wide difference in policy. In fact, there is no established Government policy on the sale of mailing lists. Some agencies provide such lists routinely, others do not. Interestingly enough, all cite the Freedom of Information Act as the basis for their decisions.

The Federal Freedom of Information Act was enacted in 1967 to provide the public with as complete access as possible to public records.

The purpose of the act is to prevent Government agencies from unjustifiably withholding information that should be reasonably available to the public. Certain information can be withheld if it involves national security, proprietary business information, investigatory files, or personnel or medical files. Other statutes protect the confidentiality of income tax and census data.

An area overlooked in the act is mailing lists compiled by Federal agencies in carrying out their proper roles. I do not believe that the Freedom of Information Act was passed as a license for commercial organizations to invade an individual's privacy or to aid those with illegal intent.

Last February, Dr. Wendell Ames, director of the Monroe County Health Department, called the mailing list problem to my attention. Dr. Ames, a gun collector, was required to register with the Internal Revenue Service under the 1968 Gun Control Act. He soon found he was receiving solicitations from a sports supply shop in Ohio. These solicitations used the identical address label used by IRS for its own mailings to licensees. When I first looked into this, IRS claimed it was forced to sell this list, containing the names and addresses of 143,000 gun collectors and dealers, under the provisions of the Freedom of Information Act. IRS said it had to sell the list to anyone who wanted it and who paid the \$140 charge set by the agency. This amounts to less than a tenth of a cent per name and address.

Dr. Ames' complaint was that his home had been placed in jeopardy, without his knowledge, by the sale of this list. The list would have made it easy for anyone to instantly locate and steal supplies of weapons kept unprotected in private homes across the country.

As a result of my inquiry, IRS Commissioner Randolph W. Thrower reviewed this practice and stopped the distribution of the names of gun collectors. However, IRS continues to sell the mailing list of gun dealers.

There are other examples of how Federal agencies aid the invasion of privacy of our citizens. The Federal Communications Commission sells at cost the names of all licensed ham radio operators. The Federal Aviation Administration sells the names of licensed pilots. The Coast Guard sells the names of registered boat owners.

The Federal Communication Commission sells mailing lists with the names of 265,000 amateur operators. The Federal Aviation Administration sells lists of licensed pilots with 680,000 names. These lists are sold at about a tenth of a cent a name, about the same as the list of 143,000 names of gun dealers and collectors sold by IRS.

To correct this serious breach of privacy, I have drafted legislation amending the Freedom of Information Act to prohibit the Government from selling mailing lists for commercial purposes or other solicitations, or for any illegal purpose. Over 75 of my colleagues are joining me in sponsoring this legislation today.

I also plan to place in the CONGRESSIONAL RECORD the text of replies I had received from over 50 agencies regarding their practices of selling mailing lists, which clearly illustrate the inconsistency in their policies regarding mailing list sales and distribution.

My bill will prohibit the sale or distribution of any list of names of Federal employees, past or present members of the Armed Forces or persons who are licensed or required to register with any Federal agency unless there is a certification that such a list will not be used for commercial or other solicitation or for any unlawful purpose.

This is legislation that I feel will protect the individual's right to privacy and safety. It does not prevent legitimate access to agency information but states clearly the intent of Congress that mailing lists will not be used for purposes affecting individual safety or privacy.

The need for a Government-wide pol-

icy on the question of mailing lists is obvious to me, and to many of my colleagues. This legislation I have proposed will provide the missing policy direction. I feel it is a positive balance between the public's right to know and the individual's right to privacy.

As a member of the House Subcommittee on Government Information which originated the Freedom of Information Act, I hope early hearings will be held on this bill.

Mr. HORTON. Mr. Speaker, in making my survey of Federal agencies, I found a wide variety of policies and interpretations of the Freedom of Information Act. I would like to share with you the text of my letter to the 50 agencies and the responses:

CONGRESS OF THE UNITED STATES,  
Washington, D.C., March 5, 1970.

Hon. L. QUINCY MUMFORD,  
Librarian,  
Library of Congress.

DEAR Mr. MUMFORD: It has been brought to my attention that some government departments and agencies are selling or making available mailing lists including the names and addresses of individuals or firms which fall under their jurisdiction or regulation.

I am conducting a government-wide study of all mailing lists that agencies have prepared and made available to the public. My purpose is to weigh the balancing interests between freedom of information and the individual's right to privacy.

I would appreciate your providing me with information about any mailing lists your agency or its components have developed, to whom you have sold them or allowed distribution, the charge to purchaser, a detailed breakdown of how your cost is determined and the specific legislative authority under which you sell each list.

So there is no delay in my study, I hope you can provide this information as soon as possible, preferably within the next two weeks.

Thank you in advance for your assistance and cooperation.

With kindest personal regards, I am,  
Sincerely,

FRANK HORTON.

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE,  
March 9, 1970.

Hon. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR Mr. HORTON: The Secretary has referred your March 5 letter concerning government mailing lists to the appropriate office.

A reply will be forwarded to you as soon as possible.

Sincerely,

JERRY W. POOLE,  
Deputy Assistant Secretary for Congressional Liaison.

THE SECRETARY OF HEALTH,  
EDUCATION, AND WELFARE,  
Washington, D.C., April 22, 1970.

Hon. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR Mr. HORTON: This refers to your letter of March 5, 1970, in which you requested information regarding the sale or furnishing of HEW mailing lists to the public.

Because of the decentralization of distribution activities throughout the Department, details regarding individual transactions are not immediately available. Accordingly, the data you have requested will be obtained and the results will be furnished to you without delay.

With kindest personal regards, I am  
Sincerely,

ROBERT H. FINCH,  
Secretary.

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE,  
Washington, D.C., April 30, 1970.

Hon. FRANK HORTON,  
House of Representatives  
Washington, D.C.

DEAR Mr. HORTON: As Secretary Finch advised you in his letter of April 22, we have had to survey the agencies of the Department to obtain the information you requested on the sale or furnishing of mailing lists to the public.

As a result, certain agencies of the Department have made mailing lists available to both nonprofit and private interests on a nonreimbursable basis as follows:

A. National Institutes of Health.—On two occasions mailing lists were furnished without charge to non-Government requestors. The first instance was in response to a request by a surgical instrument firm in Boston which asked for a copy of the mailing list for either the Journal of the National Cancer Institute or one of the other periodicals published by the National Cancer Institute, it is not recalled which. The other instance was in response to a request by the Upjohn Company which asked for the mailing list of the Journal of the National Cancer Institute in connection with distributing an announcement of a NOT-sponsored meeting on Upjohn's new drug, "Cytosar."

B. Health Services and Mental Health Administration.—Requests from private interests to use HSMHA lists are very infrequently received. Because of this, no special criteria has been developed to determine who shall be furnished such lists, and no special restrictions are imposed upon the recipient their use. HSMHA mail list sponsors are free to exercise their own judgment in making their lists available for use by private interests. The sponsors normally inquire as to the use to which the mail list printout will be put and what type of information or literature will be distributed, prior to authorizing release of the list.

Mailing lists are made available to printing contractors producing Government publications for use in making direct shipment by the printer. Address information is normally furnished on gummed labels and precautions are taken to protect the confidentiality of

this information. Additionally, mailing lists are, on occasion, made available to grantees and contractors as part of the terms of the grant or contract.

We know of no instance in which mailing lists have been sold by the Department. However, one list is presently being prepared for which a fee is to be charged. Since the list is extensive and its compilation will require a considerable expenditure of time, a fee will be charged to cover the costs. This list is being compiled by the Environmental Health Service for the Law Publishing Company, Blue Island, Illinois, and consist of the name, title, and business address of technically oriented personnel in the Environmental Health Service. The list will be prepared in an estimated 200 hours for which the Law Publishing Company will pay the \$3.00 rate required under the regulations of the Department. It is to be used to distribute, free of charge, a controlled publication functionally related to the Environmental Health Service.

Fees are authorized in PL 90-23 and in the Public Information Regulations of the Department as stated in Subpart E, Section 5.60.

"It is the policy of the Department to provide routine information to the general public without charge. Special information services involving a benefit that does not accrue to the general public shall be subject to the payment of fees, which shall be fixed in such amounts as to recover the cost to the Government providing such services. Fees will be charged for the following special services:

(a) Reproduction, duplicating, or copying records.

(b) Certification or authentication of records.

(c) Searches of or for records.

In the interests of protecting the privacy of individuals, an additional criterion has been applied in cases of requests for lists of Government employees. The policy of the Department is to supply the official but not the home addresses on mailing lists of employees of the Department. This is not, however, always possible for mailing lists containing names of private individuals.

For your information, the only specific reference to mailing lists is contained in Appendix A, Item 16, of the Department's Public Information Regulation which lists examples of records which are exempt from mandatory disclosure. Item 16 reads:

"Official personnel folders and related files including grievance and disciplinary files, confidential statements of employment and financial interest; performance evaluations and test scores; internal mailing keys."

We hope the above will be of assistance to you.

With kindest regards, I am

Sincerely yours,

STUART H. CLARKE,  
Acting Deputy Assistant Secretary for  
Administration.

GENERAL SERVICES ADMINISTRATION,  
Washington, D.C., April 24, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in reply to your recent letter concerning your mailing lists study.

The General Services Administration does not routinely make mailing lists available. However, certain lists are made available to specific interest groups. For example, contractors on our Federal Supply Schedule are provided with lists of Government offices which have expressed a desire to receive descriptions of and pricing information on specific commodities. Contractors are provided these lists at no cost since the lists are used to distribute their descriptive catalogs to Federal agencies, and, thus, are of benefit to those Federal agencies concerned. These lists contain the addresses of Federal offices and not individual names.

There are relatively few requests for copies of any mailing list maintained by the General Services Administration. In each request, however, consideration is given to the danger of invasion of individual privacy. In most instances, the few lists which are maintained by the General Services Administration are released upon request. For example, a recent request from a contractor who wanted to subcontract work under a Federal Supply Service contract resulted in this contractor being furnished with a list of firms which had indicated a desire to sell metal shelving to the Government.

Other requests for lists are generally of a related nature, and the request is for lists of firms or individuals who have indicated interest in doing business with the Federal Government or with a private entrepreneur. Except where the release of a mailing list may result in savings to the Government, the recipient of the list is charged with the cost of preparation. This includes costs of labor, materials, and addressing equipment usage.

I hope this information is helpful to you. If I may be of further assistance, please do not hesitate to call on me.

Sincerely,

ROBERT L. KUNZIG,  
Administrator.

FEDERAL DEPOSIT INSURANCE CORP.,  
Washington, D.C., April 8, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Rayburn House Office Building,  
Washington, D.C.

DEAR MR. HORTON: This is in somewhat tardy response to your letter of March 5, 1970, regarding mailing lists the Federal Deposit Insurance Corporation may be making available to the public. The Corporation has been in a period of transition awaiting the arrival of its new recently-designated Chairman, Mr. Frank Wille, and this has delayed some of our correspondence. I had occasion last week, however, to discuss your inquiry with Mr. Monahan.

As of January 1 each year, the Corporation publishes a computer print-out of the insured operating banking offices in the United States and Territories. A copy is enclosed. This information is published in limited quantity primarily for internal and bank regulatory use. It includes the names of banks, and the cities and States or Territories in which they are located. Additionally, it uses symbols designating the kind of bank, i.e., N-National banks, SM-State member banks (members of the Federal Reserve System), NM-Insured State commercial banks (not members of the Federal Reserve System).

This publication does not include the names of officers, street addresses, or zip codes. For this reason, and also because this book is expensive to publish and distribute, we have tried to discourage the people requesting this information presumably so that they could compile mailing lists. However, more recently, because of provisions in the Freedom of Information Act, we have reluctantly adopted a somewhat more relaxed position in this matter. We have replied to requests with a letter pointing out the inadequacies of the information and suggesting the use of a bank directory. Thereafter, if the inquirer persisted, the name of his firm has been added to our mailing list.

The mailing list for Operating Banking Offices now approaches 1200 copies. This includes internal distribution, other bank regulatory agencies, banks, financial trade associations, research organizations, advertising agencies, and some others undoubtedly interested in marketing their products or services.

In the past, however, we have not charged for this book. Last Fall, to discourage inquiries, several requests were answered with a letter indicating there would be a charge of \$5.00 a copy. Later, we concluded that this form of discouragement was not worth the effort, inasmuch as it would probably cost the Corporation more than \$5.00 a copy to collect and process that amount.

In essence, therefore, we are holding outside distribution of this list to the minimum but, when confronted with the issue, we have not been able to conclude that a citizen should be denied access to a bare-bones listing of the banks which are insured by the Corporation.

Sincerely,

EDWARD F. PHELPS, Jr.,  
Controller.

PEACE CORPS,  
Washington, D.C., April 7, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR CONGRESSMAN HORTON: Thank you for your letter of March 5, 1970. The Peace Corps maintains address lists for staff and Volunteer personnel, Volunteer next of kin, Returned Volunteers, Staff and Volunteer applicants, and other organizations and individuals wishing to receive information about the Peace Corps. All lists are for the use of this Agency only and no lists are sold or distributed outside the Peace Corps.

If any further information is needed please advise us.  
Sincerely,

JOSEPH H. BLATCHFORD.

DEPARTMENT OF AGRICULTURE,  
Washington, D.C., April 6, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: I am pleased that you are making a government-wide study of mailing lists in order to weigh the balancing interest between freedom of information and the individual's right to privacy.

This is an area in which the Department is greatly concerned because it must keep lists of several million farmers participating in farm programs, because of its regulatory and cooperative work such as meat and poultry inspection, and its reliance upon 700,000 unpaid crop reporters and about 150,000 unpaid members of the agribusiness community for accurate statistical information.

In addition, the Department must maintain mailing lists of its own personnel.

It is not U.S. Department of Agriculture policy to maintain mailing lists for sale to the public.

Several directories are compiled and reproduced by the Department of Agriculture in the course of carrying out its responsibilities. Principal distribution of these directories is internal and to cooperating institutions, individuals, and firms. In some instances, these also are available on request to the public without cost and are for sale from the Superintendent of Documents, Government Printing Office. Some are available only on request to the Department, and no charge is made for these.

A survey of such directories and mailing lists available to the public was made in response to your request, and a summary of this survey is enclosed.

The Freedom of Information Act requires us, upon request, to provide records, if they exist, unless disclosure is prohibited or unless it is determined that the request should be denied under one of the exemptions made possible by the Freedom of Information Act. One of these exemptions is to avoid disclosure which would constitute a clearly unwarranted invasion of personal privacy. This exemption, however, is not mandatory; its use for denying a request must be by administrative determination.

Department policy is to withhold lists of names and addresses of farmers, businessmen, persons, firms, or organizations used in the Department to obtain information or to mail information requested if those lists are to be used directly or indirectly for solicitation purposes.

A new policy is being put into effect by the Agricultural Stabilization and Conservation Service in connection with requests for lists of farmers.

This is discussed in the enclosure under the heading, "Agricultural Stabilization and Conservation Service."

Thank you for this opportunity to provide information on sale or disclosure of mailing lists.

SMITHSONIAN INSTITUTION,  
Washington, D.C., April 5, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: The Smithsonian maintains fairly extensive mailing lists for various purposes. These are used for distribution of a wide range of informational materials, including a monthly calendar of events and schedules of academic activities in the Washington area. We also mail, on a regular basis, programs or invitations for a continuing series of museum activities. Because of the great many specialized areas represented by our art, science, and history departments, there are also a number of specialized lists that provide for distribution of materials as well as communication with individuals within various communities of interest.

Among these listings, I should probably mention in particular the growing list of members of our Smithsonian Associates group, which now includes some 10,000 addresses here in the Washington area. With the development this spring of a nationwide Associates program and a magazine for members, this list can be expected to grow significantly.

The Smithsonian Institution does not sell mailing lists. We have occasionally made them available, on a case by case basis, to organizations closely related to the Smithsonian or its components when there has been a specific purpose. For example, should a local university be holding a conference in a specific scientific field, our people in this area would certainly consider providing a list of their own correspondents so that they could be invited to participate. Likewise, if the American Numismatic Society were holding an annual meeting in Washington, our numismatists would undoubtedly be glad to provide a list of their regular contacts in this vicinity.

When such assistance has been provided, we have done it without charge. However, if a situation should develop where substantial staff time or other services became involved, we would naturally consider appropriate compensation.

I should point out in passing that, as you know, the Smithsonian has a private as well as governmental character growing out of the circumstances of its establishment in the early 19th century and the private endowments that help finance some of the components. I feel it appropriate to bring this to your attention because your study appears most particularly related to government agency mailing lists.

We are, of course, happy to provide this information, and will be of any further assistance you may request in this connection. Please let us know when we can help in any further way.

Sincerely yours,

S. DILLON RIPLEY,  
Secretary.

THE WHITE HOUSE,  
Washington, D.C., April 3, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: This is in further reference to your letter to the President concerning the sale of lists of licensed firearms dealers and collectors by the Internal Revenue Service.

I understand that the Commissioner of Internal Revenue has recently informed you that he has directed that in the future the names and addresses of those persons licensed as collectors under the Gun Control Act will not be disclosed, but that the Freedom of Information Act contemplates disclosure of the list of those engaged in business as dealers.

I believe the Commissioner's decision provides a proper balance between the protection of an individual's right of privacy and the public's right to information regarding persons engaged in business. I hope you will agree that this approach is an equitable solution to the problem which you called to the attention of the President.

With warm regard,  
Sincerely,

RICHARD K. COOK,  
Special Assistant to the President.

U.S. DEPARTMENT OF COMMERCE,  
Washington, D.C., March 10, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: Secretary Stans has asked me to acknowledge your letter of March 5 requesting information for a government-wide study of all mailing lists that agencies have prepared and made available to the public.

We will give you a further reply in this regard as soon as possible.

Sincerely,

SOL MOSHER,  
Special Assistant to the Secretary.

THE SECRETARY OF COMMERCE,  
Washington, D.C., April 3, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This replies to your letter to me of March 5, 1970 regarding mailing lists.

Mailing lists are developed by many of the bureaus of the Department. They enable the bureaus to send publications and other materials requested by persons and firms and they enable the bureaus to communicate with people and organizations who are interested in the work performed by the bureaus.

With the exceptions stated below, we do not make mailing lists available to members of the public under any circumstances. Attached are copies of two letters which delineate clearly the responses we have made to insistent requests for the release of mailing lists.

In the case of the Census Bureau, we do not release any information of a personal or corporate nature, not even to other Federal agencies.

The Bureau of International Commerce Trade Lists available to present and potential U.S. exporters who are seeking foreign business connections. The lists are sold at cost to U.S. business firms. Lists are currently being sold for \$1.00 per country for each Standard Industrial Classification (SIC) number. Approximately 50,000 lists per year are sold. Also, the entire Trade List is available on magnetic tape for \$2,500.

The Patent Office prepares for sale by the Superintendent of Documents the following publications: "Directory of Registered Patent Attorneys and Agents" at \$1.50 per copy and "Roster of Attorneys and Agents Registered to Practice Before the U.S. Patent Office" at \$1.00 per copy.

In addition, the Patent Office prepares and sells a special listing of Patent Attorneys and Agents to Dr. Irving Kayton, Director of the Computers-in-Law Program, George Washington University, 720 20th St., NW, Washington, D.C. 20006. Dr. Kayton performs work for the Patent, Trademark and Copyright Foundation of the George Washington University and requests this list approximately twice each year. Charges are made on the basis of actual computer time used. Preparation of this information is authorized by 35 U.S.C. 11 which authorizes the Commissioner to print laws and rules relating to trademarks, and circulars or other publications relating to the business of the Patent Office.

I hope this gives you the information you are seeking. Please call upon us if you would like more details.

Sincerely,

MAURICE H. STANS,  
Secretary of Commerce.

SEPTEMBER 22, 1967.

Re Request for Consideration.

Mr. ALBERT J. DIAZ,  
Microfilm Editions, Inc.,  
Washington, D.C.

DEAR Mr. DIAZ: I have carefully considered your request for reconsideration dated September 8, 1967, for the Bureau's mailing list of subscribers to the microfilmed Government reports and patents which you specified. I have concluded that these records fall within the scope of the exemptions from public disclosure contained in subsections (b) (4) and (6) of 5 U.S.C. 552 and are not to be made available. I am, therefore, denying your request for such records.

Each of the persons on the Bureau's mailing lists voluntarily submitted his name and address to the Bureau for the limited and explicit purpose of purchasing and obtaining specific Government publications or other materials, and for no other purpose. They did not act under compulsion or any law, and these subscription lists have not in the past and are not now considered to be public records available to inspection upon demand.

When these persons furnished this agency their names for this limited purpose, they relied upon the Bureau's discretion to utilize

their identities for the intended purpose. I deem that such identities were submitted in confidence and are confidential, and that their disclosure would be an impairment of such confidence and of their personal privacy, particularly if disclosure would be the basis for commercial or other solicitations by outside parties.

It is in the Department of Commerce's interest and part of its program to encourage businessmen and others to obtain trade and technical information useful to them which is published, collated, or made available by Government agencies. It also is in the interest of these subscribers to receive such Government materials. If persons who subscribed to Government publications or materials knew that by so doing they were to open themselves to all sorts of commercial or other solicitations by persons who obtained the subscription lists from Government agencies, they might well decide not to subscribe, to their own and the Government's detriment.

As I understand, your business is to sell microfilm equipment and related materials and data, and I assume that you wish to obtain those mailing lists for your business purposes. Although this is a legitimate purpose, the subscribers have their own means of ascertaining available microfilm equipment and supplies. Persons who wish to obtain Government subscription or mailing lists for commercial or similar solicitations would be using the Government agencies as sources of customers or other solicitees free or at a nominal charge, and thereby avoid obtaining customers at their own proper expense. Although this Department does attempt to aid businessmen, it would be an abuse of its discretion and confidence to utilize captive subscribers to Government publications to aid business solicitors in this manner.

A mailing list is in itself something of commercial value. Companies are in the business of preparing and selling lists for solicitation purposes. Mailing lists held by Government agencies are items of valuable property, and are significant as such rather than as Government records. The Congress recognized in its consideration of the new law that where property or information in private hands could be held in confidence, Government agencies should also treat in confidence under 5 U.S.C. 552(b) (4). Customer lists were specifically mentioned in this regard. I conclude that when the Bureau itself compiles and holds similar mailing lists, it likewise is covered by the confidentiality provision of subsection (b) (4). Nor is there any indication that Congress intended by this law for a Government agency to give away such property to any person willing to pay the price of making a copy.

It was also recognized in connection with exemption (b) (6) of 5 U.S.C. 552 that a possible area of invasion of privacy would be the furnishing of detailed information about Government employees or lists of other persons. Information about Government employees, such as their home addresses, is not to be disclosed for commercial or other

solicitations. I conclude that it would likewise be an impairment of the privacy of subscribers to Government materials to make their names and addresses known for commercial or other solicitations within the scope of 5 U.S.C. 552(b) (6).

Lastly, the essential purpose and intent of the Public Information law is to have Federal agencies inform the public about their organizations, operations, decisions, and rules, and to make their records publicly available, so that interested persons when adequately informed would know what the agencies were doing and how to deal with them more effectively. At the same time, the Congress recognized that records which, if disclosed, would impair important Government operations or rights of privacy should be protected from disclosure. A balancing of these opposing interests is to be made in determining record availability under the law.

Requests, such as yours, for records of subscribers to Government information made for the commercial advantage or gains of the requesting parties, have nothing to do with the avowed purposes and policies of the law. This is not the type of information which the Congress had in mind would require disclosure to assist the public in its dealings with the executive branch, even by the utmost emphasis on the fullest disclosure possible.

It is the type of record which should be found to be protected from disclosure under exemptions (b) (4) and (6), and on balance I have determined from the aforesaid compelling considerations that it is exempt from disclosure and that it is not in the public interest to grant your request. Your request is accordingly denied.

Pursuant to the provisions of Subsections 4.01 and .02 of Department Order 64 (32 Federal Register 9734, 9735, July 4, 1967), and Section 4.10 of Title 15, Code of Federal Regulations, Subtitle A, Part 4 (32 Federal Register 9643, 9645, July 4, 1967), this decision is the final decision of the Department of Commerce on your request.

Sincerely yours,

A. V. ASTIN,  
Director.

JUNE 26, 1968.

Mr. HOWARD E. DEUTCH,  
Attorney at Law,  
Rockville, Md.

DEAR MR. DEUTCH: Your letter of June 18 requested our subscriber lists for U.S. Government Research and Development Reports (USGRDR) and the Government-Wide Index to Federal Research and Development Reports (GWI). The Government-Wide Index to Federal Research and Development Reports has been renamed U.S. Government Research and Development Reports Index (USGRDRI).

It is the policy of this agency to maintain such mailing lists in confidence, and, therefore, we cannot provide you with the above subscriber lists. We believe that customers, when entering into a purchasing arrangement with the Clearinghouse, rely upon our

discretion to use their names and addresses for the intended purpose only.

Under the Freedom of Information Act you may, of course, protest this decision. The Department of Commerce has prescribed the rules for obtaining information under the Freedom of Information Act which appeared in the Federal Register, Volume 32, No. 128, page 9643, on July 4, 1967.

If you decide to protest this decision, it will be necessary for you to make application concerning the information you have requested directly to the Department of Commerce, Central Reference and Records Inspection Facility, Washington, D.C. 20030. This can be done by completing the enclosed form, CD-244, and submitting it with the required fee. I should, however, inform you that a similar denial was previously upheld.

Sincerely yours,

HUBERT E. SAUTER,  
Director.

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., March 13, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: Thank you for your letter of March 5 (received March 9), relative to whether this Department is selling or providing mailing lists containing names and addresses of individuals or firms under its jurisdiction or regulation.

I am not aware of anything along these lines, but I will certainly check into it and give you an early answer.

Sincerely,

JOHN.

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., April 1, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: This is a further reply to your letter of March 5 pertaining to selling or making available mailing lists containing names and addresses of individuals or firms which fall under the jurisdiction or regulation of this Department.

The Department of Transportation does not sell or make available mailing list per se; however, the Freedom of Information Act (Public Law 90-23) requires government agencies to make records, except under certain exemptions, available to the public upon request.

The Federal Aviation Administration (FAA) maintains records of airmen certifications and aircraft registrations. The U.S. Coast Guard maintains boat registration lists for the States of New Hampshire, Washington, Alaska, the District of Columbia and Guam. Any individual or organization requesting copies of these records is provided the record, upon payment of a search and copying fee.

It is entirely possible for a person or firm to prepare mailing lists on the basis of information derived from lists maintained by the FAA or Coast Guard. The Department has no

control over the use of information which is released to the public under the provisions of the Freedom of Information Act. In fact under the Act, we are not permitted to release information selectively, based on judgment as to the propriety of the use which will be made of the information requested.

There is a search and copying fee charged for records provided to members of the public. This charge, in accordance with the Freedom of Information Act, is assessed to offset costs entailed in the furnishing of government records. The specific fees to be charged by all administrations of DOT are set forth in Subpart H of Part 7 of the Department regulations. Under this fee schedule a charge of \$40 is made for each reel of duplicate data tape or fraction thereof; if an applicant does not supply the tape, there is an additional charge of \$40 per reel for government tape. In the case of aircraft or boat registration records, a charge of \$5 per each 1,000 lines of data processed print out is made.

Enclosed is a listing of individuals and organizations to whom copies of FAA airmen certification and aircraft registration records, and Coast Guard boat registration records have recently been provided. No other records have been provided by any of the other components of the Department from which mailing lists could be developed.

If I may be of any further service to you please let me know.

Sincerely,

JOHN WOLF

U.S. ATOMIC ENERGY COMMISSION,  
Washington, D.C., March 11, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR MR. HORTON: This is to acknowledge receipt of your letter dated March 5 regarding a study of all mailing lists that agencies have prepared and made available to the public.

Your letter will receive our prompt attention and a reply will be forwarded as soon as possible.

Sincerely,

OSCAR \_\_\_\_\_

(For Robert D. O'Neill, Director Congressional Relations).

U.S. ATOMIC ENERGY COMMISSION,  
Washington, D.C., April 1, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR MR. HORTON: This will reply to your inquiry of March 6, 1970. A few of the various mailing lists in use throughout the Commission have been sold or made available free of charge to the public, as described below.

We have a nuclear science abstracts mailing list, consisting of scientific and technical organizations and individuals in the nuclear field, which occasionally has been provided at no charge to organizations such as the American Nuclear Society and the National Science Teachers' Association upon their request.

We have lists of licensees which have been made available through the U.S. Government Printing Office on a cost recovery basis:

A. Special nuclear material licensees.....	\$2.30
B. Facility licensees.....	4.60
C. Source material licensees.....	4.60
D. Byproduct material licensees.....	18.40

These lists are now being computerized and probably will be made available in the future directly from the Atomic Energy Commission, again on a cost recovery basis. The statutory authority for the recovery of costs for furnishing these lists is found in 31 USC 438a. The Public Information Act of 1968 (Public Law 90-23) also provides that each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make records promptly available to any person. The Atomic Energy Commission's rules in this regard may be found in 10 CFR Part 9, a copy of which is enclosed.

We will be glad to provide any additional information you may need.

Cordially,

W. E. JOHNSON,  
Acting Chairman.

THE POSTMASTER GENERAL,  
Washington, D.C., March 11, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: This is to acknowledge receipt of your letter of March 5, requesting detailed information about any mailing lists the Department has developed and made available to the public.

Your correspondence will receive prompt attention, and a report on this matter will be sent to you at the earliest possible date.

With kind regards,

Sincerely,

WINTON M. BLOUNT.

NATIONAL SCIENCE FOUNDATION,  
Washington, D.C., March 24, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5, 1970, to Dr. McElroy, Director of the Foundation, concerning mailing lists and our practices with respect to selling or making such information available to others.

While the National Science Foundation maintains thirty-seven mailing lists containing an aggregate of approximately 17,700 names, they are not in great demand. In fact, only four requests have been made: one by Associates International of New York City, two by Washington Science Trends of Washington, D.C., and the other request by Russell Sage Foundation of New York City. In the first two cases, the requesters were undertaking to continue publication of science news which had been included in a periodical which the Foundation was discontinuing. The mailing list for that publication was furnished to the requesters as a service both to those on the mailing list and the requesters themselves. The only

charge made was \$6.00 to cover the cost of actual reproduction of the list. A further request (a second from Washington Science Trends) has been received recently and is under consideration now.

In the other case, it was agreed with the Russell Sage Foundation, that its purpose could adequately be served by a list from which the names of private citizens had been deleted, leaving only names of government officials. The list of government officials was provided to the Russell Sage Foundation.

If you have any further questions, we will be glad to try to answer them.

Sincerely yours,

C. C. OHEKE,  
Head, Congressional and Public Affairs.

POST OFFICE DEPARTMENT,  
Washington, D.C., March 25, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: The Postmaster General has asked me to reply to your letter of March 5, 1970, concerning the Post Office Department's policy on making mailing lists available to the public.

The Post Office Department does not compile and sell mailing lists of any type whatsoever for the public.

To give effect to the Public Information Act, 5 U.S.C. 552, this Department promulgated its implementing regulations which are published in 39 Code of Federal Regulations 113. Pursuant to these regulations, on diverse occasions some members of the public have asked for certain information. If such information was contained in official records of the Department and was not exempt pursuant to the exemption provisions in the Law, the information would be made available. Normally, a user fee would be charged. The fees are also set forth in the above regulations.

We trust this information will be of assistance.

Sincerely,

JOHN W. POWELL,  
Congressional Liaison Officer.

U.S. DEPARTMENT OF THE INTERIOR,  
Washington, D.C., March 24, 1970.

HON. FRANK HORTON,  
House Office Building,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This replies to your letter of March 5, requesting information concerning mailing lists.

Neither the Department nor its constituent bureaus develop mailing lists for sale to the public.

Interior agencies do receive varied requests from the public to inspect or copy information contained in our records. These requests occasionally involve mailing lists, names of bidders or other information which may be used for solicitation of business.

Public requests for information of any type are handled by this Department in accordance with congressionally declared pol-

icy, as expressed in the Public Information section of the Administrative Procedure Act of 1946, codified as section 552 of Title 5, United States Code.

The published rules of the Department relating to the availability of records are found in Part 2 of Title 43—Subtitle A of the Code of Federal Regulations. A copy of these rules is attached for your ready reference.

Sincerely yours,

LAWRENCE H. DUNN,  
Assistant Secretary for Administration.

U.S. DEPARTMENT OF THE INTERIOR,  
Washington, D.C., March 18, 1970.

Congressman FRANK HORTON,  
House Office Building,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: Secretary Hickey has asked me to respond to your letter of March 5 requesting information concerning mailing lists.

We shall be pleased to provide this information as soon as possible, hopefully within the next two weeks.

Sincerely yours,

(sgd) GEORGE E. ROBINSON,  
Deputy Assistant Secretary for Administration.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., March 24, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in reply to your letter of March 5, 1970.

The Civil Service Commission does not sell or make available to the public any mailing lists of individuals or firms.

We fully share and appreciate your concern about striking a balance between freedom of information and an individual's right to privacy. The Civil Service Commission, in keeping with the intent of the Freedom of Information Act, has adopted the policy of making information in its possession, or under its control, available to the public except when that disclosure would constitute a clearly unwarranted invasion of personal privacy, is prohibited under law or Executive Order, or relates to internal memoranda and other communications the disclosure of which would interfere with the performance of the Commission's functions.

For example, the Commission will not make available to the public home addresses and home telephone numbers of employees, or the names of applicants for civil service positions or eligibles on civil service registers.

We are enclosing for your information a copy of Chapter 294 of the Federal Personnel Manual, Availability of Official Information. The provisions of this chapter apply to other Federal agencies as well as the Commission.

Please do not hesitate to call on us, if we can be of further assistance.

Sincerely yours,

ROBERT E. HAMPTON,  
Chairman.

INTERSTATE COMMERCE COMMISSION,  
Washington, D.C., March 24, 1970.

Hon. FRANK HORTON,  
House of Representatives,  
Rayburn House Office Building,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: This is in response to your inquiry of March 5, 1970, as to the possible sale or release of Commission mailing lists.

The Commission maintains mailing lists of carriers under its jurisdiction according to mode, accounting class, type, etc. The bulk of these mailing lists are computer maintained since address information is a part of the program for processing and accumulating data respecting regulated carriers. Such lists are made available to other Government agencies who establish a valid official need for such information, or addressing from the may be done on a reimbursable basis for other agencies. For example, the Commission recently addressed a "Wanted" circular to all regulated motor carriers for the FBI on a reimbursable basis.

Requests from the public or non-Government sources for duplicate copies of these mailing lists have generally been denied on the basis that the Commission does not have available the resources necessary to provide such information. Inquirers are advised that mailing lists are available for inspection in the Commission's Washington Office. Thus far, no special problems have been encountered.

The Secretary's Office also maintains other lists which relate to the Commission's formal proceedings. Essentially these lists comprise the names of parties to and/or persons interested in a specifically docketed proceeding. These lists are, of course, by law, available for inspection by anyone requesting them. The Commission, however, does not make copies of such service lists, primarily because of limitations on personnel available to perform this service. Persons desiring copies of the service lists have coin operated xerox equipment available to permit them to make their own copies if they so desire. In addition, there is available in the Office of the Secretary, lists of statutory agents designated by carriers to receive service of the Commission's Notices and Orders as provided in Sections 16(5), 221, 315(a), and 416(a) of the Interstate Commerce Act (49 U.S.C. §§ 16(4), 321, 915 and 1005) and Section 6 of the Mann-Elkins Act (49 U.S.C. § 50). Here again, as with the service lists, persons requesting such lists must make their own copies at their own expense.

Sincerely,

GEORGE M. STAFFORD,  
Chairman.

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION,  
Washington, D.C., March 23, 1970.

Hon. FRANK J. HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter to the Administrator, concerning your government-wide study of all mailing lists that agencies have prepared and made available to the public.

The policies and procedures prescribed by the National Aeronautics and Space Administration for the release of information and other identifiable agency records are set forth in the Federal Register, Volume 32, No. 127, Part 1203 (14 CFR 1206). They are reproduced as Attachment A to NASA Policy Directive NFD 1362.2, revised April 24, 1968, a copy of which is enclosed.

With regard to the public availability of lists of names and addresses of individuals, it has long been NASA policy to withhold lists of employees' names that include their home addresses and/or home telephone numbers in order to preclude an unwarranted invasion of personal privacy. Lists of names, position titles, grades, salaries, and duty stations of Federal employees may be furnished to members of the public upon request, subject to certain restrictions in Chapter 294, Federal Personnel Manual, as cited below. In both of these respects, NASA policy is consistent with the related U.S. Civil Service Commission's regulations currently published in Chapter 294, "Availability of Official Information," Federal Personnel Manual, Inst. 123, January 15, 1969. In particular, Appendices B and C thereof are pertinent. For your convenience, there are enclosed copies of Appendix B, "Guides for Furnishing Lists of Employees and Identifying Information to the General Public," and Appendix C, "Guides for Responding to Employee Organization Requests for Names of Employees and Identifying Information."

In this connection, NASA Headquarters and installation telephone directories that are available on request to members of the public, do not include the employees' home addresses and/or home telephone numbers. (The Headquarters directory is offered for sale by the Superintendent of Documents, U.S. Government Printing Office for 60 cents per single copy and for a subscription price of \$2 per year. Requests for NASA installation telephone directories not containing employees' home addresses and home telephone numbers may be filled only at the installation they serve.)

It should also be noted that the position titles, names and home addresses of key officials at NASA Headquarters and field installations, as well as officials of other government agencies, appear in that part of the Congressional Directory that relates to each of the respective agencies. Through this reference, and possibly others, home addresses of certain government officials can become known to the public.

With regard to names and addresses of firms, NASA does prepare lists of contractors for use within NASA to meet various management and operating needs. For example, the Headquarters Procurement Office maintains a mailing list of NASA principal prime contractors and first-tier subcontractors on an up-to-date basis for use by Headquarters offices. The responsibilities and procedures for use of such a list are set forth in NASA Issuance HQMI 5150.3, October 17, 1968, a copy of which is also enclosed.

While contractor mailing lists, such as mentioned above, are designed for use within NASA, they are themselves identifiable NASA records which would, under NASA's policies

and regulations, be subject to release upon request by a member of the public.

We trust that the above information and the enclosures concerning NASA will assist you in your study. Please let us know if you require any additional information.

Sincerely yours,

ROBERT F. ALLNUTT,  
Assistant Administrator for Legislative Affairs.

MARCH 16, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Rayburn House Office Building,  
Washington, D.C.

DEAR MR. HORTON: Your letter of March 5, 1970 to the Administrator of Veterans Affairs concerning a government-wide study of mailing lists has been referred to me.

We are gathering the necessary information and the Administrator will reply to you as soon as possible.

Sincerely,

BLAKE E. TURNER,  
Assistant Administrator for Management Engineering and Evaluation.

VETERANS ADMINISTRATION,  
Washington, D.C., March 23, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: In response to your letter of March 5, 1970, I assure you that the Veterans Administration desires to balance the interests between freedom of information and the individual's right to privacy.

The furnishing of lists of VA claimants is specifically prohibited by VA Regulation 519 (38 CFR 1.519)—except as directed by the Administrator or Deputy Administrator—whereas VA Regulation 501 (38 CFR 1.501) authorizes the same officials to release information to individuals or organizations when in their judgment this would serve a useful purpose.

In consonance with these principles we have adopted a policy of furnishing data tapes containing the names and addresses of recently discharged veterans to five large organizations which are staffed and qualified to assist servicemen returning to civilian life. These are the American Red Cross and certain Congressionally chartered veterans organizations, i.e., the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the American Veterans of World War II. These five organizations have been recognized under the provisions of 38 USC 3402 in the preparation, presentation and prosecution of claims under laws administered by the Veterans Administration.

No charge is made for the information which we give these organizations. They provide us with magnetic tapes periodically and we add the data at our Austin, Texas Data Processing Center and return them with the names and addresses of recently discharged veterans. These organizations all understand that the VA's purpose in making the tapes available is to assist in informing recently separated veterans about their potential entitlement to various benefits, and

under no circumstances are the tapes or any print-outs to be released by the organization to outside interests.

Also, on request and with my approval, we have furnished one time lists of veteran's names and addresses to organizations, Congressional committees, and departments such as the Department of Labor, the Committee on Veterans Affairs and several colleges and universities. The purpose of releasing this information in each case was to render assistance or guidance to veterans in obtaining employment or to advance their education. No charge was made for this information.

A set of our Release of Information Regulations is enclosed. I hope this information will serve your purposes.

Sincerely,

DONALD E. JOHNSON,  
Administrator.

OFFICE OF THE SECRETARY  
OF THE TREASURY,  
Washington, D.C., March 9, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: For the Secretary, I am acknowledging your letter of March 5, in which you request information about any mailing lists of individuals or firms that this Department may provide to the public. You will have a further response as promptly as possible.

Sincerely yours,

JAMES H. SMITH,  
Special Assistant to the Secretary, Congressional Relations.

BUREAU OF CUSTOMS,  
March 18, 1970.

To: Mr. Ernest C. Betts, Jr.

From: For Glenn R. Dickerson (K. Knight).  
Subject: Request from Congressman Horton.

In response to your memorandum of March 11, 1970, we have had only one (1) situation of selling or making available Customs mailing lists.

The information requested by the Congressman regarding this sale is as follows:

- 1—Items sold—master file of U.S. importers registered with the Bureau of Customs.
- 2—Sold to—World Trade Computer Exchange Inc., 422 East 53rd Street, N.Y., New York.
- 3—Charge to purchaser—\$300.
- 4—How cost determined—computer, plus handling, plus supplies.
- 5—Legislative authority—5 USC-552.

REQUEST FROM CONGRESSMAN HORTON  
Deputy Assistant Secretary for Administration,  
Department of the Treasury  
Deputy Commissioner, Internal Revenue Service

Attached is our response to your March 11 transmittal of Rep. Horton's request for information on mailing lists sold or made available to the public. We have not included a report on information provided to or exchanged with other Federal agencies or the States.

Incidentally, Mr. Horton also wrote directly

to the Commissioner and asked for the same information as contained in his request to the Secretary. We are notifying the Congressman that the data will be provided through the Department as part of the Treasury response.

WILLIAM H. SMITH.

MARCH 24, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in further reference to your letter of March 2, 1970, with respect to other mailing lists which the Internal Revenue Service makes available to the public.

Information on the other mailing lists will be incorporated in the Treasury Department's response to your March 5, 1970, letter to the Secretary.

With kind regards,  
Sincerely,

RANDOLPH W. THROWER,  
Commissioner.

TREASURY DEPARTMENT,  
Washington, D.C., March 20, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in further response to your letter of March 5, 1970, to Secretary Kennedy, in which you requested information about mailing lists that the Department of the Treasury has developed, sold, and distributed to individuals or firms.

Attached are mailing lists of the Bureau of Customs and the Internal Revenue Service which show cost and legislative authority under which each list was sold. Other bureaus of Treasury do not sell any mailing lists.

I shall be pleased to provide any additional information if needed.

Sincerely yours,

A. E. WEATHERBEE,  
Assistant Secretary for Administration.

DEPARTMENT OF STATE,  
Washington, D.C., March 20, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: The Secretary has asked me to reply to your letter of March 5, 1970, inquiring if the Department of State makes mailing lists available to the public.

The Department maintains a number of mailing lists of individuals and institutions who have expressed interest in receiving our publications. These lists are maintained strictly for the Department's use and are not sold or otherwise made available to the public.

I hope that this information will be helpful to you in the preparation of your study.

Sincerely,

H. G. TORBERT, Jr.,  
Acting Assistant Secretary for Congressional Relations.

FARM CREDIT ADMINISTRATION,  
Washington, D.C., March 20, 1970.  
HON. FRANK HORTON,  
House of Representatives,

DEAR MR. HORTON: I appreciate your concern with the balance between freedom of information and the right of an individual to privacy as they relate to the sale or use of mailing lists developed by Federal agencies.

We do maintain a number of mailing lists on addressograph plates. The bulk of these, however, involve a public information function. Specifically, they include the names and addresses of newspapers, periodicals, radio stations and television stations which reach farmers. Other of our lists include libraries, agricultural extension workers, colleges and secondary schools involved in agricultural education, farm organizations and cooperatives.

We also maintain lists of selected Government officials, our own field personnel and officers and directors of the banks under our supervision.

We have available, but not on addressograph plates, the addresses of the 1,000 local credit associations under our supervision.

We have never, under any circumstances, sold any of these lists to any individual or firm. On rare occasions we do get requests for the addresses of the local credit associations we supervise, but these are generally limited to associations in one state or region. Such requests are promptly filled by Farm Credit Administration. Request for extensive lists, however, may be referred by us to the particular Farm Credit district or districts involved. Please allow me to emphasize that these requests are rare and usually involve only a small number of addresses. If we provided large lists for any reason we would have to recover the cost of preparing them.

Our lists would not violate anyone's rights to privacy and they are not of a nature that would involve them in questions regarding freedom of information.

Sincerely,

E. A. JÄENKE,  
Governor.

March 20, 1970.

HON. FRANK HORTON,  
House of Representatives, Committee on  
Government Operations, Rayburn House  
Office Building, Washington, D.C.

DEAR FRANK: This is to acknowledge receipt of your letter of March 5, 1970, regarding selling or making available mailing lists of the names and addresses of individuals or firms who transact business with the Government Printing Office.

We do not provide any mailing lists either by sale or gratis distribution of any individuals, firms, or other business entities doing business with the United States Government Printing Office.

If I can be of further assistance please let me know.

Sincerely yours,

JAMES L. HARRISON,  
Public Printer.

FEDERAL COMMUNICATIONS  
COMMISSION,

Washington, D.C., March 19, 1970.

Congressman FRANK HORTON,  
Committee on Government Operations,  
House of Representatives, Rayburn House  
Office Building, Washington, D.C.

DEAR MR. HORTON: In accordance with the Federal Communications Act of 1934, as amended, and the Freedom of Information Act, 5 USC 552, the Federal Communications Commission makes available to the public a variety of information from its files, some of which includes the names and mailing addresses of its licensees. For example, applications for broadcast and nonbroadcast authorizations and related files are routinely made available for public inspection. Moreover, the Commission provides in its public reference rooms coin-operated duplicating machines for those who personally appear at the Commission's offices to inspect the records and may desire copies.

In addition, however, requests are received for copies of one or more of those records which are available for public inspection from members of the public not able to visit the Commission's offices. To accommodate the needs of the public in this respect, the Commission, for some time has had a contract with an outside firm which duplicates such records at a fixed charge for members of the public requesting them. The current contractor for this service is the Cooper-Trent Division of the Keuffel and Esser Company.

The comparatively recent use of a computer by the Commission has made possible the establishment of a large data bank. Among the data contained in the computer are those pertaining to our radio licensees along with their names and mailing addresses. The licensee data is periodically printed out by the computer for Commission use. These printouts are also routinely available for public inspection. Requests have been received for copies of our computer tapes. Again, to accommodate the public, the Commission has entered into an arrangement with the Department of Commerce's Clearinghouse for Federal Scientific and Technical Information whereby copies of our computer tapes are reproduced and sold to members of the public requesting them.

The Commission does not keep any records as to who requests copies of our records to be duplicated by Cooper-Trent, or copies of our computer tapes to be duplicated by the Clearinghouse since such requests are made directly to these organizations. Hence, we are unable to provide you with information as to who may have purchased Commission records either in the form of hard copy or computer tape. The charges made by Cooper-Trent for providing duplicating services are competitively arrived at through the process of requesting bids on the open market to provide these services. The service charges by the Department of Commerce's Clearinghouse are established by the Clearinghouse. The current charge is \$55.00 per reel of tape.

In our judgment, the names and addresses of licensees fall under none of the exemptions of the Public Information Act, 5 U.S.C. 552, and thus must be furnished to members of the public for inspection or copying upon request.

As indicated by the foregoing, the Commission does not prepare, furnish or sell mailing lists as such. However, information compiled by the Commission for its own use may be useable as a mailing list, and such information is made available to the public for inspection and copying upon request as described above.

I hope that this information will be helpful to you in your study. If you have any questions concerning this matter, please advise me.

Sincerely yours,

DEAN BURCH, *Chairman.*

SELECTIVE SERVICE SYSTEM,  
Washington, D.C., March 19, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR MR. HORTON: This is in reply to your letter dated March 5, 1970, concerning the selling or making of mailing lists including the names and addresses of individuals who come under the jurisdiction of the Selective Service System.

This System maintains an address for every male citizen and most male residents who were born after August 30, 1922. These addresses are confidential, and not disclosed to anyone other than in accordance with the Selective Service Regulations. This policy of the System has been upheld by the United States District Court in the case of *Schmidt and Sternback et al. v. Patti Hall, Local Board 13, et al.*, W.D. Wis., Civil No. 69-C-3(M).

About fifteen years ago, a Congressional investigation was made because certain local boards had been furnishing the names and addresses of recently returned veterans to local insurance companies. This action became the subject of extensive hearings before the Subcommittee for Special Investigations of the Committee on Armed Services, House of Representatives, 84th Congress, Second Session. These hearings were held on March 23 and June 11, 1956, and published in a pamphlet titled "Commercial Use of Selective Service Forms." Since that time, the Selective Service System has not released addresses of registrants to anyone other than those persons authorized under 32 C.F.R. 1606.32, and has not used the addresses to forward mail other than official mail to registrants, except as prescribed under 32 C.F.R. 1606.41. Copies of these regulations are enclosed for your information.

In the past six months, an incident of such sale of names was brought to the attention of one of our State Directors. After a complete investigation, and F.B.I. report, the employee who had sold the names was terminated. To my knowledge, there has been no willful violation of this trust which the Congress has placed on the Selective Service System.

Of greater concern to me, and to the System, is the requirement that we release the home addresses of our local board and appeal board members. When civil actions are brought under the Freedom of Information Act, seeking these home addresses, the United States District Courts have followed the ruling of the Seventh Circuit in the case of *Tuchinsky v. Selective Service System*, 418

F. Ed 155 (1969), that the public is not entitled to the home addresses of board members. However, when a registrant is charged with refusing or failing to report for induction, defense attorneys are being more and more successful in securing discovery orders from the same United States District Courts. Included in these discovery orders will be a requirement that home addresses be produced in open court. The purpose of the defense is to establish the legality of the local board. However, since the System has always been willing to furnish a certified statement that the records have again been examined and the board member resides within the required area, or has agreed to an in camera inspection of the records in the Judge's chambers, it is my concern that this unwarranted invasion of privacy may cause many board members to resign their positions rather than subject their families to the type of harassment which is being more and more directed at the Selective Service System and anyone affiliated with it.

Sincerely yours,

DEZ INGOLD,  
Acting Director.

COMPTROLLER GENERAL OF THE  
UNITED STATES,  
Washington, D.C., March 18, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR FRANK: Reference is made to your letter of March 5, 1970, requesting information concerning the preparation and sale or distribution of mailing lists to the public.

The General Accounting Office has in no instance sold or allowed distribution of mailing lists to the public. The only lists of this nature maintained by this Office are those essential for its work, such as lists of names and addresses of common carriers doing business with the Federal Government for use in connection with the audit of transportation charges. These lists are made available only to other Government agencies which have a need for them in their work.

The policy of this Office concerning the furnishing of information about its employees is contained in a letter, dated April 26, 1966, to heads of divisions and offices, a copy of which is enclosed. This policy is based on guidelines prescribed by the United States Civil Service Commission.

Should you require any additional information on this matter, please do not hesitate to call upon us.

Sincerely yours,

ELMER B. STAATS,  
Comptroller General  
of the United States.

GENERAL COUNSEL OF THE  
DEPARTMENT OF DEFENSE,  
Washington, D.C., March 18, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in further reply to your letter of March 5, 1970, in which you asked for information concerning the availability to those outside the Government of mailing lists of the names and addresses of individuals or firms associated with the Department of Defense.

Soon after the Freedom of Information Act (5 U.S.C. 552) went into effect the question arose as to whether the Department was obliged to make available to requesters lists of the names and addresses of military personnel or former military personnel. We concluded that to make such names and addresses available would constitute a clearly unwarranted invasion of personal privacy and advised the Assistant Secretary of Defense (Manpower and Reserve Affairs) that his policy of denying such lists for commercial solicitation purposes could be continued (see the attached DoD Directive 1344.7, paragraph III. B. 2. e.). This restriction is consistent with the policy established by the Civil Service Commission (5 CFR 294.702). The decision to continuing denying such lists of names and addresses has been conveyed to all components of the Department of Defense.

The question regarding the names of firms is more difficult to answer. Firms fall under our "jurisdiction or regulation," in a sense, only through contractual provisions. There exists no overall list of firms doing business with the Department of Defense. However, bidders' lists are maintained by each separate procuring activity, and these are made available upon request at the cost of reproducing the list. Similarly, there may be other lists of firms which do a particular kind of business with the Department of Defense or have been qualified or disqualified from doing business. These lists would also be made available upon request unless for some particular reason they come within one of the exceptions to the Freedom of Information Act.

The method of determining costs of reproducing lists is set forth in DoD Instruction 7230.7 (copy attached).

Should you require further details, we will be happy to assist, but if the detailed information must be obtained from the components of the Department of Defense, it normally requires up to a month's time for compilation.

Sincerely yours,

L. NIEDERLEHNER,  
Acting General Counsel.

FEDERAL MARITIME COMMISSION,  
Washington, D.C., March 18, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5, 1970, regarding mailing lists which the Commission prepares and makes available to the public.

The only publication of the Commission which possibly might fall in the category of mailing list is the booklet, *Approved Conference Rate; and Interconference Agreements of Steamship Lines in the Foreign Commerce of the United States*. Section 8 of this booklet lists the names and addresses of agreement representatives. The booklet is prepared by the Commission but sold by the Government Printing Office which determines its cost. This publication is not required by a statutory authority; it is designed merely to provide information to the industry and the public. I am enclosing a

copy for your information.

I trust this will be of assistance to you in the conduct of your survey.

Sincerely,

HELEN DELICH BENTLEY,  
Chairman.

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Washington, D.C., March 18, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: This is to acknowledge with thanks your letter of March 5 regarding agency mailing lists.

Yes, the Equal Employment Opportunity Commission does maintain a mailing list for the distribution of press releases to interested persons and organizations. We have not, however, made public or sold this list to anyone. It is solely for the use of this Commission.

I hope this sufficiently answers your question. If you have further queries in connection with this matter, please don't hesitate to contact me.

Best regards,

Sincerely,

WILLIAM H. BROWN III,  
Chairman.

NATIONAL LABOR RELATIONS BOARD,  
Washington, D.C., March 18, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5, 1970, in which you requested information concerning any mailing lists which this Agency may have prepared and made available to the public.

We do not prepare or maintain or sell or distribute any listings of the names and addresses of individuals, unions or firms which are involved in our proceedings or subject to our jurisdiction. We do have indices in the published volumes of our decisions, which set forth the names of parties involved therein but not their addresses. The only mailing list we maintain is a very limited one used by our Division of Informa-

tion for distribution of Agency decisions and releases. It has never been provided to the public, nor has a request for a copy of it been received.

There are two situations in which the Board receives lists of names and addresses capable of utilization as mailing lists. In election proceedings, the employer is required to provide lists of the names and addresses of employees eligible to vote, and these lists are then made available to the other parties to the proceeding, but only to them. This requirement was established to assist the Board in securing a timely check on voter eligibility and to facilitate communication with the voters by all the parties on the election issues, thereby enhancing the probabilities of an informed electorate. This requirement was considered and approved by the Supreme Court.

The second type of situation where such lists are required to be furnished is where an employer's interference with Section 7

rights of employees has been so widespread, flagrant, and repeated that the Board deems this remedy essential to assure accurate, effective communication by methods or means which can be demonstrably free from employer retaliation. The remedy has been involved in only a few exceptional cases. It too has been approved by reviewing Courts.

In both situations we view these lists as being submitted to the Board for a limited use and purpose, and have not made them available to persons not parties to the proceeding.

If we can be of any further assistance to you, please do not hesitate to call upon us.

Sincerely yours,

FRANK W. McCULLOCH,  
Chairman.

TENNESSEE VALLEY AUTHORITY,  
Knoxville, Tenn.

HON. FRANK HORTON,  
The House of Representatives,  
Committee on Government Operations,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5 concerning mailing lists of individuals and firms which are made available to the public.

TVA has never sold any mailing lists to the general public nor has it ever developed any such lists for the purpose of distributing them to the general public. TVA has a member of lists of various kinds to serve its own program purposes under the TVA Act. Presumably, most if not all of these would be available to individual members of the public upon request under the Freedom of Information Act. We have been able to identify only three cases, however, in which such lists have been provided to members of the public.

1. The TVA Office of Power maintains a directory of municipal and cooperative distributors of TVA power. The list includes, in the case of municipal distribution systems, the mayors of the cities, and in all cases the chairman of the local utility board and the operating manager or supervisor of the distribution system. The list was compiled for internal convenience in the operation of the TVA power system and copies are provided to the distributors themselves for their operating purposes. There have been occasions, however, when it has been given out on request for a variety of purposes ranging from newsmen to scholars studying the TVA power system.

2. TVA's Division of Forestry, Fisheries, and Wildlife Development has compiled "a partial list of forest products industries in the Tennessee Valley counties." This list contains the names and addresses of wood products industries and identifies the specific products they may manufacture. When TVA receives a request for information as to potential sources of, say, chips, shavings, or other products, this list is provided. The authority for doing so is in the provisions of the TVA Act directing TVA to encourage industrial development in the region.

3. The TVA Retirement System sends a list of the names and addresses of all of its retirees to each retiree once a year. This is done as a means of enabling retired TVA employees

to keep in touch with each other and is authorized under the provisions of the TVA Act relating to TVA's maintenance of an effective personnel system. Upon request, this list has been made available to the American Association of Retired Persons and the National Association of Retired Civil Employees under the Freedom of Information Act. A partial list was provided to the Peace Corps as an aid in the recruiting of retired persons.

If you wish any additional information, we will be glad to provide it.

Sincerely,

AUBREY J. WAGNER,  
Chairman.

MARCH 18, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: Your letter of March 5, 1970 to the Attorney General has been referred to this office for reply.

The Immigration and Naturalization Service of the Department of Justice is its only component which makes a mailing list available to the public. This monthly list consists of the names and addresses of naturalized persons and is distributed without cost as follows:

1. Interested Congressmen with respect to those naturalized who are residents within their districts.
2. Some few State officials, such as Governors.
3. Interested newspapers, as news releases, for publication.
4. The Republican and Democratic National Committees.

(Numbers 1 and 2 above are furnished for the sole purpose of having the new citizens welcomed by those officials.)

I trust the above information will be of help to you.

Sincerely,

L. M. PELLERZI,  
Assistant Attorney General for Administration.

U.S. DEPARTMENT OF LABOR,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: In response to your question of March 5, the Labor Department neither gives away nor sells mailing lists or names and addresses of individuals or firms with whom we deal.

I hope this will be of use to you in your study.

Best personal regards.

Sincerely,

GEORGE P. SHULTZ,  
Secretary of Labor.

THE SECRETARY OF HOUSING  
AND URBAN DEVELOPMENT,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your March 5, 1970 letter on the use made of Department mailing lists.

In the Department of Housing and Urban Development, including all its elements, we have consolidated our official mailing lists in the Printing and Distribution Division. These lists of names and addresses of individuals or firms are not available for sale or made available to anyone outside of the Department.

I think it is fine that you are undertaking this study on a government-wide basis.

Sincerely,

GEORGE ROMNEY.

THE LIBRARIAN OF CONGRESS,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Committee on Government Operations,  
Washington, D.C.

DEAR MR. HORTON: In response to your letter, March 5, 1970, the Library of Congress does not make its mailing lists available to any outside sources, individuals or organizations. The responsibility for the maintenance of mailing lists for publications is vested in the Central Services Division. These lists constitute the majority of the Library's official mailings. However, certain specialized units of the Library do maintain additional lists, but neither are these made available to the public.

Sincerely yours,

L. QUINCY MUMFORD,  
Librarian of Congress.

FEDERAL TRADE COMMISSION,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
House of Representatives, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR MR. HORTON: Thank you for your letter of March 5, 1970, in which you indicated that you are conducting a Government-wide study of all mailing lists that agencies have prepared and made available to the public.

Of the 11 mailing lists maintained by the Federal Trade Commission none have been sold or made available to the public.

I hope the above information will be helpful, and if I may be of further assistance, please do not hesitate to let me know.

With kind personal regards,

Sincerely,

CASPAR W. WEINBERGER,  
Chairman.

FEDERAL POWER COMMISSION,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
Committee on Government Operations,  
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. HORTON: Thank you for your letter of March 5, 1970, concerning a government-wide survey you are making of agency mailing lists which are available to the public. You request information as to the lists which have been prepared by this Commission, specifically, the persons to whom they are distributed, charges therefor, details as to the manner in which our costs are determined; and authority under which such sales are made.

The names and addresses of all public utilities, licensees, pipelines and producers who file reports with or are otherwise subject to the jurisdiction of the Commission are matters of public record and available without charge by inspection of those records or by reproduction of relevant pages of such reports at a rate of 7 cents per 9" x 12" page under government contract by Xerox Systems Center. Alternatively, copies of pages of the Commission's National Electric Rate Book containing electric companies serving communities of 2,500 or more can be obtained from the Government Printing Office at 25 cents per State and a list of jurisdictional pipeline companies is available without charge by Commission release published semiannually.

No compilations of the above persons are maintained in list form. However, the Commission maintains several mailing lists. Apart from limited distribution of matters related to particular pending cases, we maintain mailing lists for newspapers and other communication media (involving about 100 persons) which daily receive news releases and for other interested persons (about 3,750) who have requested distribution of the weekly *FPC News*, which reprints the aforesaid releases, or opinions of the Commission (which go to about 650 distributees). Rulemaking orders are distributed by our Office of Public Information to about 450 interested persons and, in addition, rule-making notices are sent to persons who may be affected thereby. We also have approximately 800 paid subscribers to our publication, *News Digest*, containing excerpts from news sources of general information relating to gas and electric matters of interest to our staff and other concerned persons.

None of these compiled lists has so far as I can ascertain been made available to the public; nor am I aware that request for any has been made. The Commission, of course, would have to comply with such request, if made, under the Freedom of Information Act, 5 U.S.C. 552.

To the extent that the release of information referred may be deemed "sales", the Commission's authority stems from Sections 309 and 312 of the Federal Power Act and Sections 10 and 16 of the Natural Gas Act.

I will be pleased to furnish any further information you desire in this matter.

Sincerely,

JOHN N. NASSIKAS,  
Chairman.

CIVIL AERONAUTICS BOARD,  
Washington, D.C., March 17, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: Chairman Browne has asked me to reply to your letter of March 5, 1970, requesting information as to your inquiry concerning agencies selling or making available mailing lists including the names and addresses of individuals or firms which fall under their jurisdiction or regulation.

The Civil Aeronautics Board does not sell mailing lists of persons subject to its jurisdiction to anyone. Among our various publi-

cations which are generally available to the public is a "List of U.S. Air Carriers" which is issued semiannually. No charge is made for this document.

Various economic reports prepared by the Board are also available to the public, some at nominal charges. I have enclosed a copy of the Board's "List of Publications" for your information.

Sincerely,

TROY B. CONNER,  
Executive Director.

DEPARTMENT OF STATE,  
Washington, D.C., March 16, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: Dr. Hannah has asked me to reply to your letter of March 3, 1970 concerning the selling or making available of mailing lists to the public.

Agency mailing lists for directives, notices and publications of recurring nature are maintained centrally and are circularized periodically. In two instances lists or tabulations have been made available to the public.

The Office of Engineering prepared for its own use and the use of individuals, architect-engineering firms and construction firms that requested it, a tabulation of engineering and construction firms that are doing business in A.I.D. recipient countries using A.I.D. funds.

The tabulations are not put on mailing lists and are not sold, but instead, are given out as specifically requested or mailed as enclosures in response to inquiries.

We have felt that such a tabulation is public information and its availability is in the interest of A.I.D. in better performing our functions. This opinion is shared by the Agency's legal counsel.

The Office of Health in the Bureau of Technical Assistance has published a technical series entitled, "Water Supply and Sanitation in Developing Countries." The publications and mailing list were developed by the University of North Carolina under an A.I.D. contract.

The publication was terminated in 1969 for budgetary reasons; and at that time, the University recommended that the list be made available to others for the distribution of worthwhile technical material. A.I.D. concurred in this recommendation. To date, a list has been provided without charge to Intercontinental Publications, Inc. for distribution of their publication "Modern Government" without charge to those on the list.

If I can provide you with further information, please let me know.

Sincerely yours,

MATTHEW J. HARVEY,  
Director, Congressional Liaison Staff.

THE WHITE HOUSE,  
Washington, D.C., March 16, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR FRANK: This will acknowledge and thank you for your letter to the President concerning the sale of lists of licensed firearms dealers and collectors by the Internal Revenue Service. We will be pleased to bring

your letter and accompanying press release on this matter to the President's attention at the earliest opportunity. We will be in further touch with you.

With warm regard,

Sincerely,

WILLIAM E. TIMMONS,  
Assistant to the President.

FEDERAL HOME LOAN BANK BOARD,  
Washington, D.C., March 16, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: This will acknowledge your March 5, 1970 letter to Chairman Martin concerning the practice of some government departments and agencies selling or making available mailing lists of individuals or firms falling under their jurisdiction or regulations.

This Agency maintains a mailing list of institutions insured by the Federal Savings and Loan Insurance Corporation. The list is used for official purposes only and there is no sale or distribution made.

If we can be of further assistance, please do not hesitate to let us know.

Sincerely,

CARL O. KAMP, JR.,  
Acting Chairman.

NATIONAL MEDIATION BOARD,  
Washington, D.C., March 16, 1970.

HON. FRANK HORTON,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: This will acknowledge your letter of March 5, 1970, received March 11, 1970, pertaining to the availability or distribution of mailing lists showing the names and addresses of individuals or firms which may fall within the jurisdiction of the National Mediation Board.

This Board does not provide its mailing list to any individual or carrier who may or may not be subject to the provisions of the Railway Labor Act and thereby under the jurisdiction of the Board.

I trust this information is responsive to your inquiry.

If I can be of any further assistance to you, please do not hesitate to let me know.

Sincerely yours,

FRANCIS A. O'NEILL, JR.,  
Chairman.

RAILROAD RETIREMENT BOARD,  
Chicago, Ill., March 13, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5, 1970, asking about mailing lists developed by this agency.

The Board has never had any mailing lists prepared and made available to the public generally. The few lists which have been prepared and furnished are indicated below, and were released because the Board found that disclosure of the information was in the employees' interest.

The Boston and Maine Corporation in 1966 was given a current mailing list of its retired employees which was requested so that the company could apprise such employees of Medicare and other matters beneficial to them. The REA Express in 1966 was given a current mailing list of its retired employees in order to be of help to the company in informing such employees of Medicare and other matters of benefit to them. The Grand Trunk Western Railway Company in 1966 was furnished the names and addresses of their retired employees for the purpose of mailing to them copies of the railway's new monthly publication. Also in 1966, the Board furnished the Brotherhood of Railroad Signalmen the names and addresses of retired members of that organization which were requested for the purpose of advising the retired members of benefits they may not have been aware of. There was no charge for these lists.

Beginning in 1965, the Board has furnished The Travelers Insurance Company on a reimbursable basis certain detailed data, including the address, for each employee who retires.

The information is required in the administration of Travelers' group life insurance contracts for railroad employees. The charge to Travelers average about \$850 per month, or around \$10,000 a year. Authority for such a charge is contained in Section 10(b)4 of the Railroad Retirement Act (45 U.S.C. § 228j (b) 4).

Sincerely yours,

HOWARD W. HABERMAYER,  
Chairman.

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM,  
Washington, D.C., March 13, 1970.

HON. FRANK HORTON,  
Committee on Government Operations,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: I am writing in response to your letter of March 5, 1970, in which you requested information about any mailing lists which the Federal Reserve might make available to the public.

With the exception of the names and locations of the commercial banks that are members of the Federal Reserve System—which have always been on the public record—the System does not make any lists available to the public for a fee or otherwise. I might note, however, that the names and business affiliations of the 262 directors of the Federal Reserve Banks and branches are also matters of public record and are published each year in the February issue of the Federal Reserve Bulletin.

If you require any further information about this matter, we will be happy to assist you.

Sincerely yours,

ARTHUR F. BURNS.

U.S. INFORMATION AGENCY,  
Washington, D.C., March 13, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR MR. HORTON: Mr. Shakespeare has asked me to reply to your letter of March 5, 1970, concerning your study of mailing lists

that agencies have prepared and made available to the public, in the various legislative enactments relating to this Agency, as well as in comments relating thereto by members, the Congress has clearly expressed its wish that the U.S. Information Agency should not actively engage in the dissemination of its products in this country. Consequently, we have not prepared any general public mailing lists for our materials in the United States.

If I can be of further assistance in this regard, please do not hesitate to call.

Sincerely,

CHARLES D. ABLARD,  
General Counsel and Congressional  
Liaison.

SMALL BUSINESS ADMINISTRATION,  
Washington, D.C., March 13, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: In reply to your inquiry of March 5, 1970, concerning Small Business Administration mailing lists, we are pleased to report that although this Agency maintains several mailing lists, they are not available for dissemination to the public.

It is always a pleasure to assist you. Please let us know if you need any additional information.

Sincerely,

HILARY SANDOVAL, JR.,  
Administrator.

U.S. ARMS CONTROL  
AND DISARMAMENT AGENCY,  
Washington, D.C. March 12, 1970.

HON. FRANK HORTON,  
House of Representatives.

DEAR CONGRESSMAN HORTON: Thank you for your letter of March 5 requesting information about any mailing lists this Agency has developed and distributed.

Periodically, the Agency issues a locator list of Agency employees which includes home addresses and phone numbers. This list is primarily for internal Agency use, but it has occasionally been given to people outside the Agency at their request. The only instances of distribution outside the Agency that I am aware of, however, involved other Government agencies or Congressional committees with which this Agency regularly deals. No charge is made for this list. Enclosed is a copy of the latest locator list.

Also enclosed for your information is a copy of the latest Annual Report of this Agency to Congress. Beginning on page 84 of the report is a list of depository libraries to which Agency documents are sent. The reason this list is included in our annual report is so that readers of the report who are interested in further study of arms control matters can determine where the nearest source of further information is.

I hope this information will be useful to you. Please do not hesitate to let me know if I can be of further assistance.

Sincerely,

WILLIAM W. HANCOCK,  
General Counsel.

SUBVERSIVE ACTIVITIES CONTROL BOARD,  
Washington, D.C., March 11, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: This is in response to your letter of March 5 concerning the selling or distribution of mailing lists by government agencies.

At no time since its formation has the Subversive Activities Control Board sold or made available to the public a mailing list of any kind.

Sincerely,

JOHN W. MAHAN,  
Chairman.

OFFICE OF THE SECRETARY OF DEFENSE,  
Washington, D.C., March 10, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: Secretary Laird has asked that I acknowledge receipt of your letter of March 5 in which you requested information concerning the availability of mailing lists to the public.

This matter is receiving attention and you will be advised further as soon as possible.

Sincerely,

J. F. LAWRENCE,  
Brigadier General, USMC,  
Deputy Assistant to the Secretary for  
Legislative Affairs.

EXPORT-IMPORT BANK OF  
THE UNITED STATES,  
Washington, D.C., March 10, 1970.

HON. FRANK HORTON,  
Committee on Government Operations,  
House of Representatives,  
Rayburn House Office Building,  
Washington D.C.

DEAR MR. HORTON: We have received your letter of March 5, 1970, in reference to mailing lists.

The Export-Import Bank of the United States does not make available to the public, by sale or otherwise, any mailing lists. The only mailing lists which we maintain are for internal use by the Bank in distributing press releases and other informational material on Eximbank programs and activities.

If we can be of further assistance, please do not hesitate to call on us.

Yours truly,

J. E. CORETTE III,  
General Counsel.

SECURITIES AND EXCHANGE COMMISSION,  
Washington, D.C., March 10, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Washington, D.C.

DEAR MR. HORTON: In your letter of March 5 you request information concerning the Commission's mailing lists, particularly as to whether they have been sold or otherwise made available to persons outside the agency.

The Commission maintains several mailing lists. They consist of the names of individuals, firms and corporations (a) who are registered with the Commission under one or another of the laws it administers; (b) who wish to receive notice of new rules and rule proposals and other announcements of the Commission in its administration of those laws and (c) who wish to receive copies of the Commission's statistical studies.

With one exception, these lists have never been sold or otherwise made available to members of the public. That exception occurred some eight years ago when the Bureau of National Affairs in cooperation with the Federal Bar Association conducted a seminar in Washington on the Federal securities laws and their administration. Members of the Commission and several staff officers participated in these discussions, attended by several hundred lawyers and other professionals. In order to reach the widest possible group of practitioners who might be interested in benefit from the seminar discussions, the Bureau asked the Commission for the list of practitioners who regularly receive the Commission's new rules and rule proposals. Rather than provide the list to the Bureau, the Commission agreed to run the Bureau's envelopes through its addressograph machine. This was done.

To our knowledge, there have been no other exceptions to the Commission's policy of maintaining its mailing lists strictly confidential.

Sincerely,

HAMER H. BUDGE, *Chairman.*

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES,  
Washington, D.C., March 10, 1970.

HON. FRANK HORTON,  
House of Representatives,  
Committee on Government Operations,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: In response to your letter of March 5, may I state that no mailing lists developed by this agency have ever been sold, distributed, or otherwise made available to the public. Moreover, no action of this nature is contemplated in the future.

Thank you for your interest.

Sincerely,

P. P. BERMAN,  
*Director of Administration.*

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FEDERAL MEDIATION AND CONCILIATION SERVICE,  
Washington, D.C., March 9, 1970.

HON. FRANK HORTON,  
Committee on Government Operations,  
Rayburn House Office Building,  
Washington, D.C.

DEAR CONGRESSMAN HORTON: This Agency maintains separate mailing lists for (1) Press Releases, (2) Newsletter (for employees only), and (3) Annual Report. None of these lists have been made available to outsiders, either by sale or otherwise.

I trust this responds to your inquiry.

Sincerely,

J. CURTIS COUNTS, *Director.*

Mr. HORTON. Mr. Speaker, I insert the language of the bill at this point:

## H.R. 17990

A BILL To limit the sale or distribution of mailing lists by Federal agencies

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 552 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(c)(1) Notwithstanding subsection (a), no agency may distribute, sell, or otherwise make available to any person any list of names and addresses of—

“(A) employees, or former employees, of any agency.

“(B) persons licensed by any agency,

“(C) persons registered or required to file information with any agency, or

“(D) members, or former members, of the Armed Forces, except in accordance with paragraph (2) or (3).

“(2) An agency may make available a list of names and addresses of persons referred to in paragraph (1)—

“(A) if the person to whom such list is made available certifies (in such manner as the agency shall be regulations prescribe) that—

“(i) such list will not be used for purposes of commercial or other solicitation, and

“(ii) such list will not be used for any purpose which is unlawful under any State or Federal law, or

“(B) if the list is made available by the agency as a necessary part of its statutory functions or requirements (other than requirements imposed by this section).

“(3) Any agency may make available a list of names and addresses if specifically authorized to do so by statute (other than this section).

“(4) No person who has received a list under paragraph (2) or (3) may make such list, or any copy thereof, available to any other person. No person who receives a list in violation of the preceding sentence may use such list for purposes of commercial or other solicitations or for any purpose which is unlawful under State or Federal law.

“(5) Any person whose name and address is on any list made available under paragraph (2)(A) and who is solicited in a communication mailed to him the address of which is obtained from such list may request the person who addressed such communication to remove his name from such list. Upon receipt of such request, the person addressing the communication shall remove such name from such list.

“(6) Any person—

“(A) who uses a list for a purpose for which he has certified under paragraph (2)(A) that he will not use such list,

“(B) who makes a list available to any person or uses a list, in violation of paragraph (4), or

“(C) who fails to remove a name from a list in accordance with paragraph (5), shall be imprisoned for not more than one year, or fined not more than \$10,000, or both.”

Sec. 2. The amendment made by the first section of this Act shall apply only to lists made available by an agency after the date of enactment of this Act.

Sec. 3. Subsection (c) of section 552 is redesignated as subsection (d).

Mr. Speaker, I also include a list of the cosponsors of the bill:

#### COSPONSORS

Joseph P. Addabbo, Democrat, of New York.

William R. Anderson, Democrat, of Tennessee.

Mario Biaggi, Democrat, of New York.

Edward G. Biester, Jr., Republican, of Pennsylvania.

Ray Blanton, Democrat, of Tennessee.

Edward P. Boland, Democrat, of Massachusetts.

Garry Brown, Republican, of Michigan.

James T. Broyhill, Republican, of North Carolina.

Daniel E. Button, Republican, of New York.

Bob Casey, Democrat, of Texas.

Shirely Chisholm, Democrat, of New York.

Don H. Clausen, Republican, of California.

William (Bill) Clay, Democrat, of Missouri.

James C. Cleveland, Republican, of New Hampshire.

Barber B. Conable, Jr., Republican, of New York.

R. Lawrence Coughlin, Republican, of Pennsylvania.  
 Florence P. Dwyer, Republican, of New Jersey.  
 John N. Erlenborn, Republican, of Illinois.  
 Marvin L. Esch, Republican, of Michigan.  
 Hamilton Fish, Jr., Republican, of New York.  
 Walter Flowers, Democrat, of Alabama.  
 William D. Ford, Democrat, of Michigan.  
 James G. Fulton, Republican, of Pennsylvania.  
 Cornelius E. Gallagher, Democrat, of New Jersey.  
 Sam Gibbons, Democrat, of Florida.  
 Barry M. Goldwater, Jr., Republican, of California.  
 Kenneth J. Gray, Democrat, of Illinois.  
 James R. Grover, Jr., Republican, of New York.  
 Gilbert Gude, Republican, of Maryland.  
 Seymour Halpern, Republican, of New York.  
 Orval Hansen, Republican, of Idaho.  
 Michael Harrington, Democrat, of Massachusetts.  
 James F. Hastings, Republican, of New York.  
 Ken Hechler, Democrat, of West Virginia.  
 Henry Helstoski, Democrat, of New Jersey.  
 Chet Holifield, Democrat, of California.  
 Craig Hosmer, Republican, of California.  
 William L. Hungate, Democrat, of Missouri.  
 John E. Hunt, Republican, of New Jersey.  
 Carleton J. King, Republican, of New York.  
 Thomas S. Kleppe, Republican, of North Dakota.  
 Clarence D. Long, Democrat, of Maryland.  
 Allard K. Lowenstein, Democrat, of New York.  
 Donald E. Lukens, Republican, of Ohio.  
 Joseph M. McDade, Republican, of Pennsylvania.  
 Martin B. McKneally, Republican, of New York.  
 Robert B. Mathias, Republican, of California.  
 Spark M. Matsunaga, Democrat, of Hawaii.  
 Mrs. Patsy T. Mink, Democrat, of Hawaii.  
 F. Bradford Morse, Republican, of Massachusetts.  
 Charles A. Mosher, Republican, of Ohio.  
 Richard L. Ottinger, Democrat, of New York.  
 Edward J. Patten, Democrat, of New Jersey.  
 Thomas M. Pelly, Republican, of Washington.  
 Jerry L. Pettis, Republican, of California.  
 J. J. Pickle, Democrat, of Texas.  
 Otis G. Pike, Democrat, of New York.  
 Bertram L. Podell, Democrat, of New York.  
 Albert H. Quie, Republican, of Minnesota.  
 Tom Railsback, Republican, of Illinois.  
 Ogden R. Reid, Republican, of New York.  
 John J. Rhodes, Republican, of Arizona.  
 Peter W. Rodino, Jr., Democrat, of New Jersey.  
 Benjamin S. Rosenthal, Democrat, of New York.  
 Fernand J. St Germain, Democrat, of Rhode Island.  
 John P. Saylor, Republican, of Pennsylvania.  
 Henry C. Schadeberg, Republican, of Wisconsin.  
 Garner F. Shriver, Republican, of Kansas.  
 Robert L. F. Sikes, Democrat, of Florida.  
 B. F. Sisk, Democrat, of California.  
 Robert T. Stafford, Republican, of Vermont.  
 Robert Taft, Jr., Republican, of Ohio.  
 Guy Vander Jagt, Republican, of Michigan.  
 Charles A. Vanik, Democrat, of Ohio.  
 Joseph P. Vigorito, Democrat, of Pennsylvania.  
 Lowell P. Weicker, Jr., Republican, of Connecticut.  
 G. William Whitehurst, Republican, of Virginia.  
 Larry Winn, Jr., Republican, of Kansas.  
 Lester L. Wolff, Democrat, of New York.  
 Clement J. Zablocki, Democrat, of Wisconsin.  
 John M. Zwach, Republican, of Minnesota.

