

(c) No mailer of any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, shall mail to any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, “un-ordered merchandise” means merchandise mailed without the prior expressed request or consent of the recipient.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 749.)

§ 3010. Mailing of sexually oriented advertisements

(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Postal Service may prescribe.

(b) Any person, on his own behalf or on the behalf of any of his children who has not attained the age of 19 years and who resides with him or is under his care, custody, or supervision, may file with the Postal Service a statement, in such form and manner as the Postal Service may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Postal Service shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as it may prescribe, including the payment of such service charge as it determines to be necessary to defray the cost of compiling and maintaining the list and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than 30 days.

(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Postal Service pursuant to this section.

(d) “Sexually oriented advertisement” means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 749.)

EFFECTIVE DATE

Section effective first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

INVASION OF PRIVACY BY MAILING OF SEXUALLY ORIENTED ADVERTISEMENTS

Section 14 of Pub. L. 91-375 provided that:

“(a) [Congressional findings] The Congress finds—

“(1) that the United States mails are being used for the indiscriminate dissemination of advertising matter so designed and so presented as to exploit sexual sensationalism for commercial gain;

“(2) that such matter is profoundly shocking and offensive to many persons who receive it, unsolicited, through the mails;

“(3) that such use of the mails constitutes a serious threat to the dignity and sanctity of the American home and subjects many persons to an unconscionable and unwarranted intrusion upon their fundamental personal right to privacy;

“(4) that such use of the mail reduces the ability of responsible parents to protect their minor children from exposure to material which they as parents believe to be harmful to the normal and healthy ethical, mental, and social development of their children; and

“(5) that the traffic in such offensive advertisements is so large that individual citizens will be helpless to protect their privacy or their families without stronger and more effective Federal controls over the mailing of such matter.

“(b) [Congressional Determination of Public Policy] On the basis of such findings, the Congress determines that it is contrary to the public policy of the United States for the facilities and services of the United States Postal Service to be used for the distribution of such materials to persons who do not want their privacy invaded in this manner or to persons who wish to protect their minor children from exposure to such material.”

Provisions of section 14 of Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date not preceding section 101 of this title.

§ 3011. Judicial enforcement

(a) Whenever the Postal Service believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 3010 of this title, it may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, the court may issue an order including one or more of the following provisions as the court deems just under the circumstances:

(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; or

(3) a direction to any postmaster at the office at which registered or certified letters or other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 3010 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity