CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 1, 1999

H.R. 170
Deceptive Mail Prevention and Enforcement Act

As ordered reported by the House Committee on Government Reform on October 28, 1999

SUMMARY

H.R. 170 would establish a number of new federal crimes and restrictions relating to deceptive mailings and sweepstakes and would increase the penalties for such offenses. CBO estimates that implementing this legislation would not result in any significant impact on the federal budget. Because enactment of H.R. 170 could affect receipts, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on receipts would not be significant.

H.R. 170 contains several private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but the costs imposed by these mandates would not exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation). This legislation contains no intergovernmental mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Because H.R. 170 would establish new federal crimes relating to deceptive mailings and sweepstakes, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that any increase in federal costs for law enforcement by the Postal Service or court proceedings would not be significant, however, because of the small number of additional cases likely to be involved. Any additional costs to the Postal Service would be classified as off-budget, while any increased costs to the federal judiciary would be subject to appropriation.

Because violators of the provisions of H.R. 170 could be subject to civil penalties, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues). CBO expects that any additional receipts would be less than $500,000 annually.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 170 could affect receipts, but CBO estimates that any such effects would be less than $500,000 a year.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 170 contains no intergovernmental mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 170 would create several new private-sector mandates for direct-mail advertisers and sweepstakes and contest operators. Direct-mail advertisers would be required to remove references to the Postmaster General from their advertisements. Sweepstakes and contest operators would be required to add a number of disclosures to their mailings and to honor requests from individuals to be excluded from future mailings. CBO estimates that the total costs of these mandates to the private sector would fall below the threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

To keep firms from implying that their products or services are endorsed or approved by the federal government, federal law already prohibits most uses of federal symbols or the names and titles of federal agencies and officers in mailed advertisements. H.R. 170 would specifically extend that prohibition to the name and title of the Postmaster General. In order to comply with the mandate, firms would need to remove references to the Postmaster General from their existing advertisements. Because printing and postage constitute the bulk of firms' expenses in producing and distributing advertisements through the mail and the new prohibition would do little to affect either, this mandate would not have a significant impact on firms' immediate costs of doing business.

The disclosures that sweepstakes and contest operators would be required to make include: an explanation that purchase of the firm's products affects neither the odds of winning nor inclusion in future mailings; a statement of rules, conditions, fees, and entry procedure; and a description for each prize, giving the quantity, the retail value, and a numerical statement of the odds of winning. Firms would also be required to put disclaimers on facsimile checks and to refrain from representing a person as a winner unless that person has won a prize. The largest sweepstakes firms already make most of these disclosures. To comply with the mandate, an individual firm might have to do no more than add a single disclosure, such as a numerical statement of odds. Other firms might have to do considerably more. The costs of redrafting and redesigning mailings would thus vary from firm to firm. Development costs for new mailings, however, are relatively small in relation to costs for printing and postage. CBO anticipates that sweepstakes and contest operators would try to avoid increasing the number of pages in their mailings because that would result in printing and postage cost increases. Consequently, although variation within the industry makes a precise estimate difficult, the cost to firms of adding additional disclosures would probably be small.

H.R. 170 would require sweepstakes operators to honor direct written requests from individuals to be excluded from future mailings. The firms would be required to store and to honor the requests for five years. Many firms already honor such requests, however, and, because there is little reason to believe that the number of requests firms receive would increase significantly in the future, it is unlikely that firms' costs would increase because of this mandate. Currently, only a small portion of recipients of sweepstakes-related mail request to be excluded from future mailings. Seventy to eighty percent of recipients simply discard unwanted mailings.

Sweepstakes and contest operators would also be required to participate in the creation of a national notification system that would allow individuals to make a single request that their names be removed from the mailing lists of all sweepstakes and contest operators. The notification system would have to forward written requests from individuals to participating firms within 60 business days. Such firms would be required to include information about the notification system in their mailings. Most sweepstakes firms already participate in the Direct Marketing Association's Mail Preference Service, which is similar to the notification system required by H.R. 170. The Mail Preference Service, however, deals with all forms of direct mail, including catalogs, coupons, and other advertisements. In order to comply with the mandate, sweepstakes and contest operators would need to establish a system limited to sweepstakes and contest mailings. The Direct Marketing Association budgets approximately $500,000 per year to operate the Mail Preference Service. CBO expects that it would cost sweepstakes and contest operators a similar amount each year to operate the notification system. Startup costs would increase the amount required in the first year.

PREVIOUS CBO ESTIMATE

On June 15, 1999, CBO transmitted a cost estimate for S. 335, the Deceptive Mail Prevention and Enforcement Act, as ordered reported by the Senate Committee on Governmental Affairs on May 20, 1999. Unlike H.R. 170, S. 335 would allow the Postal Service to spend any penalties collected under the bill, and the two cost estimates reflect this difference.

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