Testimony of Robert Corn-Revere

before the

Postal Regulatory Commission

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Mr. Corn-Revere has written extensively and testified on First Amendment and communications-related issues. He is co-author of a three-volume treatise entitled MODERN COMMUNICATIONS LAW, published by West Group, and is a member of the Editorial Advisory Board of Pike & Fischer's INTERNET LAW & REGULATION. From 1987 to 2001 Mr. Corn-Revere taught at the Communications Law Institute of the Columbus School of Law, Catholic University of America. From 1997 to 2003 he served as Chairman of the Media Institute's First Amendment Advisory Council. He is an Adjunct Scholar to the Cato Institute in Washington D.C.

Mr. Corn-Revere successfully argued *United States v. Playboy Entertainment Group, Inc*., 529 U.S. 803 (2000), in which the United States Supreme Court struck down Section 505 of the Telecommunications Act of 1996 as a violation of the First Amendment. He also served as lead counsel and argued *Motion Picture Association v. FCC*, 309 F.3d 796 (D.C. Cir. 2002), in which the U.S. Court of Appeals for the District of Columbia Circuit vacated video description rules imposed on networks by the FCC. He also served as lead counsel for the American Teleservices Association in *Mainstream Marketing Services, Inc. v. FTC*, 358 F.3d 1228 (10th Cir. 2004).

Testimony of Robert Corn-Revere
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Hearings before the Postal Regulatory Commission
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Mr. Chairman and members of the Commission: Thank you for inviting me to testify before the Postal Regulatory Commission ("PRC") on issues relating to universal postal service and the postal monopoly. The testimony I am presenting represents my personal views; I have not been asked to appear on behalf of any client.

The Postal Accountability and Enhancement Act of 2006 ("PAEA") requires the PRC to submit a report to the President and Congress on "universal postal service and the postal monopoly in the U.S. . . . including the monopoly on the delivery of mail and on access to mailboxes." To assist the Commission in preparing the required report, I have been asked to address legal issues that may arise from the adoption of "Do Not Mail" legislation that has been considered by various state legislatures in recent years. As I describe in more detail below, the proposed bills are in significant tension with the First Amendment and with principles of federalism under the U.S. Constitution.

Proposed Legislation

In the past year, eighteen states considered adopting various types of "Do Not Mail" legislation, but none of the bills have passed. The basic approaches of the various proposals are briefly outlined in the Appendix to this testimony. At least eight states would have used the offices of their Attorneys General to create and maintain their registries. Others would have used Public Service or Commerce Commissions. Bills in Colorado, North Carolina, and Rhode Island proposed using designated agents to maintain the lists. Some of the bills propose a combination of "Do Not Mail" and either "Do Not Call" or "Do Not E-mail" registries. Some proposals

would apply more narrowly. For example, Missouri bill H.542 would apply only to mail recipients over the age of 65. In addition, most proposals would exempt nonprofit organizations and politicians from the "Do Not Mail" restrictions.

Six of the bills were withdrawn or tabled by their sponsors, and the remaining legislative proposals failed to win approval by the time the various legislatures adjourned in summer 2008. For purposes of this testimony, however, it is not my intention to examine the specific provisions of the various bills, and I cannot speak to the reasons why none of the proposals were enacted. My goal instead is to survey some of the overarching constitutional considerations that would come into play if one or more states adopted "Do Not Mail" legislation.

First Amendment Considerations

Because any "do not communicate" legislation would enlist the government to cut off "unwanted" speech, it necessarily implicates the First Amendment, which provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press." This constitutional guarantee applies equally to actions by state legislatures, as the protections of fundamental liberties guaranteed by the Bill of Rights were incorporated into the Due Process Clause of the Fourteen Amendment. *Gitlow v. New York*, 268 U.S. 652, 666 (1925). Proponents of "Do Not Mail" legislation frequently compare their proposals to the federal "Do Not Call" rules that were upheld against constitutional challenges in *Mainstream Marketing v. FTC*, 358 F.3d 1228 (10th Cir. 2004). In that case, the United States Court of Appeals for the Tenth Circuit held that the national "Do Not Call" registry "is consistent with the limits the First Amendment imposes on laws restricting commercial speech." *Id.* at 1246. However, it would be a mistake to assume the same conclusion necessarily follows in the context of "Do Not Mail" requirements, or that the question is governed entirely by the commercial speech doctrine.

The First Amendment protects the right to publish and to speak, but "no one has the right to press even 'good' ideas on an unwilling recipient." *Hill v. Colorado*, 530 U.S. 703, 718 (2000). However, courts generally have permitted only narrow restrictions on unwanted speech both in the noncommercial and commercial speech contexts. For example, in *Hill*, the Court approved only limited restrictions on "sidewalk counseling" outside abortion clinics that had no "adverse impact on the readers' ability to read signs displayed by demonstrators," and did not preclude communication at a "normal conversational distance." 530 U.S. at 714, 726-727. Similarly, in *Frisby v. Schultz*, 487 U.S. 474 (1988), the Supreme Court held a restriction on targeted residential picketing must be narrowly tailored to permit picketers to disseminate their messages generally through residential neighborhoods, including "go[ing] door-to-door to proselytize their views" or "contact[ing] residents by telephone, short of harassment." *Id.* at 483-484. Likewise, in *Florida Bar v. Went For It, Inc.*, 515 U.S. 618 (1995), the Court upheld a 30-day moratorium on direct-mail solicitation by attorneys to accident victims, a distinctly vulnerable class. But the 5-4 decision was predicated on the majority's finding that the restriction was "narrow both in scope *and duration*" and on the ability to communicate using the same medium, *i.e.*, non-directed mail, during the moratorium. *Id*. at 635 (emphasis added). As the Supreme Court noted in *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 208 (1975), "pitting the First Amendment rights of speakers against the privacy rights of those who may be unwilling viewers or auditors … demand[s] delicate balancing."

As these cases suggest, the government's ability to shield "unwilling listeners" is based on the same interest regardless whether speech at issue is commercial or core political speech. In

either case, regulations intended to protect privacy interests must be both narrow *and* neutral.[1] This is the core holding of *Cincinnati v. Discovery Network*, 507 U.S. 410 (1993), which invalidated a local regulation premised solely on a distinction between commercial and noncommercial speech. The Court articulated two general principles that apply to any attempt to impose special restrictions on commercial speech: (1) a distinction between commercial and noncommercial speech that "bears no relationship whatsoever to the particular interests that the city has asserted" is invalid, and (2) a restriction that overemphasizes the difference between commercial and noncommercial speech "seriously underestimates the value of commercial speech." 507 U.S. at 424. Subsequent cases applying *Discovery Network* have made clear "it is unconstitutional to ban commercial speech but not non-commercial speech – at least absent a showing that the commercial speech has worse secondary effects." *Rappa v. New Castle County*, 18 F.3d 1043, 1074 n.54 (3d Cir. 1994). *See also Pearson v. Edgar*, 153 F.3d 397, 405 (7th Cir. 1998).

In this connection, reviewing courts have invalidated various regulations that sought to ban or restrict unwanted or presumptively "offensive" mail. For example, in *Consolidated Edison Co. of New York v. Public Service Comm'n of New York*, 447 U.S. 530, 541 (1980), the Supreme Court struck down a state restriction on including inserts in utility bills that addressed controversial issues of public policy. The state court of appeals had upheld the ban on the theory that the bill inserts "intruded upon individual privacy," but the Supreme Court disagreed. It

[1] *E.g.*, *Hill*, 530 U.S. at 723 (upholding restriction on "sidewalk counseling" because it "applies equally to used car salesmen, animal rights activists, fundraisers, environmentalists and missionaries."); *Ward v. Rock Against Racism*, 491 U.S. 781, 795 (1989) (regulation of sound amplification to protect nearby residents denies government ability "to vary the sound quality or volume based on the message being delivered"); *Discovery Network*, 507 U.S. at 428 ("prohibition against the use of sound trucks emitting loud and raucous' noise in residential neighborhoods is permissible if it applies *equally* to music, political speech *and advertising*.") (emphasis added).

found that even though the inserts "may offend the sensibilities of some consumers, the ability of government 'to shut off discourse solely to protect others from hearing it [is] dependent upon a showing that substantial privacy interests are being invaded in an essentially intolerable manner.'" *Id*. (quoting *Cohen v. California*, 403 U.S. 15, 21 (1971)). *See also U S West*, 182 F.3d at 1234 ("The breadth of the concept of privacy requires us to pay particular attention to attempts by the government to assert privacy as a substantial state interest."). In this regard, the Court has made clear that an interest in shielding homeowners from unsolicited advertisements they are likely to find offensive or overbearing "carries little weight." *Bolger v. Youngs Drug Prods. Corp*., 463 U.S. 60, 71 (1983). In *Bolger*, the Supreme Court struck down a restriction on the mailing of unsolicited contraceptive advertisements designed "to protect those recipients who might potentially be offended." 463 U.S. at 72. *See also Shapero v. Kentucky Bar Ass'n*, 486 U.S. 466, 473-74 (1988) (stating that privacy interest will not support direct mail solicitation on attorney advertising).

The constitutional question raised by a "Do Not Mail" list is not identical to the one posed by an outright ban, since the homeowner must "opt in" to the government program. However , the voluntary character of the registry does not avoid constitutional problems to the extent the government determines which speakers are t be restricted by the law. Thus, *Martin v. City of Struthers*, 319 U.S. 141 (1943), struck down a ban on door-to-door solicitation because it "substitute[d] the judgment of the community for the judgment of the individual householder." *Id*. at 144. While the Supreme Court indicated that homeowners could erect "no solicitation" signs if they chose to do so, the ordinance would have faced considerable constitutional hurdles if it permitted residents only to erect "no solicitation" signs that selectively barred speakers disfavored by the town council. Ultimately, constitutional protection is based on the principle

that "the speaker and the audience, not the government, assess the value of the information presented." *Edenfield v. Fane*, 507 U.S. 761, 767 (1993).

The leading case to address the issue of blocking unwanted mail is *Rowan v. U.S. Post Office Dept.*, 397 U.S. 728 (1970). Under the law at issue in *Rowan*, an addressee can submit a written request that the Postmaster General issue an order blocking unsolicited mailing of "salacious materials." Upon the receipt of such a request, the sender is required to delete the addressee's name from his mailing list. *Id*. at 730. The Supreme Court in *Rowan* made clear that the law is constitutional because the blocking order only effectuated individualized preferences. *Id*. at 737. The Court noted "what may not be provocative to one person may well be to another. In operative effect the power of the householder under the statute is unlimited; he may prohibit the mailing of a dry goods catalog because he objects to the contents – or indeed the text of the language touting the merchandise." It concluded that "Congress provided this sweeping power not only to protect privacy but to avoid possible constitutional questions that might arise from vesting the power to make any discretionary evaluation of the material in a governmental official."[2]

Although *Rowan* often is characterized as a commercial speech case, the regulations at issue are entirely neutral, since the homeowner has complete discretion over which communications to block.[3] Although the postal regulation at issue applies to "advertisements," that fact does not determine whether only commercial speech is affected. *See, e.g.*, *New York*

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[2] *Rowan*, 397 U.S. at 737. The statute in *Rowan* hinged upon the Postmaster General receiving an opt-out notice "from the addressee," *id*. at 730, and thus truly involved opt-out decisions by the mail recipient with respect to particular speakers.

[3] *Rowan* was decided in 1970, well before the Supreme Court extended First Amendment protection to commercial speech. *See Virginia Bd. of Pharm. v. Virginia. Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976). If the commercial nature of the mailings had been dispositive, there would have been no First Amendment issue to decide.

Times v. Sullivan, 376 U.S. 254 (1964) (editorial advertisement is political speech). This point was underscored in *United States Postal Service v. Hustler Magazine, Inc*., 630 F. Supp. 867, 871 (D.D.C. 1986), where the court held that the postal rules could not be used to block the sending of *Hustler* magazine to members of Congress *in their offices* because it would interfere with the right to petition the government. However, the court observed that the postal regulation could be used to block even politically-motivated mailings to the residences of congressmen, just as it could be used by other homeowners. *Id*. at 871 ("In the home a Member can invoke the special privileges as a householder, including the privilege of stopping undesirable mail under § 3008."). With respect to congressional offices, however, the court held that the requested prohibitory order barring the mailing of *Hustler* magazine was unconstitutional because it was "rooted in content discrimination." *Id*. at 871.

A "Do Not Mail" list would operate quite differently from the regulation that was at issue in *Rowan*. Rather than according the homeowner complete discretion to characterize unwanted expression and to select which senders would be affected, the "block list" would be constructed by government officials. While state officials may attempt to show that unwanted mail from commercial sources is somehow more offensive than unwanted mail from religious, political, or charitable organizations, reviewing courts may be skeptical of such claims. *See*, *e.g*., *Bolger*, 463 U.S. at 71-72, where the Supreme Court declined to accept the proposed distinction between commercial and noncommercial speech in seeking to protect the public from what it considered to be "offensive" speech relating to contraceptives. Similarly, in *Carey v. Brown*, 447 U.S. 455, 465 (1980), the Court held that the government's asserted interest in protecting residential privacy could not sustain a statute permitting labor picketing while prohibiting non-labor picketing. It found that "nothing in the content-based labor-nonlabor distinction has any bearing

whatsoever on privacy." *Id*. To the extent the problem the law purports to address is that communications simply are "unwanted," there is little basis for basing restrictions on the content or subject matter of the speech. *See, e.g., Van Bergen v. Minnesota*, 59 F.3d 1551, 1555 (8th Cir 1995) (the identical concern arises from political calls to the same degree as commercial calls).

Even under the First Amendment test applicable to commercial speech, the government is required to show that the regulation (1) is needed to serve an important governmental interest; (2) that it directly and materially advances that interest; and (3) it is narrowly tailored to restrict no more speech than necessary. *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 564-565 (1980). In this regard, the Supreme Court has made clear that "if the Government can achieve its interests in a manner that does not restrict commercial speech, or that restricts less speech, the Government must do so." *Thompson v. Western States Med. Ctr.*, 535 U.S. 357, 371 (2002).

Under the *Central Hudson* analysis, it is difficult to compare "Do Not Mail" proposals to the "Do Not Call" regulations at issue in *Mainstream Marketing*. In that case, the 10th Circuit upheld the regulations after evaluating rulemaking proceedings before the FTC and FCC that determined the intrusiveness of unwanted calls necessitated a stronger regulatory approach than had been used in the past. Mail, on the other hand, is silent, and does not affect the tranquility of the home in the same way as a ringing telephone. In this regard, courts have held consistently that the government's interest in regulation is less pressing. In *Bolger*, for example, the Supreme Court explained that "we have never held that the government itself can shut off the flow of mailings to protect those recipients who might potentially be offended. The First Amendment 'does not permit the government to prohibit speech as intrusive unless the 'captive' audience cannot avoid objectionable speech.'" 460 U.S. at 70. Despite the annoyance that may be

associated with unsolicited junk mail, the First Amendment has been construed to require that the "short, though regular, journey from mail box to trash can ... is an acceptable burden, at least so far as the Constitution is concerned." *Id*. at 72 (quoting *Lamont v. Commissioner of Motor Vehicles,* 269 F.Supp. 880, 883 (SDNY 1967), *aff'd*, 386 F.2d 449 (CA2 1967), *cert. denied*, 391 U.S. 915 (1968)).

Additionally, under *Central Hudson* analysis, the regulation must leave open adequate alternative channels of communication. In this regard, it is worth noting that "Do Not Call" regulations were upheld, in part, because those regulated by it would still have the option of communicating by direct mail. The 10th Circuit noted, for example, that "[t]he challenged regulations do not hinder any business' ability to contact consumers by other means, such as through direct mailings or other forms of advertising." *Mainstream Marketing*, 358 F.3d at 1233. *See also id*. at 1243 (finding that the rules are narrowly tailored "[i]n particular," because "the do-not-call regulations do not prevent businesses from corresponding with potential customers by mail or by means of advertising through other media."). It may be difficult for courts to reach the same conclusion if states begin to adopt a network of Do Not Mail rules.

Considerations of Federalism

Another important question about state "Do Not Mail" legislation is its relationship to federal law. Under the Supremacy Clause of the Constitution, Art. VI, cl. 2, enforcement of a state regulation may be preempted by federal law in three circumstances: (1) where Congress, in enacting a federal statute, expresses its clear intent to pre-empt a state law, *Jones v. Rath Packing Co*., 430 U.S. 519, 525 (1977); (2) where Congress, by legislating comprehensively, has "occupied the field," enacting a system of regulations so comprehensive as to leave no room for state action, *Rice v. Santa Fe Elevator Corp*., 331 U.S. 218, 230 (1947); and (3) by enacting a

law with which the state regulation conflicts, making compliance with both state and federal law impossible. *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-43 (1963).

The intent of Congress to preempt a field "may be inferred from a scheme of federal regulation . . . so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it." *English v. General Elec. Co.*, 496 U.S. 72, 79 (1990) (internal quotation omitted). A conflict between the state and federal schemes occurs when it is impossible to comply with both the federal and state regulation, *Florida Lime & Avocado Growers*, 373 U.S. at 142-43, or when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941).

Because the delivery of the mails is an express power granted to Congress by the Constitution and because this service implicates interstate commerce, state laws must be carefully crafted to pass constitutional muster. Article I, Section 8, Clause 7 of the Constitution empowers Congress to "[t]o establish Post Offices and post Roads." Courts have interpreted this mandate as including a requirement that any state laws must be consistent with the general policies enacted by Congress. *See Pensacola Tel. Co. v. Western Union Tel. Co.*, 96 U.S. 1 (1878); *Illinois Cent. R.R. v. Illinois*, 163 U.S. 142 (1896). For example, in *U.S. v. City of Pittsburgh, California*, the Court of Appeals for the Ninth Circuit invalidated a local law prohibiting postal workers from crossing lawns without the consent of their owners. *U.S. v. City of Pittsburgh, California* 661 F.2d 783 (9th Cir.1981). The court found this to be in conflict with the purposes of the Postal Reorganization Act, which provided that "[c]arriers may cross lawns while making deliveries if patrons do not object and there are no particular hazards to the carrier." Because it was "clear that the local ordinance frustrates a major Congressional

objective…[i]t is therefore an unconstitutional 'obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'" *Id.* at 785 (internal citations omitted).

The possibility of various states enacting different types of Do Not Mail laws would raise obvious possibilities for conflicts with federal law. This would be true even if all the state laws were identical. But given the fact that different approaches are being proposed state by state, adoption of such rules in one or more jurisdictions could interfere with the provision of a national postal system and universal postal service.

A state law may be invalidated not only for directly conflicting with postal mandates under federal law, but also for encroaching upon Congress' implied authority to regulate interstate commerce. The "dormant implication of the Commerce Clause prohibits state ... regulation ... that discriminates against or unduly burdens interstate commerce and thereby 'imped[es] free private trade in the national marketplace.'" *General Motors Corp. v. Tracy,* 519 U.S. 278, 287 (1997) (quoting *Reeves, Inc. v. Stake,* 447 U.S. 429, 437 (1980)) (citations omitted). Moreover, the Supreme Court has long recognized that certain types of commerce are uniquely suited to national, as opposed to state, regulation. *See, e.g., Wabash, St. L. & P.R. Co. v. Illinois,* 118 U.S. 557 (1886) (holding states cannot regulate railroad rates). Based on such considerations, state regulations may violate the Commerce Clause in various ways: (1) regulating conduct occurring wholly outside of the state; (2) imposing an undue burden on interstate and foreign commerce; and (3) subjecting interstate commerce to inconsistent state regulations. *See, e.g., Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

Proposed Do Not Mail laws may be analogized to state attempts to regulate "indecent" communication on the Internet. In *American Libraries Ass'n v. Pataki,* for example, the United States District Court for the Southern District of New York enjoined a New York "harm to

minors" law for online communications as a violation of the Commerce Clause. *American Libraries Ass'n v. Pataki*, 969 F Supp 160 (SD NY 1997). The court held that the practical impact of the law was to impose New York law on other jurisdictions, that any local benefits were inconsequential compared to the burdens on interstate commerce, and that "the unique nature of cyberspace necessitates uniform national treatment and bars the states from enacting inconsistent regulatory schemes." *Id*. at 183-184. Courts have blocked similar state laws in Arizona, Michigan, New Mexico, Ohio, Vermont, Virginia, and Wisconsin.[4]

As an instrument of interstate commerce, the national postal system presents many of the same issues when state or local governments seek to impose restrictions. Thus, while a state may pass regulations that bear some "trivial or remote relation to the operation of the postal service" within its borders, it would seem an entirely different matter to prohibit the delivery of a large class of mail to its residents.

Conclusion

This testimony does not attempt to present a comprehensive analysis of the First Amendment of federalism issues that would be raised by the adoption of state Do Not Mail regulations. It does suggest, however, that the constitutional issues raised by such laws are complex, and have not been resolved by decisions regarding federal "Do Not Call" regulations.

[4] *See ACLU v. Johnson*, 194 F3d 1149 (10th Cir 1999); *Cyberspace Communications, Inc. v. Engler*, 238 F3d 420 (6th Cir 2000); *ACLU v. Napolitano*, Civ. 00-505 TUC ACM (D Ariz Feb. 21, 2002); *American Booksellers Foundation for Free Expression v. Dean*, 342 F3d 96 (2d Cir 2003); *Bookfriends, Inc. v. Taft*, 223 F Supp 2d 932 (SD Ohio 2002); *PSINet v. Chapman*, 362 F3d 227 (4th Cir 2004); *Wisconsin v. Weidner*, 611 NW2d 684, 2000 Wi 52 (Wisc Sup Ct 2000).

Appendix
State "Do Not Mail" Proposals

Arkansas

H 2725 would create a "Do Not Mail" registry to be maintained by the state's Attorney General. The bill was withdrawn by its sponsor in 2007.

Colorado

H. 1303 would require the Public Utilities Commission to use a designated agent to maintain a "Do Not Mail" registry. The sponsor postponed the bill indefinitely in 2007.

Connecticut

S. 1004 would create a "Do Not Mail" list based on the state's Do Not Call list. The bill died in 2007. H. 6881 was similar and was referred to the General Law Committee before it died in 2007.

Hawaii

S. 908 would create a "Do Not Mail" registry and would require the Department of Commerce and Consumer Affairs "work with postal authorities and private entities to ensure that person on [the] registry do not receive unwanted solicitations." The bill died on May 1, 2008 when the legislature adjourned. HB2592 was almost identical to S. 908 and likewise died upon adjournment.

Illinois

SB2115 would give the Attorney General power to create a "Junk Mail Opt-Out List" for Illinois residents. The bill was referred to the House Rules Committee on March 14, 2008.

Maryland

HB53 would require the Division of Consumer Protection of the Office of the Attorney General to "to establish and provide for the operation of a restricted mailing registry; require solicitors to purchase the registry; and prohibit certain solicitations. The bill was withdrawn by its sponsor and died when the legislature adjourned in April 2008.

Michigan

H. 4199 would empower the Public Service Commission to create a "Do Not Mail" list and would require solicitors to submit the name and phone number of the entity on whose behalf the mail was sent.

Missouri

H. 542 (2007) would use the Attorney General to maintain a "Do Not Mail" registry for residents 65 and older who "object to receiving solicitations."

Montana

H. 718 would direct the Attorney General to establish a "Do Not Mail" registry. The bill was tabled in 2007 at the request of its sponsor

New Hampshire

HB 1506 would empower the Consumer Protection and Antitrust Bureau of the Department of Justice to operate a "Do Not Mail" registry. The legislature deemed it "inexpedient to legislate" and the bill died in June 2008 upon the adjournment of the legislature.

New York

A. 2520 would require the Consumer Protection Board to maintain a combined "Do Not Mail/Do Not E-mail" registry; the bill was withdrawn by its sponsor. S. 1403 would apply only to direct mail. The legislature adjourned in June without action on the bill.

North Carolina

H1699 would require the North Carolina Utilities Commission to contract with a designated agent to maintain a junk mail opt out list. The bill carried over into the 2008 session, but no action has been taken on it since April 2007

Pennsylvania

HB2551 would empower the Bureau of Consumer Protection in the Attorney General's office to create a "Do Not Mail" registry. It was referred to the Consumer Affairs Committee on May 20, 2008.

Rhode Island

RI H 6190 would require the Public Utilities Commission to contract with a designated agent to maintain a "Do Not Mail" registry. The bill carried over into the 2008 session, but the legislature adjourned on June 21, 2008.

Tennessee

SB3760 would requires the Division of Consumer Affairs of the Department of Commerce and Insurance to create a "Do Not Mail" registry. It was withdrawn by its sponsor and died upon the adjournment of the legislature on May 21, 2008.

Texas

HB 901 proposed a "Do Not Mail" registry that would have applied to advertising mail that included the consumer's identifying information. The bill died in 2007.

Vermont

VT H 409 would require the Attorney General to establish a "Do Not Mail" registry that would have covered any mail solicitation for purchase or rent. The bill carried over to the 2008 session but died when the legislature adjourned in March 2008

Washington

H. 1205 would require the Attorney General to maintain a "Do Not Mail" registry. It carried over into the 2008 session but died upon the adjournment of the legislature in March 2008. S. 5719 was similar and died upon adjournment as well.