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File



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-203115

May 8, 1981

The Honorable Jack Brooks, Chairman
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

We understand that H.R. 1020, a bill to repeal 44 U.S.C. § 3702, has been referred to your committee. We write to express our support for enactment of the legislation. H.R. 1020

The provision in question, 44 U.S.C. § 3702, was originally enacted in 1870 and requires prior written approval before an advertisement or notice may be placed in a newspaper by an executive branch agency. It further provides that a bill from a newspaper may not be paid unless accompanied by a copy of the written authorization. Thus, when we receive a claim by a newspaper which has published an advertisement ordered in violation of the statute, we are required to disallow the claim, even though the newspaper acted in good faith and the Government received the benefits of the publication. In recent years we have been referring these claims to the Congress for the enactment of legislation under the Meritorious Claims Act.

As you may know, the General Accounting Office has supported repeal of 44 U.S.C. § 3702 for a number of years. It is our view that normal procurement procedures are adequate to safeguard the Government's interests. We first recommended repeal in a letter to the Speaker of the House of Representatives, B-181337, November 25, 1974. That letter, a copy of which is enclosed, fully states the basis for our recommendation. We renewed our recommendation in a 1978 letter to the Chairman of the Joint Committee on Printing, B-114829, October 2, 1978 (pages 5 and 6). We are also enclosing a copy of that letter.

Our prior letters also recommended repeal of a related provision, 44 U.S.C. § 3703, concerning rates of payment for advertisements. For the reasons stated in our 1974 and 1978 letters, we would recommend amending H.R. 1020 to repeal 44 U.S.C. § 3703 as well.

In the alternative, if the committee feels that there are policy reasons which would suggest retaining some measure of control over the placing of advertisements in newspapers by Government agencies, you may wish to consider amending 44 U.S.C. § 3702 to permit payment upon ratification by the agency head. This

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could be done by amending the last portion of the statute to read
"* * * and a bill for advertising or publication may not be paid
unless there is presented with the bill a copy of the written
authority or other written evidence of ratification of the order
by the appropriate agency official" (new language underscored).
The "appropriate agency official" would be the agency head or the
official to whom the authority has been delegated under 5 U.S.C.
§ 302(b)(2). This approach would, as indicated, retain some con-
trol but would permit payment if the agency ratified the order,
thereby obviating the need for referrals under the Meritorious
Claims Act or other relief legislation.

Sincerely yours,

Harry R. Van Alen
For the Acting Comptroller General
of the United States

Enclosures