

Consumers Press Drive to Tap Big Reservoir Of U.S. Records

Invoke Freedom of Information Law in Attacks on Federal Secrecy—Hope Files Will Aid Them in Purchases

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WASHINGTON, Sept. 1 — According to the most recent count, the Federal Government maintains roughly 70 billion sheets of paper in the equivalent of five million four-drawer filing cabinets.

The information mined from the slopes of this sprawling mountain is a major national resource. It provides the raw material for Presidential messages, big business decisions, weather reports and Pentagon press releases.

There is a growing conviction that it might also hold raw material of much value to consumers, but specific information in this field is often buried deeply and guarded zealously by officials wary of public extraction.

Consequently, consumer efforts to tap Washington's records have produced new pressures for access to the Federal records and have brought a substantially wider dimension to the controversy over secrecy.

Before now, most of the battles over access to the files have been waged by private interests. Individuals have sought the addresses of registered aliens, and oil companies have demanded valuable geological surveys.

Nineteen of the 95 formal requests for information received by the Department of Health, Education and Welfare have come from a single source—the tobacco industry's national clearing house on smoking and health.

40 Cases Taken to Court

Under a provision of the Freedom of Information Act, which was designed when it went into effect two years ago to force agencies to open more files, the courts have been asked to judge about 40 cases of secrecy.

Only three of them, however, were brought on broad public grounds. Most have dealt with narrow issues such as a bank's right to learn the address of a merchant seaman who owed it money.

But consumer spokesmen have stepped up their activities recently. They have come to see the Government's collection of data as a storehouse as rich for consumers as it has been for other groups.

There have been signs, for example, that the files might guide Americans in their selection of automobiles, hot dogs,

safe places to work, efficient airlines and moving companies.

Greater access to the records might also point up important details of weaknesses in the Government's consumer protection programs and potentially dangerous lapses in business operations.

Ralph Nader, the consumer advocate, opened an attack on Government secrecy last week with the observation that "information, particularly timely information, is the currency of power."

After dozens of encounters this summer between 100 students under his direction and a number of agencies in the consumer field, Mr. Nader said that he planned to file a series of antisecrecy lawsuits.

Consumers Union, which publishes the magazine Consumer Reports, has already taken the Veterans Administration to court and forced that agency to disclose studies it had made on the quality of hearing aids.

The test results were made available after a four-year battle. But Consumers Union must now appeal to obtain the Government's ratings of the raw data.

Many in Washington are convinced that the law should be invoked more often by the press. No newspaper or magazine in general circulation and no broadcaster has ever sued under it.

"The press hasn't carried its share," said Samuel J. Archibald, Washington director of the University of Missouri's Freedom of Information Center. "The press hasn't used the tool. It's going to rust if it isn't used."

Before the Freedom of Information Law was in effect, the public had no vested right to see any Government document. An official could simply say that he saw no "need" to disclose his records, and that generally ended the matter.

Purpose of Act

The information act was designed to prevent the abuse of this bureaucratic privilege by declaring every record public unless it fell into one of nine broad classifications, such as "national defense."

The burden of proving that information was exempt from disclosure was placed on the Government, and anyone who disagreed was entitled to ask a United States District Court for review.

As it has developed in many instances, however, the law was far from revolutionary. The nine exemptions still required extensive interpretation by the Government.

Mr. Nader complained in a statement last week that the exemptions permitted such "a vast amount of discretion . . . that to call [them] loopholes would be to indulge in the grossest kind of understatement."

The nine exemptions cover

such broad areas as "investigatory files," information supplied to the Government "in confidence" and "interagency or intra-agency memorandums or letters."

There is not much argument about reports to the Federal Bureau of Investigation, the details of a company's innermost commercial secrets or bureaucratic exchanges with a strictly internal application.

But the exemptions have been used to cloak the fat content of hot dogs, breakdowns in transportation safety, reports of abuses by moving concerns and studies of water pollution by Federal installations.

Business information ruled confidential by the Government has included, for example, pricing details supplied by the automobile industry to the Bureau of Labor Statistics.

In instances such as these, some find a sinister pattern that seems aimed, as Mr. Nader put it, at "protecting incompetence and cloaking regulatory surrender to special interests"—especially powerful corporate interests.

It is widely agreed that incompetence exists and that officials frequently pale at the prospect of naming names or disclosing specific violations of a law they have failed to enforce.

Other Factors Cited

But it is not only a matter of protecting themselves and a few influential friends outside the Government. Many officials feel dependent on private interests for essential information and advice.

"If I give you this stuff," a representative of one Government agency explained to a reporter not long ago, "then the companies we get it from would stop giving it to us—and we need it."

There are other factors behind secrecy moves. Officials frequently point out that the disclosure of some raw data could be misinterpreted by the public, with unjust consequences.

Even if the records permit only one interpretation, administrators often argue that only their "unevaluated" judgments are involved and that without formal findings it would be unfair to allow public inspection.

In addition to the discretion involved, the Freedom of Information Law encourages "procedures" that are almost always too time-consuming for the im-

mediate needs of, say, a breaking newspaper story. Weeks are commonly required to obtain information.

Generally, a citizen must write letters and identify what he wants with precision. He must carry an appeal up an agency's hierarchy if the initial decision is negative. And he must be financially well off if he wants a court review.

Some departments have taken extensive measures to smooth the process. The Department of Health, Education and Welfare, for example, has an office that works exclusively on information issues.

The officials tend to sympathize with requests to see the records and remind the bureaucracy of the antisecrecy law. The unit has approved 66 formal demands for data and denied 29.

Herbert Klein, Director of Communications for the executive branch, has repeatedly referred secrecy disputes and has reminded Administration officials of President Nixon's "open administration" pledge.

Industry Seen Favored

But there are difficulties aside from discretion and delay. Mr. Nader believes, for example, that the Government tends to collect information that industry wants but not information consumers want.

"The Department of Interior compiled much information of use for the minerals industry," he said in his statement last week, "but very little benefits consumers or workers."

"The Interior Department had to be pushed and prodded to develop a report on environmental depredations of the coal industry, after half a century, and then was reluctant to make it public."

"Consumer-related information about Federal oil policy—from quotas to offshore leases—[has] been most hard to elicit from Interior. The same imbalance prevailed for hazards in offshore drilling."

Some observers are more optimistic than Mr. Nader. While they acknowledge its shortcomings, they believe the law has forced an important change in the Government's attitude toward disclosure.

"The experience has been that if you take the step-by-step procedure insist, there is a greater chance of getting the information than not getting it," Mr. Archibald said.