

STATEMENT OF DAN SILVA  
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UPS

THE DANGER OF PURCHASING PHARMACEUTICALS OVER THE INTERNET  
BEFORE THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
JULY 22, 2004

Chairman Coleman and members of the subcommittee, my name is Dan Silva and I am the Corporate Security Manager for UPS. I have responsibility for security matters worldwide for the company. Thank you for the opportunity to appear this morning to discuss the issue of internet pharmacies and the efforts of UPS to combat abuses involved with those pharmacies.

You have asked us to address three questions, which I will do in order. First, you have asked about efforts that we have undertaken to preclude the delivery by UPS of illegal controlled substances and other pharmaceuticals purchased over the internet. Let me state first of all that it is the clear policy of UPS, as stated in our tariff, that illegal products of any type are prohibited from being transported through our system. We have a long history of working with law enforcement agencies at all levels to enforce legal requirements. While our company privacy policy prohibits us from disclosing customer information in general, we regularly provide law enforcement agencies with information required by a lawful subpoena.

Additionally, since 2001 we have conducted an Online Pharmacy Monitoring program. Through our outside counsel, we conduct weekly searches of the internet to identify online pharmacies that use the term "UPS." We send cease and desist letters and are prepared to follow-up with appropriate legal remedies to online pharmacies (1) that offer UPS services and offer to sell pharmaceuticals without a prescription, and (2), that display a UPS trademark or logo (to avoid any appearance of sponsorship or endorsement). We have shared information about internet pharmacy sites that we have gathered through our monitoring program with the U.S. Food and Drug Administration ("FDA") and the U.S. Drug Enforcement Administration ("DEA").

Since much of the concern in this area arises from imported pharmaceuticals, I would like to mention efforts we have undertaken with the U.S. Bureau of Customs and Border Protection ("Customs") and FDA. First of all, UPS identifies to Customs and FDA all packages it delivers into the United States that are declared to be pharmaceuticals. Customs and FDA have the ability to pull any of these packages for further examination and enforcement action. Additionally, in conjunction with our new automated international air hub in Louisville, Kentucky, we developed a computer program called Target Search for the use of Customs. This is a sophisticated and flexible tool that enables Customs to search manifest information for all imported packages passing through that facility. Customs can use this system to help identify illicit shipments by screening for a wide variety of data. The applicability of this tool obviously goes well beyond the detection of illegal pharmaceuticals.

Your second question relates to current efforts with the DEA and FDA to address the issue of illegal purchases of controlled substances. On an ongoing basis, we respond to many subpoenas with information requested in support of ongoing investigations by these agencies. Additionally, we have met twice this year with officials of FDA and DEA here in Washington to discuss ways in which we might further our cooperation concerning illegal pharmaceutical shipments. As I have already indicated, we have shared information about internet pharmacies that we identified through our online pharmacy monitoring program with FDA and DEA. These meetings with FDA and DEA officials have been productive, and we will continue to meet as needed in the future.

The third question seeks our views on pending legislation regarding internet pharmacies. We support legislation that would establish clear requirements for internet pharmacies. In particular, we like provisions of the Coleman bill, S. 2464, that would require internet pharmacies to be licensed. To be licensed, the internet site would have to meet a number of common sense requirements, such as providing the address of the principal place of business, the names of persons serving as pharmacists, and state license information. In addition, the bill would prohibit internet sales of pharmaceuticals to individuals without a prescription obtained from a practitioner with a qualifying medical relationship, which requires at least one in-person medical evaluation.

These requirements are appropriate for ensuring that requirements for the safety and efficacy of drugs are met when U.S. consumers make purchases in this new marketplace. From the standpoint of a package delivery company these requirements would provide more certainty that the products we are carrying meet the requirements of law and therefore meet our own tariff requirements.

As a carrier, we can take actions such as those I have described in conjunction with law enforcement agencies, but we do not have the independent ability to judge the validity of a prescription or the legitimacy of a particular drug. We support S. 2464 and similar bills, such as the Davis-Waxman bill in the House, that will address these problems.

We also support the goal of S. 2465 to insure that "a substantial majority of shipments of [illegally imported] controlled substances are identified, seized and destroyed" while efficiently using federal resources available to carry out this goal. The criminal use of the Postal Service and carriers like UPS to unwittingly deliver fraudulently declared prescription drugs into the United States is an enforcement problem for Customs, FDA and DEA. UPS alone ships more than 3 billion packages a year, about 15 million of which are imported into the U.S. We and other carriers have a limited ability to look behind declarations supplied by the shipper in the manifest. S. 2465 would direct the attention of federal agencies to this problem, and UPS would gladly work with them as we are already doing under current law.

Thank you for the opportunity to share the views of UPS and I look forward to any questions that you may have.