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June 18, 2004
Hand Deliver

Ms. Sherry Freda
Manager, Mailing Standards
U.S. Postal Service
1735 N. Lynn Street, Room 3025
Arlington, VA 22209-6038

Re: 69 Fed. Reg. 20841: Proposed Rule Changes to DMM sections E110 and E610

Dear Ms. Freda:

The Free Speech Coalition, Inc. ("FSC"), is a broad nonprofit alliance of nonprofit organizations and for-profit companies which help nonprofits raise funds and carry out their programs. FSC is particularly concerned with the preservation of the rights of nonprofit advocacy organizations. This diverse group was established in 1993 to defend the interests of Americans who want to participate fully in the formation of public policy in this country without undue governmental interference and restriction.

FSC would like to take this opportunity to comment on the Postal Service's proposed regulations clarifying the type of mail that must be entered at First-Class rates and that which is eligible for Standard mail rates. FSC and its members are extremely concerned that the new rule would inappropriately shift much educational mail from Nonprofit Standard to First-Class.

Proposed DMM section E610.3.1 would permit "personal information" to be included if three certain requirements are met. The first requirement is that the mailpiece must contain "an explicit solicitation for a donation." Failure to solicit a contribution automatically removes from Standard mail eligibility those mailings by nonprofit organizations that are purely educational material, but which might be customized for each recipient.

The second requirement has the same effect. It requires that the included personal information relate directly to the solicitation. If the mailpiece is educational or informational, and it does not contain a solicitation, then the personal information has no solicitation to which it can relate. Thus, this requirement cannot be met.

The last requirement is the “exclusive purpose” requirement. This requirement is much more explicit in requiring all educational and informational material to be mailed at First-Class rates, even if the letter contains a solicitation. Most mailings by nonprofits are not pure solicitations, and it would be rare when this requirement could be met by a nonprofit organization.

While the effects of these proposed regulations are probably “unintended consequences,” we think that they are flawed enough that they should be withdrawn and the current rules more effectively clarified by means of one or more Customer Service Rulings. Alternatively, an exception should be made for mail which otherwise qualifies for Nonprofit Standard mail rates.

FSC has no problem with the Postal Service attempting to clarify the distinction between First-Class and Standard mail. While most of the problem with the current rules has arisen in the context of commercial mail, it is important that the effect of these rules on nonprofits also be considered.

Thank you for your consideration of these comments.

Sincerely yours,

William J. Olson
Legal Co-Counsel

WJO:pw