

**Testimony before the Select Committee on the Modernization of Congress
United States House of Representatives**

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**“Congress and the Frank: Bringing Congressional Mailing Standards into
the 21st Century”
October 31, 2019**

Chairman Kilmer and Vice Chairman Graves, and Members of the Select Committee, it is a pleasure to join you today. I am a strong proponent of modernizing Congress have been impressed by the bipartisan and inclusive spirit in which you have worked.

The Franking Commission is also balanced with an equal number of Democrats and Republicans and our goal is always to partner on what should be bi-partisan Congressional improvements.

I want to acknowledge and thank House Administration Chair Zoe Lofgren, House Administration Committee Ranking Member Rodney Davis and the Franking Commission’s new Ranking Member, Bryan Steil, all of whom play a key role in the future of mass communications.

I was glad to see that Franking is in your focus area because there is certainly a lot to modernize when it comes to our rules and processes. As a Commission, we are making some significant changes, which I will outline today, and we ask for your support for those. There are also some other areas where we request some recommendations from you, particularly with regard to digital communications.

New Rules & Transparency Package

Many of the Rules in our House Franking Manual were created with the good intention of preventing Members from misusing taxpayer funds for personal, political or commercial use.

After nearly two decades of working with those rules, we've seen great frustration from both Members and the public because the rules often prevent Members from writing the way they speak when they conduct official business. Furthermore, the approval process can delay timely communication as Franking staff on both sides of the aisle are required to count everything from photo sizes to the number of personal and party references. The demand for review has vastly increased with the rise of digital communications while the number of blatantly unacceptable pieces remains miniscule.

We have also seen that no matter how specific the Franking rule book is, there will always be unanticipated content for which there is no written rule. When that happens, we must rely on precedent or create new precedent, which can be controversial, inconsistent and time-consuming.

As we looked at the impact of the current over-restrictive rules and realized there is simply no way to make a new rule for every future situation, the Commission came up with a new approach which should give Members the ability to communicate with their constituents more clearly and quickly while still ensuring accountability and preventing the misuse of taxpayer funds.

Our new proposal will have two main components: greater transparency and a simpler set of rules. Taken hand in hand, we can vastly improve Member's mass communications and the process by which they are authorized.

Greater public transparency is greater Member accountability. We can achieve transparency easily by making the franked advisory opinions in our internal electronic system available online through our public website. Our site would be linked to the House's website as is currently the case for financial disclosure reports, foreign travel reports, gift and travel filings, legal expense fund disclosures and statements of disbursements. There is no good reason why franked mailers are not available now unless a person travels to Washington, identifies him or herself and pays 10 cents a page to print mailer copies from a kiosk in the Clerk's office. We can fix this easily and have a website almost ready to go.

Combined with transparency, a simpler set of rules will prevent the misuse of taxpayer funds. Our commission is in the process of developing a short set of very important rules that will be very clear and simple for any Member office to follow. They are similar to the Senate's rules and will include prohibitions on such clear misuses as soliciting campaign funds, using communications for personal use and making ad hominem attacks. I look forward to sharing the full list with you and all of our colleagues soon.

Modernization Committee Recommendations

We appreciate the Modernization Committee's willingness to consider our recommendations and we have some specific requests of you.

1. Consolidate Communications Jurisdiction and Rename Our Commission

While the Commission on Congressional Mailing Standards (Franking Commission) was initially created to review unsolicited mass mailings, it has also been tasked with review of all unsolicited mass communications as well. This includes physical mail, email, advertisements, robocall scripts, SMS messages, flyers, website and social media content and more. The challenge, however, is that the jurisdiction for implementing official communications rules is split between multiple offices. There are also multiple handbooks which contain regulatory guidance over these resources.

We have extensively heard the call for a centralized source of this information, and a single body to issue adaptable guidance with emerging technologies. The Franking Commission would be an ideal body for consolidation of this jurisdiction since it is a bipartisan group of Members who would be able to issue regulations which could be accepted among both political parties regardless of the majority/minority status.

We would suggest the Modernization Committee consider recommendations to consolidate jurisdiction of the issuance of regulations related to the use of all official communications resources to the Franking Commission. In addition, an update to the official name of the Franking Commission would help both staff and the public recognize the role of the Commission.

2. Give Constituents More Opt-In Options

Member offices can communicate with people who have taken a willful act to opt-in to subscribe to their e-newsletters without preapproval by the Franking Commission to permit the mass distribution. Communications with these subscribers are also exempt from blackout restrictions.

Members should be able to communicate with constituents with the resources they want to communicate with. We would suggest giving the constituents the options to opt-in to receive communications from their Members of Congress using their preferred platforms beyond email, and grant Members the freedom to communicate with those subscribers without review from the Franking Commission. If this recommendation was implemented, we would also suggest consideration of the merits of exempting all subscribers from the blackout restrictions.

3. Consider Allowing Transfer from Campaign Resources to Official Resources

The current requirements for separation of campaign, official, and personal social media profiles have created massive confusion among the public in how they can interact with their elected officials, an unmanageable/nonsensical burden on Members being unable to respond to inquiries from the public based off of the nature of the message, and a lack of regard for basic applications, verifications, and online search prioritizations. There are appropriate restrictions in place for the mingling of campaign and official activity. However, the modernization committee should explore if those restrictions are practical or

actually provide a necessary safeguard against public funds being used for political purposes.

The Modernization Committee should evaluate the appropriateness of allowing members the option to transfer their social media followers from campaign accounts to their official accounts from time to time, or just one time.

Appropriate consideration for timing related to the blackout could be a factor.

We should also discuss the viability of non-official accounts, including campaign accounts, ability to repost/forward officially generated content.

4. Update Technology for District Mail Reports

While the conversation around modernizing communications have been dominated by the use of digital and other technologies, we have seen no comprehensive updates to the physical mail process in regard to the Franking of mail. It is widely believed that the Frank is used to send mail at no cost. That is simply not true. Members are required to use their Member's Representational Allowances (MRA) reimburse the USPS for all postal expenses related to the Frank.

The House of Representatives contracts a mail vendor to (among many other tasks) sort, distribute, and account for each franked mailer sent by each office from their House Office Building in Washington, DC so they are appropriately reimbursing the USPS for these costs. District offices are, however, required to self-report the use of franked mail on a monthly basis because the USPS has no actual way of accounting for the Franked mail. Member's offices who are

delinquent in submitting such monthly reports have their MRA charged a fee up to the maximum amount incurred in a given month throughout a year in order to reimburse the USPS for what could be a service not provided.

We would recommend consideration of a new means to account for the use of Franked mail. Perhaps a barcode, unique for each individual district, that would be scanned and accounted for by the USPS could be affixed to all franked envelopes or labels. We, as businesses and consumers, are already able to print our own labels and track our mail. Why can't Congress?

5. Improve House Email Hygiene

Members of Congress are permitted to send unsolicited mass emails for official purposes. Most recipients of these unsolicited emails recognize them as SPAM. As a result, Spam Blockers have previously shut down delivery of our mass emails. The reputation and integrity of the House's email delivery systems has been tarnished, and the costs to maintain/acquire new ones are substantial. Industry leading email delivery resources want nothing to do with House Member clients because we are spammers. Our deliverability rates inevitable drop off substantially due to private industry-scorned tactics.

We would recommend consideration of researching private industry's best practices that focus on high-percentage deliverability rates, hearing perspectives on subscription-based vs. non-subscription outreach, and to perhaps develop new practices which encourage industry leading email providers to want to do business with the House of Representatives.

Closing

Thank you again for your time today and for all you're doing to make Congress work better for the American people. We look forward to your next set of recommendations.