

# EDDM Consumer Choice Act of 2026

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## SECTION-BY-SECTION ANALYSIS

This document provides a detailed explanation of each section of the EDDM Consumer Choice Act, including its purpose, legal basis, and comparison to existing law.

### Section 1: Short Title

**Text:** The bill may be cited as the "EDDM Consumer Choice Act of 2026" or the "Every Door Delivers Only to the Willing Act."

**Purpose:** Establishes the official name by which the legislation will be known. The primary title emphasizes consumer choice; the alternative title creates a memorable formulation emphasizing consent.

**Strategic Note:** Previous bills used titles like "Do Not Mail Act" which frame the legislation negatively (restricting business). "Consumer Choice" frames it positively (empowering individuals).

### Section 2: Congressional Findings

**Purpose:** Establishes the factual record supporting the legislation. Congressional findings serve three critical functions:

- They create a legislative record that courts examine when assessing Congressional intent
- They establish the 'substantial government interest' required under the Central Hudson test for commercial speech restrictions
- They provide talking points for floor debates and public communication

#### The Nine Findings:

**Finding (1) - EDDM Volume:** Establishes the scale of the problem: 3 billion pieces annually.  
Source: USPS annual reports.

**Finding (2) - Regulatory Gap:** Documents that postal mail is uniquely unprotected compared to phone, email, text, and fax.

**Finding (3) - Waste Rate:** 44% unopened establishes that consumers don't want this mail.

Source: EPA.

**Finding (4) - Environmental Impact:** 100M trees, 51.5M tons CO<sub>2</sub>, 28B gallons water. These statistics establish environmental protection as a substantial government interest.

**Finding (5) - Taxpayer Cost:** \$320M disposal cost shifts burden from industry to public.

**Finding (6) - Fraud:** \$4.9B annually establishes fraud prevention as substantial interest. Senior victimization adds equity dimension.

**Finding (7) - Rowan Precedent:** Explicitly adopts Supreme Court's holding that consumer privacy overrides advertiser speech rights. Critical for constitutional defense.

**Finding (8) - Netherlands Success:** 81% opted out, Dutch Supreme Court upheld. Demonstrates model works and is legally defensible.

**Finding (9) - Goals:** States the bill's objectives: privacy, environment, fraud prevention, taxpayer savings.

### Section 3: Definitions

**Purpose:** Defines key terms to ensure precise legal interpretation. Clear definitions prevent litigation over ambiguity and ensure consistent enforcement.

**Critical Definition - 'Saturation Mail':** This is the most important definition in the bill. It captures EDDM and similar programs while excluding targeted direct mail:

- Advertising/promotional in nature (excludes transactional mail)
- 90%+ of addresses on a route (matches USPS 'saturation' definition)
- Not addressed to named individual (excludes personalized direct mail)
- Generic addressing ("Postal Customer," "Resident," etc.)

**Why FTC ('Commission'):** USPS has a conflict of interest (revenue depends on mail volume). FTC is independent and has Do Not Call Registry experience.

### Section 4: Establishment of Opt-In Registry

**Purpose:** Creates the central mechanism of the bill—an opt-in registry where the DEFAULT is no saturation mail.

**Key Design Choices:**

- **Opt-IN, not opt-out:** Previous bills failed using opt-out. Opt-in flips the burden—only willing recipients receive mail. Netherlands proves 81% prefer not to receive.
- **FTC administration:** Removes USPS conflict of interest. FTC has registry experience.
- **Multiple registration methods:** Internet, phone, and mail ensure accessibility regardless of technology access.
- **5-year duration:** Matches Do Not Call Registry. Prevents permanently stale data.
- **Physical sticker option:** Netherlands JA-sticker model. Simple, visual, self-enforcing. Accommodates those without internet.

**Comparison to Do Not Call:** Do Not Call is opt-out (register to stop calls). This registry is opt-in (register to receive mail). Opt-in is more protective but the operational infrastructure is similar.

## Section 5: Fees

**Purpose:** Creates a sustainable funding mechanism for registry operation while placing costs on industry, not taxpayers.

### Fee Structure:

- \$100/ZIP code - Affordable for small local businesses
- \$5,000/state - Volume discount for regional businesses
- \$25,000/nationwide - Flat rate for national mailers

**Design Rationale:** Fees are LOWER than Do Not Call (\$20,700 nationwide) to preempt argument that fees are prohibitive. Nonprofit 50% discount acknowledges different capacity while still requiring compliance.

## Section 6: Enforcement

**Purpose:** Creates multi-layered enforcement with both government and private mechanisms.  
THIS IS THE MOST IMPORTANT SECTION for effectiveness.

### Three Enforcement Layers:

- **FTC Enforcement (subsection b):** \$50,000/violation standard; \$100,000-\$500,000 for pattern/practice. Treats violations as 'unfair or deceptive acts' under FTC Act.

- **State AG Enforcement (subsection d):** Allows state attorneys general to sue on behalf of residents. \$1,000/violation. Creates 50 additional enforcers.
- **Private Right of Action (subsection e):** THE KEY PROVISION. Individuals can sue for \$500/piece (standard) or \$1,500 (willful). Class actions explicitly authorized. 4-year statute of limitations.

**Why Private Right of Action Is Critical:** The TCPA's private right of action has generated class action settlements exceeding \$200 million. It creates market-based deterrence that doesn't depend on government enforcement priorities. CAN-SPAM (no private right of action) is widely considered less effective than TCPA.

## Section 7: Postal Service Cooperation

**Purpose:** Integrates USPS into enforcement while keeping policy control with FTC.

**Key Requirements:**

- USPS shall not deliver saturation mail to non-opted-in addresses
- USPS must provide address lists to FTC for registry maintenance
- Carrier training on sticker identification
- Quarterly reporting to Commission

## Sections 8-9: Consumer Education & Reports

**Section 8 (Consumer Education):** Mandates public awareness campaign, post office notices, multilingual materials. Addresses criticism that Do Not Call suffered from low consumer awareness initially.

**Section 9 (Annual Reports):** Requires annual FTC reports to Congress and GAO study at 3 years (then every 5 years). Ensures ongoing oversight and allows for legislative corrections.

## Section 10: Implementation Timeline

**Purpose:** Provides 24-month phased implementation to address industry and USPS operational concerns.

**Three Phases:**

- **Months 1-12 (Planning):** FTC develops regulations, builds registry, designs stickers, creates training materials.
- **Months 13-18 (Education):** Public awareness campaign, registration begins, industry prepares for compliance.
- **Months 19+ (Enforcement):** Delivery prohibition takes effect, enforcement begins.
- **Month 24+ (Small Senders):** Enforcement extends to senders with <100,000 annual pieces.

## **Section 11: Authorization of Appropriations**

**Purpose:** Authorizes \$15 million for first two years. After startup, fee revenue supplements appropriations.

**Comparison:** Similar to Do Not Call Registry startup funding. The goal is self-sustainability through fees over time.

## **Section 12: Exemptions**

**Purpose:** Defines what IS and IS NOT exempt. Exemptions are NARROW by design.

### **Exempt (subsection a):**

- Official government communications (taxes, voter registration, census, emergencies)
- First-class mail to named individuals
- Newspapers and periodicals

### **NOT Exempt (subsection b) - CRITICAL:**

- Political campaign advertising (major change from previous bills)
- Charitable solicitations (except 60-day disaster relief)
- Religious organization advertising
- Business mail even with existing relationship (if via EDDM)

**Why Political Mail Is Not Exempt:** Previous bills exempted political mail, which was criticized as self-serving (politicians exempting themselves). If consumers can refuse commercial ads, they should be able to refuse political ads. Campaign mail is functionally commercial speech.

## Sections 13-15: Effective Date, Severability, Preemption

**Section 13 (Effective Date):** Act takes effect on enactment; delivery prohibition at 19 months (per Section 10).

**Section 14 (Severability):** If any provision is struck down, the rest survives. Critical because some provisions (e.g., political mail inclusion) may face legal challenge.

**Section 15 (Preemption):** 'Floor, not ceiling' approach. States may provide MORE protection but not less. This differs from CAN-SPAM, which preempted stronger state laws and was criticized for it.

## Constitutional Analysis

This bill is designed to withstand First Amendment challenge under the Central Hudson test for commercial speech:

Central Hudson Factor	Analysis
1. Lawful, non-misleading speech?	Yes - commercial ads are lawful
2. Substantial government interest?	Yes - Privacy (Rowan), environment (Finding 4), fraud prevention (Finding 6)
3. Directly advances interest?	Yes - Opt-in directly reduces unwanted mail
4. Not more extensive than necessary?	Yes - Only affects saturation mail; willing recipients still receive

**Key Precedents:** Rowan v. USPS (1970) held consumer privacy overrides advertiser rights.

Mainstream Marketing v. FTC (2004) upheld Do Not Call against identical challenge.

— *End of Section-by-Section Analysis* —