

EDDM Consumer Choice Act of 2026

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 CO2, 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 —