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Dockets Management Branch
Food and Drug Administration
Room 1061
5630 Fishers Lane
Rockville, MD 20852

Washington Business Information, Inc., is filing these comments in support of the petitioner's call for the establishment of an FDA policy for the fair, nondiscriminatory and objective treatment of all news media by the FDA Press Office and all other FDA offices having contact with the news media.

Washington Business Information is a publisher of newsletters and other information resources, many of which derive much of their primary material from the regulatory actions of the FDA. For that reason, the actions of the FDA and its press office have a material impact on the business operations of Washington Business Information.

Like the petitioner, Washington Business Information has observed a bias within the FDA Press Office that favors certain media organizations over others. Specifically, the agency has on several occasions held press conferences from which members of the trade press were summarily excluded. In addition, the FDA has on occasion limited participation in certain press conferences, such as the telephone press conference on the non-approval of the Plan B emergency contraceptive, to certain representatives of the trade press while excluding representatives of other trade press organizations.

We agree with the petitioner that the exclusion of some media representatives amounts to favoritism and an illegal act of discrimination in violation of the First Amendment to the U.S. Constitution because it abridges the guaranteed freedom of the excluded parties. We further agree that there appears to be a growing attempt on the part of agency's press office to control the dissemination of the news and to "spin" the interpretation of that news.

While many government agencies attempt to influence the media's interpretations of their actions in a positive way, the FDA's penchant for selective access to information greatly increases the danger that only those news organizations that report the news in the way preferred by the agency will enjoy such access, while others will not.

2004P-0237

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Agency officials have exhibited a disregard toward the rights of the media – and, by extension, the taxpayers that fund the FDA – that borders on arrogance, doling out access to information to the select few while withholding it from the remainder. By what right – and by means of what measure – does the FDA decide which organizations shall be anointed as deserving of access?

As the petitioner correctly states, it is the media, not the FDA, that determines what news about the agency the American public receives. It is critical, therefore, that the agency provide fair and open access to public information and employees to all media organizations. To that end, Washington Business Information urges the agency to take the actions requested by the petitioner, including the publishing of draft regulatory procedures and the publishing and dissemination of a policy statement prohibiting employees to discriminate between kinds of news media or news media organizations.