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May 7, 2007

Beth Noveck
Office of Science and Technology Policy
Executive Office of the President
725 17th Street, Room 5228
Washington, DC 20502

Dear Ms. Noveck:

I write to endorse comments sent to you by the Society of Professional Journalists and others, and to add my own testimony to the case for relief from prior administrations' policies that inhibit the free flow of information from government agencies to the public. In 35 years of journalistic work reporting on the Food and Drug Administration, I have seen that agency converted from full transparency to almost complete opacity so far as the free access of the media is concerned.

Not only does the monitoring by Public Information Officers of conversations that journalists have with government employees inhibit full and frank expression of competent and qualified opinions that may not closely track superiors' views and policies, but the practice deters such employees from volunteering to engage in such interviews at all. Guarding their career advancement prospects understandably takes precedence over voluntarily imparting knowledge to the public.

In addition, prior administrations have implemented the even more inhibitory policy of requiring all communications by agency employees to be filtered through Public Information Offices where serious backlogs frequently develop and media requests for information are triaged according to their agency-perceived importance. The policy is a government control-of-media mechanism that is inconsistent with the First Amendment.

This practice has reached the ridiculous extent where, in the case of the Food and Drug Administration, a public contact person identified in a *Federal Register* notice may not continue a conversation with a member of the public when that public contact person discerns that the inquirer is a member of the media. In such cases, the inquiring member of the public is directed to call the FDA Press Office instead. This separation of the media from the public has been described by FDA management as a "privilege" category whereby media get information faster and more completely than the general public does, but in the example just cited, that is not the case.

These policies and others related to them are creating a mutually wary and distrustful environment between media and government. Indeed, in the open comment areas of my own Web site at www.fdaweb.com I have seen FDA employees anonymously express opinions that are hostile

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toward media representatives in general. Such a climate is not conducive to improved transparency in government agencies.

News media compliance with government-established rules of access and coerced acquiescence to government surveillance of newsgathering conversations is inconsistent with the First Amendment in that these rules constitute an unconstitutional “abridging” of the “the freedom of ... the press,” which Congress is constrained from permitting.

Sincerely,

James G. Dickinson
Editor and President