



Public Policy Issues of Concern, Fall 2020

About Us:

The American Catalog Mailers Association (ACMA) is a 501(c)(6) nonprofit trade group specifically focused on advocating for catalog and ecommerce marketers, and all remote sellers plus their suppliers. As the primary voice for the direct marketing industry, we represent our members on the following issues:

- **Postal rates, regulations, and service**
- **Tax laws and regulations**
- **Trade**
- **Consumer privacy**
- **Regulatory and Congressional relations**
- **Innovative business-oriented advances**
- **Other current or potential external threats to or opportunities for remote sellers**

Catalogs and remote sellers provide a variety of benefits to consumers, including providing hard-to-get or uncommon products not typically available in traditional stores, providing convenience and privacy when purchasing at traditional retail is not practical, as well as serving rural, older, or infirm customers and those who do not have time to get to traditional outlets.

Postal Reform

- The financial status of the USPS continues to be unfairly burdened by prefunding of healthcare at a rate that has no equal elsewhere in government or in the private sector.
- If not for prefunding, USPS would have had retained earnings in most years since the Postal Accountability and Enhancement Act was passed in 2006.
- No tax dollars support the USPS; it is entirely self-funded from mailers, who unlike taxpayers can choose whether or not to mail. Most businesses use the mail as an affordable option that delivers value.
- Recent politicizing of USPS may make it harder to get progress but does increase pressure on Congress to deal with issues.
- Without congressional action, we fear postage rates will rise dramatically to avoid liquidity problems leading to a death spiral as volume migration out of the mail accelerates.
- USPS is almost entirely funded by business mailers. It is a critical hub for the American catalog business, which consists of thousands different companies generating more than 8 billion in catalog mail volume each year for the USPS.
- Catalog mailers also generate package volume, representing a significant growth potential for the USPS, that has increased its market share recently.
- In February, the House of Representatives decisively passed H.R. 2382 – The USPS Fairness Act. The legislation would eliminate the statutory provision that requires the Postal Service to fully prefund future retiree health care costs.
- In August, House Democrats passed legislation that would inject \$25 billion in emergency funding into the USPS and reverse recent operational changes.
- Only Congress can provide relief through postal reform. We urge you to work with your colleagues to address this crisis and we are happy to discuss the critical elements such legislation must contain.

Sales Taxes:

- It has been two years since SCOTUS issued its decision on *South Dakota v. Wayfair*.
- In the aftermath of the Supreme Court's *Wayfair* decision, states are moving rapidly to impose new laws and regulations covering sales tax collections on previously untaxed transactions.
- The pandemic will put pressure on state budgets, which in turn will result in increased aggressive efforts to collect sales tax from small businesses.
- Audits and assessments have not started in earnest but threaten to add costly additional burdens to comply with audits and potentially ruinous damages with penalties and interest.

- There are over 12,000 separate taxing jurisdictions, some with distinct rules or definitions. The complexity is daunting. Worse, some states are seeking retroactive taxation (MA, NY) and others are giving very short notice to comply with new rules.
- Remote sellers are spending hundreds of thousands to put systems in place and this amount again each year in compliance costs with no remuneration that represent additional and material costs.
- Catalogers support fairness between store retail and catalog/online retail, but this is anything but.
- Store retailers simply apply origin tax in each store locale. Even with 500 stores, they are limited to the number of jurisdictions they must consider. Remote sellers must apply destination tax rules, dramatically increasing the complexity and cost of compliance.
- In March, The House Small Business Committee held a hearing on SCOTUS' ruling and its impact on small businesses.
- To maintain a great national economy, we must have clarifying federal legislation on sales taxes to prevent chaos, economic damage, and litigation.
- We understand Rep. Sensenbrenner is retiring, but we supported his bill - *Online Sales Simplicity and Small Business Relief Act*. The legislation would ensure that states cannot require remote online sellers to collect sales tax retroactively on transactions made before January 1, 2019. It would also relieve small online businesses from sales tax collection obligations on transactions made in another state.
- ACMA urges Congress to champion measures that require extensive simplification mechanisms for small businesses to navigate the 12,000 different tax jurisdictions in the United States. Such simplifications are essential for any potential piece of legislation to gain ACMA's support. States and municipalities should not be allowed to require sales tax compliance until they address the unworkable patchwork of state and local tax laws.
- We have a straightforward statement of solutions we believe workable and we are happy to engage with Congress to discuss any aspect of legislation to simplify sales taxes and increase collections and compliance.

Consumer Privacy:

- Catalogers collect customer transaction data and PII to facilitate direct transactions and to meet consumer expectations that retail outlets will remember their order history and shipment or billing particulars.
- Catalogers hold the trust and confidence of their customers paramount and will not do anything that may damage that trust.
- To preserve our ability to operate across the nation, catalogers need clarifying federal legislation on privacy law, not 50 different approaches as is now underway in many states.
- In January 2020, the California Consumer Privacy Act went into effect and in July, the law became enforceable by the California Attorney General.
- CCPA's implementation has set a precedent for states to introduce their own privacy bills.
- For example, Virginia, Florida, New Hampshire, Washington, New York, and Illinois have released their own legislative proposals for conflicting consumer privacy and business compliance.
- The CCPA should be lesson enough for the federal government; this disaster is underway and needs immediate resolution. The hodgepodge of state proposals may put pressure on Congress to pass a comprehensive federal privacy law.

Trade:

- Trade is a vital concern to our member companies who operate diverse global supply chains spanning dozens of countries.
- A free and fair-trade system is something ACMA relies heavily on. Specifically, we encourage the maintaining of the high de minimis threshold levels contained in USMCA in order to ensure we are competitive with domestic sellers in Canada and Mexico
- Increasing trade tensions with China are deeply concerning to the catalog industry. There are simply not good alternative sources for many of these goods.
- The industry relies on existing supply chains that cannot be replicated in the United States. As tariffs increase, catalogers are ultimately forced to pass on these price increases to consumers or discontinue products that are no longer viable at a higher price.
- Given our broad and diverse supply chain base – ACMA member companies are readily available to assist and serve as a resource in any of your efforts in trade policy.