



United States General Accounting Office
Washington, DC 20548

B-302504

February 12, 2004

The Honorable Frank R. Lautenberg
United States Senate

Dear Senator Lautenberg:

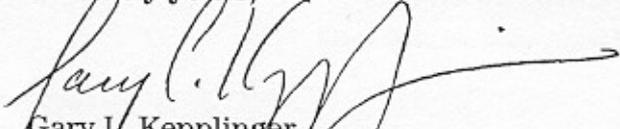
The purpose of this letter is to acknowledge receipt of your letter dated January 29, 2004, asking whether the Department of Health and Human Services's (HHS) use of appropriated funds to produce and distribute a flyer regarding the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) constitutes a violation of the prohibition on using appropriated funds to distribute propaganda. Pub. L. No. 108-199, Div. F, Tit. IV, § 624, 118 Stat. 3, 356 (2004). We are also in receipt of your letter dated February 5, 2004, requesting that we include in our inquiry HHS's use of appropriated funds to broadcast television advertisements regarding MMA.

As agreed with your counsel, Dan Katz, in addition to the flyer that HHS is producing, our analysis will focus on (1) a transcript of a television commercial, provided to us by Mr. Katz, entitled "The Right Answer" and dated January 22, 2004; (2) an advertisement placed in the February 5, 2004, issue of *Roll Call*, which you noted in your February 5 letter to us; and (3) a limited number of other related television or print advertisements that come to our attention. We also agreed that we will not (1) obtain and evaluate information from beneficiaries concerning the utility to them of the information in the flyer and advertisements, or (2) audit any cost information that we may obtain from HHS.

We are providing similar letters to Senators Corzine, Kennedy, and Kerry, and Representatives Jim Davis, Pallone, Rangel, Schakowsky, and Stark. Mr. Katz has advised that he is our point of contact for your office as well as the offices of the other Members.

If you have any questions regarding this matter, please contact Susan A. Poling, Associate General Counsel, at (202) 512-2667, or Thomas H. Armstrong, Assistant General Counsel, at (202) 512-8257.

Sincerely yours,



Gary L. Kepplinger
Deputy General Counsel