The Honorable Kathleen Sebelius
Secretary
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Sibelius,

We, the undersigned organizations working to promote and protect religious freedom, wish to express our concern regarding the amendment to the interim final regulation (CMS-992-IFC2) which exempts some religious institutions from providing coverage for contraception as preventive care. This proposed exemption is troubling to us because it is based on a serious misreading of the freedom of religion we hold dear.

Misinterpretation is understandable, given that some groups, including especially the United States Conference of Catholic Bishops, have called what we believe should be an individual choice into what they have termed "an unprecedented attack on religious liberty." We urge you and the Department of Health and Human Services (HHS) to carefully consider the motivations of those who oppose this guideline in conjunction with your motivations, which would appear to be to enhance the public good.

The United States tax code is instructive in this matter. In the eyes of the Internal Revenue Service (IRS), certain not-for-profit organizations such as hospitals, charities and social service organizations are rightly treated as "special." A healthy civil society nurtures the agencies doing the vital work of taking care of the public good. The IRS standards for nonprofit organizations make very clear that the function that makes these entities special is the fact that they further the public good. They state, "The organization must not be organized or operated for the benefit of private interests."

The HHS decision to include full coverage for contraception services and counseling as preventive services is the result of sound judgment about what is good for all society. Allowing certain faith-based organizations to avoid this statute is, in fact, promoting the private interests of one religion—or even one conservative element of that religion—over the consciences of employees. This does not further their special mission to help the common good. Ironically, when the bishops claim to lobby for religious freedom, they are ignoring the moral agency of all the women who would benefit from contraceptive coverage. In addition, they are skirting the fact that few Catholics agree with them about the provision and use of family planning.

The inclusion of family planning as preventive health care requires no one to use it or to endorse it. Nor does it infer that its use is or is not morally legitimate. This guideline involves no restriction on anybody's freedom, religious or otherwise. Indeed, it could be argued that it allows greater freedom.

Religious freedom is an expansive rather than restrictive idea. It is not about telling people what they can and cannot believe or practice, but rather giving people the space to follow their own conscience in what they believe or practice. The protections extend to one's personal religious beliefs and practices, but they do not give license to obstruct or coerce the exercise of another's conscience. For that reason, we believe that institution-encompassing refusal clauses are far too broad to be equitable—clamping down, as they do, on the rights of both the professional and the patient.

We are concerned that those who call for the expansion of the religious exemption have muddied the waters of religious freedom and its protections in the United States. Just as the majority of Catholic women who use birth control will not be served by the bishops trying to restrict coverage in their name, we deplore the restriction of individual freedoms in the name of religious freedom.

The consequences of this confusion could be severe. The groups pushing for a complete rescission of the coverage for contraception are doing so in part because the number of religious organizations that meet the criteria for the proposed exemption is relatively small. One of the possible effects of the exemption

as it now stands could be to encourage faith-based organizations to hire and serve only those who share their beliefs, and thus meet the one of the qualifications to refuse coverage. It's not hard to picture a social landscape made up of many small islands serving and hiring only people of a particular faith. This is not at all the meaning of "social service" that most of us believe in.

It is not too late. The HHS can listen to the voices of the majority of Americans who believe choices related to contraception should not be dictated by employers. We urge you to revoke the proposed exemption and protect the individual freedoms of all those who would seek access to these important healthcare services, regardless of where they work.