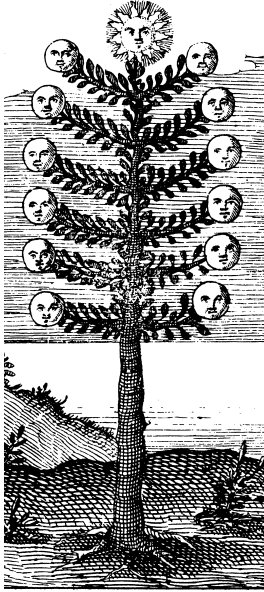


THE
CENTER FOR COGNITIVE LIBERTY & ETHICS

THURSDAY, AUGUST 22, 2002



August 1, 2002

Administrator
Drug Enforcement Administration
United States Department of Justice
Washington, DC 20537
Attention: DEA Federal Register Representative / Hearing Clerk

**RE: Notice of Intent to Schedule 2C-T-7
(67 Federal Register 47343-47345)**

Dear Sir:

The undersigned, Richard Glen Boire, as counsel for the Center for Cognitive Liberty & Ethics (CCLE) pursuant to 21 CFR 1308.44 and 21 CFR 1316.49, hereby files a waiver of an opportunity for a hearing, together with a written statement regarding the CCLE's position on the matters of fact and law involved in the proposed scheduling of 2C-T-7.

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(A) The CCLE is an independent nonprofit law and policy center working in the public interest to foster cognitive liberty – the right of each individual to think independently and to use the full spectrum of his or her mind. The CCLE encourages social policies that respect and protect the full potential and autonomy of the human intellect. As an organization charged with defending freedom of thought and mental autonomy, the CCLE has a direct and vital interest in this matter. The fundamental right to control one's own intellect and mental processes is violated whenever the Government prohibits particular psychoactive substances and makes an otherwise law-abiding citizen a federal criminal for simply possessing or using that drug to occasion a particular mode of thinking.

(B) The CCLE seeks to be heard on the following points of fact and law:

1. DEA's Notice of Intent to Schedule improperly relies upon Internet postings about 2C-T-7 to conclude that 2C-T-7 is being "Abused."
2. Prohibiting the mere possession of 2C-T-7 will violate the fundamental right of adults to control their own mental processes.

(C) Taking the above points in order CCLE submits the following comments for the record.

1. DEA's Notice Of Intent To Schedule 2C-T-7 Improperly Relies Upon Internet Postings About 2C-T-7 As Evidence That 2C-T-7 Is Being "Abused."

DEA's Notice states:

Abuse of 2C-T-7 in the United States was first reported in 1997; an individual posted his experience associated with the oral ingestion of 20 mg of 2C-T-7 on the Lycaem website on the Internet. In the year 2000, the abuse of 2C-T-7 by young adults began to spread in the United States as evidenced by widespread discussion on drug website forums and the sale of the substance from an Internet company. The information being discussed on these websites includes the route of administration, recommended doses, and narratives from individuals describing their experiences and effects after self-administering 2C-T-7. Self-reported experiences and other information posted on these websites indicate that 2C-T-7 is being abused orally (10-50 mg) or intranasally; the oral route is the most common route of abuse. (67 Federal Register at 47343.)

In the above statement, the DEA equates the free expression concerning the effects of an unscheduled compound with "abuse" of that compound. The Internet is a medium for communication via which people share information about a myriad of topics, including the effects on the mind of all sorts of legal and illegal drugs and other technologies. DEA fails to show why, if a given compound is legal and discussion about that compound is protected by the First Amendment (indeed, the First Amendment protects discussion of even illegal drugs), an Internet post or any other writing about the mental affects of the compound is equivalent to "abuse" of the compound.

2. Prohibiting The Mere Possession Of 2C-T-7, For Any And All Purposes, Violates The Fundamental Right Of Adults To Freedom Of Thought And Cognitive Liberty.

Essential to the most elementary concepts of human freedom, dignity, and self-determination, a person has a fundamental right to cognitive liberty – a right to freedom of thought, to independent thinking, and to autonomy over his or her own mind and brain chemistry. While a right to cognitive liberty is not expressly enumerated in the Constitution, it is one of "those liberties of the individual which history has attested as the indispensable condition...of an open as against a closed society." *Kovacs v. Cooper* 336 U.S. 77, 95 (1949) (J. Frankfurter, concurring opinion). Indeed, cognitive liberty is something so fundamental to the integrity of free human beings that it forms the necessary substrate for, and is the common principle underlying, some of our most well-established and cherished constitutional rights. As Justice Benjamin Cardozo extolled, "...freedom of thought...one may say...is the matrix, the indispensable condition, of nearly every other form of freedom. With rare aberrations a pervasive recognition of that truth can be traced in our history, political and legal." *Palko v. Connecticut*, 302 U.S. 319, 326-327 (1937).

Placing 2C-T-7 in Schedule I of the Controlled Substances Act will make criminals out of otherwise law-abiding citizens who merely possess the substance, and/or ingest it responsibly to occasion a particular mode of thinking. Freedom of thought is inextricably linked with the freedom and autonomy of each citizen to self-determine his or her own brain chemistry. By placing 2C-T-7 into Schedule I of the Controlled Substances Act, the fundamental cognitive liberty of peaceful, responsible, and intelligent Americans to modulate their own thinking processes is infringed upon in an overly broad and unconstitutional manner. The placement of 2C-T-7 in Schedule I of the Controlled Substances Act is not simply an effort to control a person's behavior, with merely an incidental affect on a person's thinking. It is an effort aimed *directly* at prohibiting a person

from *thinking* in a particular manner and is thus an act of *cognitive* censorship, an action even more offensive to First Amendment principles than the censorship of speech.

On these grounds, the Center for Cognitive Liberty & Ethics objects to the scheduling of 2C-T-7.

All notices to be sent pursuant to the proceeding should be addressed to:

Richard Glen Boire, Esq.
Center for Cognitive Liberty & Ethics
PO Box 73481
Davis, CA 95617-3481 USA

Respectfully submitted,

Richard Glen Boire
Counsel for the
Center for Cognitive Liberty & Ethics