



Congress of the United States

House of Representatives

Washington, DC 20515

March 24, 2004

Commissioners
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: NPRM regarding Political Committee Status

Dear Commissioners:

We are writing to express our concerns about the pending Notice of Proposed Rulemaking on “political committee status.”

We take a particular interest in this regulatory initiative because it seeks to raise and address “soft money” issues very different from those that Congress resolved in the Bipartisan Campaign Reform Act of 2002. Yet while charting this different course, the proposed rules claim as their authority both BCRA and the Supreme Court’s decision in *McConnell v. FEC* upholding the new law. We are troubled by the suggestion that these proposed rules follow the path we laid out, because they would lead to results that many of us voting for the new law did not consider or approve.

We support BCRA because we believe that the link between unregulated contributions and federal officeholders, candidates and their parties should be broken. We believe that the statute achieved this goal, striking a careful balance between needed additional regulation of campaign finance, on the one hand, and the protection of speech and associational rights, on the other. And we believe that the proposed rules severely undermine that balance, with potentially severe consequences for vital speech on the central issues of the day.

Specifically, the proposed rules before the Commission would expand the reach of BCRA’s limitations to independent organizations in a manner wholly unsupported by BCRA or the record of our deliberations on the new law. For example, Congress crafted a new term for certain election-influencing activities by political parties – so-called “Federal election activities” – as part of the BCRA approach to limiting party soft money. The proposed rules would appropriate this concept of “Federal election activities” for the very different purpose of regulating “issues” speech

and other political activity of 501(c) and other organizations. Congress did not choose to vastly extend in this way the concept of "Federal election activities."

More generally, the rulemaking is concerned with new restrictions on "527" organizations, primarily through the adoption of new definitions of an "expenditure." Congress, of course, did not amend in BCRA the definition of "expenditure" or, for that matter, the definition of "political committee." Moreover, while BCRA reflects Congress' full awareness of the nature and activities of "527s, it did not consider comprehensive restrictions on these organizations like those in the proposed rules.

There has been absolutely no case made to Congress, or record established by the Commission, to support any notion that tax-exempt organizations and other independent groups threaten the legitimacy of our government when criticizing its policies. We believe instead that more, not less, political activity by ordinary citizens and the associations they form is needed in our country.

These and other issues go to the heart of how the federal campaign finance laws may affect for the worse a host of organizations engaged in speech on controversial political issues. The Congress took care to act with caution in this area; the Commission should do the same. As the Supreme Court noted in *McConnell v. FEC*:

Congress' "careful legislative adjustment of the federal election laws, in a 'cautious advance, step by step,' to account for the particular legal and economic attributes . . . warrants considerable deference."

124 S.Ct. 619, 645 (2003) (citing *FEC v. National Right to Work Comm.*, 459 U.S. 197, 209 (1982)). This is a fair statement of Congress' intent to improve the enforcement of existing law, not to promote an aggressive expansion of the law in the near-term.

The FEC should also take into account the dangers of reviewing and resolving these issues quickly, on the eve of presidential and congressional elections and in a charged partisan environment. These are not conditions best suited to the task of thoughtful and credible rulemaking on critical issues.

The dangers associated with rushed judgment in a partisan crossfire became apparent in recent weeks, when the FEC issued its Advisory Opinion on "allocation" issues to the "ABC" Committee. In that Opinion, the Commission made changes in existing law, in the middle of an election cycle, in response to a request from a sham committee formed solely to advance partisan objectives. The Commission should not rush more new rules with major impact, in this cycle, such as those now proposed.


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Congress, when enacting BCRA, elected to defer the effective date to the next cycle. Even in establishing the day after the last general election, November 2, 2002 as the effective date, Congress fashioned, with great care, transitional rules to allow time for an appropriate and manageable change from one set of legal rules to another. The Commission would turn this approach on its head by promulgating significant and controversial new rules – rules that Congress did not consider or enact in its own “soft money” reform – in the thick of this election year.

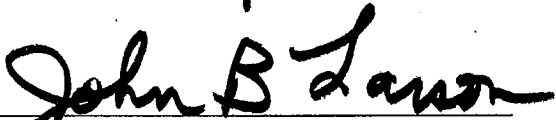
The FEC should take the time necessary to assure that any changes it proposes are carefully considered and crafted, with minimum disruptive impact on ongoing activities by political committees, organizations and candidates.

For this reason, we ask that the Commission reconsider the nature and timing of the current rulemaking initiative.

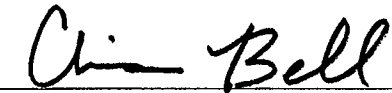
Sincerely,

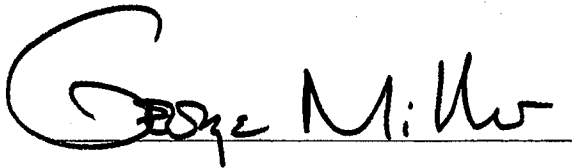


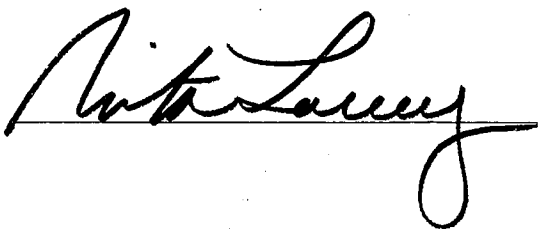
Nancy Pelosi

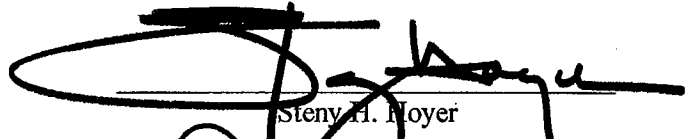


John B. Larson

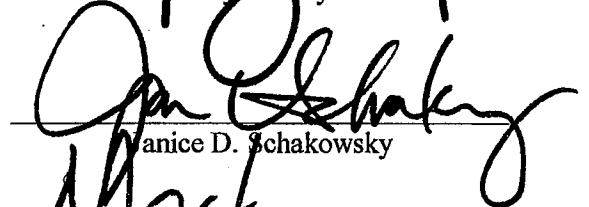




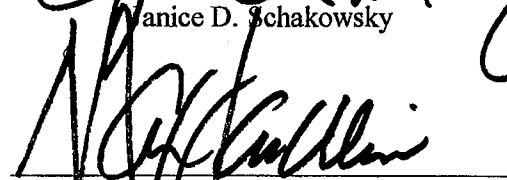


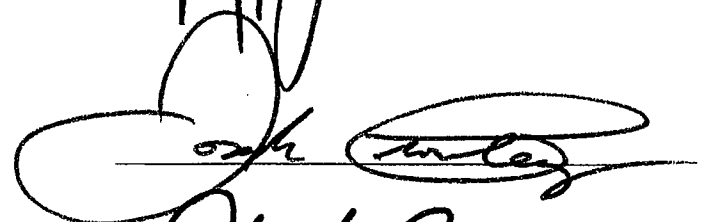


Steny H. Hoyer



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Bob Kib

Juanita Hillender - The Donald.

Rail M. Gjizder
John F. Timmy
Tom Lynn

Joe Baca

Tom Lantos

Robert J. Matsui
Robert Menendez

William Rindley

Jim McDemott

Carolyn C. Kilpatrick

Barbara Lee

Diane E. Watson

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Earl Blumenauer

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Co. Evans

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Mike Duro

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Jim McDermott

Tommy Blunt

John Dingell MA-9

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Luella Kaye Ballard

Al Franken

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Steve ...
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Shirley Jackson Lee
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