



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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AGENDA ITEM

December 15, 2015

MEMORANDUM

For Meeting of 12-17-15

TO: The Commission

FROM: Ann M. Ravel *AMR*
Chair

Ellen L. Weintraub *ELW*
Commissioner

SUBMITTED LATE

SUBJECT: Motion to Open a Rulemaking in REG 2015-04 in Response to Public Comment

At the appropriate time, we intend to support the following motion:

Whereas on June 19, 2015 and June 22, 2015, the Commission received petitions from Make Your Laws PAC, Inc., Make Your Laws Advocacy, Inc. and Public Citizen requesting that the Commission revise its rules to respond to the January 2010 *Citizens United v. FEC* Supreme Court decision;

Whereas the Commission received approximately 11,759 comments from 11,769 commenters on the Notice of Availability published in the Federal Register on July 29, 2015;

Whereas 11,414 commenters (nearly 97% of total commenters) supported the petitions and urged the Commission to open a rulemaking as requested in the petitions;

Whereas numerous studies show that the current campaign finance system is diminishing public trust in the democratic process;¹

Whereas in response to the *Citizens United* decision and its progeny, the Commission has made "little effort to ensure that remaining valid provisions of the Act continue to be implemented consistent with congressional intent";² and

¹ See, e.g., *Americans' Views on Money in Politics*, N.Y. TIMES, June 1, 2015, available at <http://www.nytimes.com/interactive/2015/06/02/us/politics/money-in-politics-poll.html> (finding that 84 percent of Americans believe that money has too much influence on politics, and that 58 percent are pessimistic that anything will be done to solve the problem).

² Comment of the Brennan Center for Justice on REG 2015-04 at 4.

Whereas, as a result, “our political system is even more vulnerable to corruption and less transparent than it ought to be”;³

I move that the Commission open a rulemaking and that the Office of General Counsel draft a Notice of Proposed Rulemaking that proposes to revise Commission regulations as follows:

1. Require full public disclosure of corporate and labor organization independent spending, consistent with both the *Citizens United* decision and the Act’s requirement that outside spending groups disclose their donors.
2. Clarify that the prohibition on foreign national campaign-related spending restricts such spending by U.S. corporations owned or controlled by a foreign national.
3. Clarify that corporations and labor organizations are prohibited from coercing their employees and members into providing financial or other support for the corporation’s or labor organization’s independent political activities.
4. Require that the expenditures made by super PACs and other outside spending groups are truly independent of federal candidates, consistent with the *Citizens United* decision and its progeny.

³ *Id.*