



National Republican Congressional Committee

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General Counsel

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Mai T. Dinh, Esquire
Acting Assistant General Counsel
999 E Street, NW
Washington, DC 20463

Re: Comments on Proposed Rulemaking Regarding Candidate Travel

Dear Ms. Dinh:

By and through the undersigned counsel, the National Republican Congressional Committee ("NRCC") hereby respectfully submits these comments on the Commission's proposed rulemaking regarding candidate travel. In the event that the Commission elects to hold a hearing on this matter, we ask that the undersigned counsel be permitted to testify on our behalf.

A. Introduction

We applaud the Commission's efforts to revise and simplify its travel rules. Since the promulgation of the Commission's current rules, the realities of modern air travel have changed. Likewise, the current rules cannot always be read in harmony with rulings by the Federal courts or regulations promulgated by the Federal Aviation Administration ("FAA"). The ultimate result is unnecessary confusion.

Moreover, there are several Congressional districts which lack commercial air service (even a reliever airport as contemplated in AO 1999-13), leaving candidates in such districts no option but the payment of inordinate charter rates. Remarkably, there are instances where it would be cheaper to fly from Washington, D.C. to a neighboring district that is geographically farther away, simply because that district has "commercial service" as designated by the FAA. There are other districts that, due to terrain, a lack of highways and the like, require some form of air travel to get from one part of the district to another. Because such districts tend to be more rural, the current rules have had the impact of treating candidates in rural areas differently from other candidates.

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This is not a question of allowing Members of the House and Senate to receive discounted air fare, or allowing incumbents to receive a discount when flying to their home districts and states, or any of the other inevitable straw men erected in opposition to the Commission's proposal. In actual fact, the current rule benefits such well-entrenched incumbents to the detriment of candidates running in either an open seat or challenging a well-entrenched incumbent. These sorts of candidates benefit greatly from visits and appearances by high ranking leaders of their political party and other luminaries, whether it is in connection with a fundraiser or a grassroots mobilization effort. Because the challenger or open seat candidate ultimately covers the cost of such a trip, these sorts of candidates bear the brunt of the current rules. It is difficult enough for such candidates to gather sufficient financial support (especially in less affluent districts); the law ought not to penalize them further, by forcing these candidates to pay based upon arbitrary distinctions like who technically owns the plane or whether or the FAA recognizes a certain airport as a reliever or not.

B. Alternative A is the Preferred Approach

Alternative A reflects the current reality of air travel and modern campaigns. Alternative B, with its two different payment rates and regulatory, governmental mindset, and Alternative C, which simply imposes the charter rate on all, do not help eliminate the confusion and inequality imposed by the current rules. Alternative A is a practical approach that addresses real world concerns, and provides a clear rule.

First, it eliminates what had become an arbitrary focus on the destination city, and whether or not the FAA deemed it served by commercial air service. A more practical, fair and accurate approach is to focus on the closest destination airport, as this would more accurately reflect the analogous cost. With respect to cost, campaigns ought to be permitted to use the normal advance ticket price when calculating the comparable base rate. This is a much more consistent and objective standard, as opposed to the actual date of travel or cheapest fare within seven days of flight. Such fares are based on irrelevant factors, like whether or not commercial flights are oversold or undersold, travel agent and internet discounts or surcharges, and the like.

Second, the proposed rule also addresses the concern that candidates would actually be receiving discounted air fare. Specifically, if the destination is an airport not served by commercial air service, and the closet airport is served by coach but not first class service, we agree that the payment still should be the lowest non-discount first-class airfare for the closest airport that is served by first class service. This appears sufficient to ensure that first class airfare is the rule, and not the exception.

Third, eliminating the advance payment requirement is sound policy, so long as the final rule includes a bright line standard regarding timing of payment. The proposed fixed period of seven calendar days addresses this concern, and at this time we believe it is sufficient. Moreover, the advance payment rule has caused some confusion, because

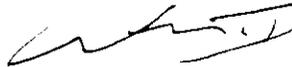
(1) payment in advance is counterintuitive, and is a departure from other Commission rules; and (2) it forces overpayment in several instances, and corporations do not always reimburse for the overpayment.

Finally, Alternative A is preferred over Alternative B because Alternative A more closely reflects the reality of modern campaigns. On the other hand, Alternative B essentially grafts the House and Senate ethics rules onto campaign travel. Those rules reflect a regulatory, governmental mindset. This makes perfect sense, as those rules concern government officials and payment to the government. But that mindset ought not to be imposed on candidates. Particularly in the case of open seat or challenger candidates, imposing such a regulatory framework would place yet other hurdle that must be cleared. Ultimately, as a practical matter, Alternative B would require payment of an even more expensive charter rate in most instances.

C. Conclusion

We agree that the Commission ought to simplify and streamline its regulations regarding campaign travel. However, we believe that any change in the regulations must be fair to all candidates, not just incumbents or non-rural candidates from more affluent districts. Of the three alternatives, Alternative A is the preferred approach.

Respectfully submitted,



Donald F. McGahn II