October 11, 2002

VIA E-MAIL

John C. Vergelli
Acting Assistant General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: Notice 2002-16: Coordinated and Independent Expenditures

Dear Mr. Vergelli:

FEC Watch, a project of the Center for Responsive Politics (CRP), is pleased to submit the attached comments on the Notice of Proposed Rulemaking to implement the Coordinated and Independent Expenditure provisions of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), published at 67 *Fed. Reg.* 60042 (Septermber 24, 2002).

In order to be as helpful as possible, Lawrence Noble, Executive Director of CRP, and Paul Sanford, Director of FEC Watch, request an opportunity to testify at the hearing. Due to other commitments, we would prefer to testify on Thursday, October 24, 2002.

Respectfully submitted,

Lawrence Noble
Executive Director
Center for Responsive Politics

Paul Sanford
Director
FEC Watch

Attachment

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BEFORE THE FEDERAL ELECTION COMMISSION

NOTICE 2002-16

COORDINATED AND INDEPENDENT EXPENDITURES

Comments of FEC Watch and the Center for Responsive Politics

I. Introduction

FEC Watch and the Center for Responsive Politics submit these comments in response to the Federal Election Commission's Notice of Proposed Rulemaking ("NPRM") on Coordinated and Independent Expenditures under the Bipartisan Campaign Reform Act of 2002 ("BCRA"). 67 *Fed. Reg.* 60042 (Sep. 24, 2002). FEC Watch is a project of the Center For Responsive Politics, a non-partisan, non-profit research group based in Washington, D.C. that tracks money in politics and its effect on elections and public policy. FEC Watch's objective is to increase enforcement of the nation's campaign finance, lobbying, and ethics laws. FEC Watch monitors the enforcement activities of the Federal Election Commission and other government entities, including the Department of Justice and congressional ethics committees, and encourages these entities to aggressively enforce the law.

II. Comments

A. Definition of "Agent"

The NPRM seeks comments on a proposed definition of "agent" for the purposes of Part 109. This definition determines whether or not a particular person has the authority to coordinate on behalf of a candidate or party committee. In most instances, the issue will be whether the involvement of a particular person in the production or dissemination of a communication will make that communication a coordinated communication.

We have general comments on the proposal, and comments on the specific language of the rule.

1. Responsibilities of principals

The proposed rule states that in order to be an agent, a person must have actual authority, either expressed or implied, to engage in one of five listed activities. If a person has no express or implied authority to engage in one of the listed activities, their actions cannot result in a communication being treated as a coordinated communication.

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This proposal is too narrow and ignores the true nature and impact of coordination. Instead of focusing on the scope of the authority given to a candidate or party committee's staff member, the rules should focus on whether or not the candidate or party committee has conveyed material information to the person paying for the communication. If the candidate or party committee provides material information to a member of its staff, the candidate or party bears primary responsibility for controlling that person's disclosures to third parties. Allowing the candidate or committee to avoid responsibility by claiming the staff member had no actual authority to disclose the information reduces coordination to an issue of gamesmanship and technicalities.

The proposed rule actually creates a disincentive for principals[1] to exercise control over the disclosures of their staff members. This is illustrated by the following situation: (1) The principal provides material information to a staff member; (2) The principal does not give the staff member the actual authority to disclose that information to outside entities (or to engage in any of the other activities listed in section 109.3(a)), but does not specifically prohibit such a disclosure; and (3) the staff member discloses the information notwithstanding the lack of authority. Under the proposed rule, the staff member would not be an agent. Consequently, the disclosure would not make a subsequent communication by the outside entity a coordinated communication, even if the staff member disclosed the information intending for it to be used for that purpose.

Thus, the proposed rule creates an incentive for a candidate or committee to share material information with staff members but make no effort to control the staff members' disclosures to outside entities. Absent a specific grant of authority to disclose, the staff member is not an agent, and his or her conduct cannot result in coordination.

The rules should place a higher burden on a candidate or party committee to proactively limit a staff member's ability to disclose information to outside entities. Candidates and party committees proactively take steps to prevent staff members from leaking campaign plans to opposing candidates or party committees. They should be required to take the same actions to prevent disclosures to more friendly recipients.

The rules should state that if a candidate or party committee knowingly provides information to a staff person and that staff person discloses that information to an outside entity, the staff person will be treated as an agent, unless the staff person was under explicit instructions not to disclose that information and the candidate or committee considers the disclosure a breach of the staff person's duty to the candidate or committee. This would ensure that candidates and party committees take affirmative steps to limit unauthorized disclosures by their staff members. The candidate or committee could also require staff members to sign non-disclosure agreements, and could use these agreements as part of its defense against a subsequent allegation that it coordinated with an outside entity.

[1] For purposes of our discussion of the proposed definition of "agent," "principal" generally refers to the candidate, candidate committee or party committee for which the putative agent is performing services, whether voluntary or for compensation.

2. Party committee agents

BCRA amends 2 U.S.C. § 441a(a)(7)(B) to specifically state that expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a political party are contributions to the political party. BCRA, section 214. Thus, BCRA recognizes that party committees can be both the "maker" and "receiver" of a coordinated expenditure. In some instances, they make expenditures that are coordinated with candidates. In other instances, they provide information to an outside entity, and receive the benefit of a coordinated communication paid for by the outside entity.

The proposed definition of "agent" for party committees does not adequately encompass the second situation. Paragraph (a)(1) only covers situations where the party committee's representative requests or suggests that a communication be made. Paragraph (a)(4) is limited to material involvement in decision-making. Neither of these provisions would encompass a party representative who is specifically authorized to share material information with another entity to be used for coordinated communications. As a result, such a representative would not be an agent under the proposed rule.

In order to address these situations, the definition of "agent" for party committees should include a provision similar to paragraph (b)(5) in the definition of "agent" for candidates. A party committee's agents should include a person who is authorized to provide material or information to assist another person in the creation, production or distribution of any communication.

3. Candidate agents

The proposed definition of "agent" for Federal candidates and officeholders in paragraph (b) of section 109.3 is underinclusive in a way that mirrors paragraph (a)'s underinclusivity. As the NPRM acknowledges, it is possible for a candidate to make a coordinated communication on behalf of another candidate. 67 *Fed. Reg.* 60047 ("[A] person's status as a candidate would not exempt him or her from the coordination regulations with respect to payments he or she makes on behalf of a different candidate."). However, paragraph (b) does not encompass situations where a representative of a candidate generates a coordinated communication based on information from another candidate. It only encompasses situations where the candidate's representative requests or suggests that others make a coordinated communication or provides materials or information to others for that purpose.

The most direct solution for this problem would be to include a version of paragraph (a)(5) in paragraph (b). A candidate's agents should include a person who is authorized to make or direct a communication based on information provided by another candidate.

4. Other comments

Paragraphs (b)(1) and (b)(3) of the agent definitioncontain very similar language, and thus appear to be redundant. If these provisions were intended to address different situations, some clarification may be in order.

B. Definition of Coordinated Communication

Section 109.21 contains a three-part definition of coordinated communication. A coordinated communication is a communication that (1) is paid for by a person other than a candidate, committee or party, (2) satisfies one of the content standards in section 109.21(c), and (3) satisfies one of the conduct standards in section 109.21(d). We have comments on both the Commission's overall approach to coordination and on several aspects of proposed section 109.21.

1. The Overall Approach

The Commission has made an effort to propose a definition that parses the various components of the coordination concept. However, we believe that the simplest and most direct way to comply with BCRA's mandate is to adopt the definition of coordination that served the FEC for years prior to the *Christian Coalition* case. Under the prior regulation:

> (4) *Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate—*
>
> (i) Means any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—
>
> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or
>
> (B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;
>
> (ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

11 CFR 109.1(b)(4) (repealed).

This definition, which was refined through advisory opinions and enforcement cases, incorporated the distinction drawn in *Buckley v. Valeo*, 424 U.S. 1 (1976), between independent expenditures and coordinated expenditures. The Court recognized that the hallmark of an independent expenditure is the absence of benefit to the candidate or political committee. "The absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate." 424 U.S. at 47. The pre-*Christian Coalition* rule reflected this principal by treating any arrangement, coordination, or direction by the candidate as coordination. The rule also directly addressed common vendor and former employee situations.

In the event that the Commission decides to use a version of the definition set forth in the NPRM, we have the following comments on that definition.

2. Communications just prior to an election

As currently drafted, the content standards would only be satisfied by a communication that contains a clearly identified candidate, or that involves republication of campaign materials. This rule is underinclusive in that it does not encompass some communications that are coordinated but do not contain a clearly identified candidate.

If an entity disseminates communications during an election campaign that advocate the same policy position as a candidate, those communications will inevitably have the effect of benefiting the candidate. Where the outside entity acts independently of the candidate, the candidate's campaign, or the candidate's political party, there should be no consequences for the outside entity or the candidate.

However, if the outside entity has coordinated its communications with the candidate, such as by consulting with the campaign about which policy positions to advocate or the manner, type or "volume" of the communications, this independence is compromised. If the outside entity takes the further step of targeting the communications to the candidate's electorate, the communications should be treated as coordinated communications and in-kind contributions to the candidate, even if they do not specifically identify the candidate.

For these reasons, the Commission should revise the content standards so that they are satisfied by certain types of communications that do not contain a clearly identified candidate. Specifically, the content standard should be satisfied if the communication is disseminated within 30 days of a primary election or 60 days of a general election[2] and is targeted to the electorate of a particular candidate. If an outside entity pays for a targeted communication within the 30 or 60 day periods, and the communication satisfies one of the conduct standards in section 109.21(d), the

[2] While this concept is similar to the "publicly distributed" component of the "electioneering communication" definition in 100.29, it should not be limited in the coordination context to communications disseminated through broadcast, cable or satellite communications.

communication should be a coordinated communication, even if the candidate is not identified.

3. Public communications that refer to a clearly identified candidate

The NPRM contains three alternative versions of section 109.21(c)(4) that would encompass, to varying degrees, public communications that refer to a clearly identified candidate. Under alternative A, any public communication that refers to a clearly identified Federal candidate would satisfy the content standard. Alternative B would be limited to public communications that promote, support, attack or oppose a clearly identified Federal candidate. Alternative C encompasses communications that (1) are disseminated within 120 days of an election, (2) are directed to voters in the jurisdiction of the clearly identified candidate, and (3) make express statements about the candidate's record, positions, character, qualifications or party affiliation, etc.

The Commission should incorporate a modified version of alternative C in the final rules. Alternative C should be modified to eliminate the 120-day limitation so that it applies throughout the election cycle.[3] As modified, alternative C would encompass public communications that are directed to voters in the jurisdiction of a clearly identified candidate[4] and that make express statements about that candidate regarding any of the matters listed in proposed paragraph (c)(4)(iii). Communications that satisfy this content standard and the other elements of section 109.21 should be coordinated communications. This formulation would properly encompass communications throughout the election cycle, while still allowing candidates and outside entities to coordinate lobbying communications that contain no reference to the candidate's record, position, views, character, qualifications, fitness for office or party affiliation, so long as the lobbying communications are disseminated outside the 30 or 60 day pre-election periods.

4. Coordinated communications on behalf of political parties.

As discussed above, section 214 of BCRA revises section 441a(a)(7)(B) to state that expenditures made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a political party are contributions to the political party.

Proposed section 109.21 does not adequately reflect this change. As currently drafted, the content standards in paragraph (c) would only be satisfied if a communication contains a clearly identified candidate, or if the communication involves republication of campaign materials prepared by the candidate. Communications that refer to a political party (without also referring to a clearly identified candidate) would not satisfy these standards, and thus would not be coordinated communications even if they satisfied the other two elements of the three-part definition.

[3] Alternative C should also be revised to include communications that refer to a clearly identified political party, in accordance with the comments set forth below.

[4] All communications that refer to a political party should satisfy the targeting requirement for purposes of the coordination rules.

This result would be contrary to section 214 of BCRA, and would allow outside entities to coordinate with party committees in the dissemination of communications without making a contribution to the party committee. This could include communications that urge recipients to "vote Democratic" or "vote Republican." As a result, outside entities could coordinate these communications with a national party committee, and pay for the communications with nonfederal funds. BCRA clearly intended to prohibit this practice.

The Commission should revise the content standards so that they are satisfied if a communication refers to a clearly identified political party. A communication paid for by an outside entity that refers to a clearly identified political party and also satisfies one of the content standards should be a coordinated communication.

5. Material involvement

Under paragraph (d)(2), the conduct standard is satisfied if a candidate, party committee or agent thereof is materially involved in decisions regarding six characteristics of a communication. The six characteristics are (1) the content, (2) the intended audience, (3) the means or mode of the communication, (4) the media outlet used, (5) the timing or frequency, and (6) the size of a printed communication, or the duration of broadcast communication.

Paragraph (d)(2) sets a higher standard than paragraph (d)(3), which is satisfied if there is "substantial discussion" about the "plans, projects, activities or needs" of the candidate or committee.[5] Proposed paragraph (d)(2) will not be satisfied unless a candidate, party committee or an agent thereof is involved in the decision-making process for one or more of the listed characteristics of the communication.

Requiring involvement in decisions regarding these six characteristics sets the threshold for this conduct standard too high. These characteristics are so specific to a particular communication that any discussion of these items between the candidate or party committee and the person paying for the communication should be enough to satisfy the standard, whether or not the candidate or party committee was involved in making decisions.

For these reasons, we urge the Commission to revise paragraph (d)(2) to include material involvement "in discussions or decisions regarding" the six listed items.

6. Substantial discussion

Under proposed section 109.21(d)(3), the conduct standard is satisfied if a communication is produced after substantial discussion between the person paying for the communication and the candidate or party that is the subject of the communication, or the opponent thereof. A discussion is substantial if information about the plans,

[5] Paragraph (d)(3) is discussed further below.

projects, activities or needs of the candidate or party is conveyed to the payer, and that information is material to the creation or distribution of the communication.

The manner in which the last clause of paragraph (d)(3) is applied will have a significant impact on the scope of this conduct standard. Under the last clause, a discussion is only substantial if the information conveyed (about plans, projects, activities, needs) is "material to the creation production or distribution of the communication." Elsewhere in the NPRM, the Commission defines "material" as "important; more or less necessary; having influence and effect; going to the merits." 67 *Fed. Reg.* 60050. Based on this definition, the conduct standard in paragraph (d)(3) will be satisfied when information is conveyed that is important or necessary to the creation, production or distribution of the communication, or that is influential or goes to the merits of the creation, production or distribution of the communication. If applied in this manner, paragraph (d)(3) will serve the purposes of BCRA and FECA.

However, if "material" is interpreted to mean "causative," *i.e.*, if paragraph (d)(3) will only be satisfied if the information conveyed or the act of conveying it caused the creation, production or distribution of the communication, then this conduct standard will be too narrow. We urge the Commission to adopt the broader interpretation described above, and to make this interpretation clear in its explanation and justification for the final rules.

7. Common vendor and former employee situations

Section 109.21(d)(4) and (d)(5) contain conduct standards for situations where a candidate or party committee and the person paying for a communication use a common vendor, and where the payer or an employee of the payer was formerly an employee of the candidate or party committee. In both instances, the conduct standard is only satisfied if the common vendor or former employee "makes use of or conveys to the person paying for the communication" either (1) material information about plans, projects, activities or needs of the candidate, party committee, or an opponent, or (2) material information used by the vendor or former employee in providing services to the candidate, party committee, or an opponent. Proposed paragraphs (d)(4)(iii) and (d)(5)(ii).

In many common vendor and former employee situations, it will be difficult to determine whether the vendor or employee made use of particular information in assisting with the production or dissemination of a communication. To prove this causal connection, the Commission might be required to show that the vendor or employee had no other information that would cause him or her to provide the same type of assistance. This is an impossibly high standard to meet.

Likewise, it will be difficult to determine whether particular information has been conveyed to the person paying for the communication, since information can easily be conveyed by implication. For example, a vendor or former employee could withhold specific information about the candidate or party's needs, and instead provide general

advice to the payer about the most effective means of producing or disseminating a communication. This advice could be based directly on information received by the vendor or former employee through its relationship with the candidate or party. Nevertheless, the Commission would have difficulty proving the subsequent communication was coordinated, because the information was never explicitly conveyed. The Commission might be required to prove that the vendor or employee had no other information that would cause him or her to provide the same advice to the payer, an equally difficult standard to meet.

For these reasons, the Commission should delete the "makes use of or conveys" component from the common vendor and former employee conduct standards, as set forth in paragraphs (d)(4)(iii) and (d)(5)(ii). The common vendor conduct standard should be satisfied whenever the person paying for a communication and the candidate, party committee or opponent use a common vendor that has provided any of the listed services to the candidate, party or an opponent during the current election cycle. Similarly, the former employee conduct standard should be satisfied whenever a communication is paid for by a person (or the employer of a person) who was an employee of the candidate, party committee or an opponent during the current election cycle. For former employees of candidates for President or the Senate, the rule should be limited to persons who were employees with the last two years.

C. Political parties

1. Coordination standard applicable to political parties

The NPRM proposes to apply the same coordination standard to both political parties and outside entities. However, it also raises the issue of whether political parties should be subjected to a different standard for coordinating with candidates.

The Commission should establish a rebuttable presumption that a party committee communication that satisfies one of the content standards in section 109.21(c) is a party coordinated communication. This approach would reflect the reality that party committees coordinate most of their expenditures with candidates, but would also recognize that there are instances where party committees act independently from candidates. Placing the burden on the party committee and/or candidate to show this independence is appropriate because they are in the best position to produce the evidence needed to determine whether a communication is coordinated.

The rules should describe ways in which a party committee could establish its independence from a candidate. This could involve demonstrating both financial and operational independence. However, absent a showing of independence, party committee communications that satisfy one of the content standards should be considered coordinated.

2. Transfers

New section 441a(d)(4)(A) limits a party committee's ability to make both coordinated and independent expenditures in the same election cycle. Under this provision, a party committee that makes an independent expenditure after the date its candidate has been nominated cannot thereafter make a coordinated expenditure with respect to that candidate during that election cycle. Similarly, a party committee that makes a coordinated expenditure after the date when its candidate has been nominated cannot make an independent expenditure with respect to that candidate during that election cycle.

Proposed section 109.35 divides party committees into two groups for purposes of these prohibitions. All the national committees of a party comprise one group, and all the state, subordinate and local committees of the party comprise another group. Under the proposed rule, when a party committee makes an independent expenditure, no other party committee in the same group can make a coordinated expenditure, and vice versa. However, the expenditures of a committee in one group have no impact on the committees in the other group.

The division of the party committees into two party groups directly contradicts section 441a(d)(4)(B), which states

> for purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

2 U.S.C. § 441a(d)(4)(B), BCRA, section 213. The plain language of this provision requires the Commission to treat all committees of a political party as a single committee for purposes of the section 441a(d)(4)(A) limits. The rule is even clearer if the parenthetical phrases are removed.

Several statements made during the Congressional debates on BCRA by both supporters and opponents of BCRA confirm this interpretation. On March 5, 2002, Senator McConnell entered a list of his objections to BCRA into the record. In this list, he described section 213 as follows:

> 4. Permit Party Coordinated And Independent Expenditures. Shays-Meehan treats all party committees (from national to local parties) as a single committee. Prohibits all committees from doing both coordinated expenditures and independent expenditures after nomination by party (contrary to S. Ct. ruling in Colorado I).

> Solution: Do not treat all party committees as a single committee and do not prohibit them from doing both independent and coordinated party expenditures.

148 Cong. Rec. s1529 (daily ed. March 5, 2002) (statement of Sen. McConnell). Later, Senator McCain responded to Senator McConnell's objections by entering an analysis of those objections into the record. In responding to the objections regarding section 213, Senator McCain's analysis said

> [t]he requirement that the parties choose between these expenditures was contained in both the Senate and House-passed bills and is not inconsistent with the *Colorado I* decision. For purposes of this provision only, national and state party committees are treated as a single entity.

Id. (statement of Senator McCain).

On March 18, Senator Feingold placed a section-by-section analysis of BCRA into the record. This analysis states:

> Sec. 213. Independent Versus Coordinated Expenditures by Party. Requires political parties to choose in each election between making the limited expenditures permitted to be coordinated with a candidate under 2 U.S.C. §441a(d) and making unlimited independent expenditures. Parties would make that choice with their first expenditure with respect to a particular election after their nominee has been chosen. If a party makes an independent expenditure, it may not make a coordinated expenditure with respect to that election. If it makes a coordinated expenditure, it may not make an independent expenditure. For purposes of this section, all national and state party committees are considered to be one entity so a national party cannot make an independent expenditure if a state party has made a coordinated expenditure with respect to a particular candidate."

148 Cong. Rec. s1992 (daily ed. March 18, 2002) (statement of Sen. Feingold).

Finally, near the end of debate, Senator McConnell reiterated his interpretation of section 213.

> Under this bill, parties are prohibited from engaging in both independent and coordinated party expenditures after a candidate has been nominated. The bill treats all party committees, from State and local to the national party, as a single committee.

148 Cong. Rec. s2121-22 (daily ed. March 20, 2002) (statement of Sen. McConnell.) Senator McCain also reiterated his interpretation of this provision.

> Section 213 provides, for this purpose only, that all the political committees of a party at both the state and national levels are considered to be one committee for the purpose of making this choice. This will prevent one arm of the party from coordinating with a candidate while another arm of the same party purports to operate independently of such candidate. This provision is intended to ensure that a party committee which chooses to engage in unlimited spending for a candidate is in fact independent of the candidate.

148 Cong. Rec. s2144 (daily ed. March 20, 2002) (statement of Sen. McCain).

The NPRM asserts that it is necessary to split the party committees into two groups in order to give effect to section 441a(d)(4)(C). Section 441a(d)(4)(C) prohibits a committee that makes coordinated expenditures with respect to a candidate from transferring funds to, receiving funds from or assigning coordinated expenditure authority to another party committee that has made or intends to make independent expenditures in the same election cycle. The NPRM asserts that unless the party committees are divided into groups, paragraph (C) has no operative effect.

This is not the proper way to determine the meaning of paragraph (B). The meaning of paragraph (B) should be determined by examining the language of paragraph (B) itself. This language is clear on its face. All national, state, subordinate and local committees of a political party are to be treated as one committee for purposes of section 441a(d)(4). Because paragraph (B) is unambiguous, there is no need to look to paragraph (C) to determine its meaning. No principle of statutory construction justifies disregarding the plain language of paragraph (B) in order to preserve paragraph (C).

Furthermore, it is far from certain that treating all party committees as a single committee will completely negate the operative effect of paragraph (C). The prohibition in paragraph (C) applies "during an election cycle." This is a longer period than paragraph (A), which operates from the date of the nomination until the election. Circumstances may arise in which paragraph (C) will have an effect on activities that occur before the date of the nomination.

Finally, it should be recognized that paragraph (B) does not conflict with paragraph (C). Paragraph (B) may make paragraph (C) unnecessary in most instances, but the two paragraphs do not generate contradictory results. On the contrary, these two paragraphs lead to the same result, in that they both prevent evasion of the coordinated expenditure limit.

For these reasons, proposed section 109.35(a) should be revised to say that, for the purposes of the subpart, all party committees on the national, state and local level will be considered a single committee. Paragraph (b) should be revised to apply the prohibitions in paragraphs (b)(1) and (b)(2) to all committees that are part of this single committee. Paragraph (c) should be deleted.

III. Conclusion

FEC Watch hopes that these comments are useful to the Commission as it attempts to formulate policies implementing the Coordinated and Independent Expenditure provisions of BCRA. As indicated in our cover memo, Lawrence M. Noble and Paul Sanford would like to testify at the Commission's hearings on the Coordination NPRM.