



INDEPENDENT SECTOR

*The national leadership forum
fostering private initiative
for the public good*

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VIA E-MAIL AND HAND DELIVERY

October 11, 2002

Mr. John Vergelli
Acting Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Notice 2002-16

Dear Mr. Vergelli:

We submit the following comments on behalf of INDEPENDENT SECTOR relating to the proposed rules regarding coordinated expenditures under the Federal Election Campaign Act as modified by the Bipartisan Campaign Reform Act of 2002.

INDEPENDENT SECTOR is concerned with ensuring that the proposed rules both provide clear guidance to the nonprofit sector and do not unnecessarily restrict speech that does not have the effect of supporting or opposing the election of any Federal candidate. For the reasons detailed in our August 21, 2002 comments and August 28, 2002 testimony on the proposed rules regarding electioneering communications, we are particularly concerned that the proposed coordination rules not unnecessarily restrict the constitutional rights of nonprofit organizations to communicate with the public and their elected officials on pending legislative and executive matters — including matters of vital importance to the organizations. We are also concerned that the rules not inadvertently restrict the ability of charitable, educational, religious and other organizations described in Section 501(c)(3) of the Internal Revenue Code to produce and publicly distribute public service announcements, documentaries and similar types of educational, nonpartisan communications.

For these reasons, we urge the Commission to consider the following two examples of situations that should not constitute coordination but may fall within the rules as proposed, and to consider ways of ensuring that such situations are not in fact considered coordination under the final rules.

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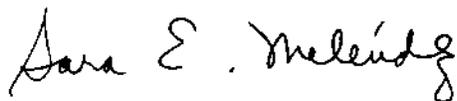


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- A charitable organization is working closely with various Members of Congress on a bill relating to an issue of concern to the organization. The bill is pending in the House of Representatives during a federal election year. During various discussions about the bill, the Members, some of whom are running for re-election, identify various Representatives who are undecided about the bill but who could probably be persuaded to support the bill if they received enough communications in support of the bill from their constituents. Acting on this information, the organization places radio ads in the districts of those Representatives. Each ad identifies the named Representative as undecided on the bill, describes why the bill should be passed, and asks the public to contact him or her about the bill.
- A charitable organization is developing a public service announcement (PSA) on the symptoms of a particular disease that can cause severe disability but, if detected early, can be easily treated. The organization asks various prominent individuals who have the disease to participate in the PSA, including a former Cabinet member who is currently a Federal candidate for Senator. The candidate agrees to appear in the ad. The organization provides him with a copy of his lines, which he approves with minor modifications. The organization plans to distribute the PSA nationally, through as many media outlets as will agree to air it without charge over a five-year period, including in the state where the candidate is running, in order to raise awareness of this disease and its symptoms. The five-year period includes the upcoming federal election year.

Thank you for your consideration of our concerns.

Sincerely,



Sara E. Meléndez
President and CEO