



TEMPLE UNIVERSITY
A Commonwealth University

College of Liberal Arts

Department of Political Science

1115 West Berks Street
408 Gladfelter Hall (025-22)
Philadelphia, Pennsylvania 19122
(215) 204-1461, Fax: (215) 204-3770
e-mail: polsci@blue.temple.edu
http://www.temple.edu/polsci

October 11, 2002

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

Dear Mr. Vergelli:

I am an Associate Professor of Political Science at Temple University, Philadelphia, Pennsylvania. I have been researching the congressional campaign committees, campaign finance, and political consultants for most of the past 12 years. I have been through your proposed regulations on your Proposed Rulemaking on Coordinated and Independent Expenditures.

In making these comments, I speak only for myself and not for Temple University or any other academic or research institution with which I have affiliated. I am only interested in assisting the Commission in clarifying its rules, not in working toward the advantage of one group over another.

109.21(d)(4) – Common Vendor and 109.21(d)(5) Former Employee or Independent Contractor.

The Commission anticipates a fair list of campaign activities that might be coordinated by a common vendor or former employee or independent contractor between a candidate and a political party. However, the Commission does not adequately define “common vendor” or “independent contractor” and may make this coordination provision unenforceable.

For instance, my recent research on political consultants confirms that they are private business organizations that are not required to report their activities to the Commission. Further, an individual may establish a number of commercial vendor firms under different names. Several political consultants already form different partnerships with various principals, e.g. “Smith and Jones Consulting,” “Smith, Clark, and Wilson Media,” “Political Telemarketing” (where Jones and Clark are the principals). How will the Commission know which vendors or independent contractors are coordinating services if they incorporate differently as illustrated above? Also, former employees are likely to incorporate using generic names, i.e. “Political Polling, Inc.” How will the Commission verify that a former employee is involved?

2002 OCT 11
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

The Commission has requested comment on the time-period for examining the relationship between common vendors, former employees, independent contractors, candidates and parties should be. I believe the two-year time frame is inadequate. As indicated in the previous paragraph, many business change form immediately after an election cycle, gaining or losing principals and changing their names accordingly. Thus, the definition must somehow focus on individuals engaged in electioneering enterprises for perhaps a six year time period in order to focus on inappropriate coordination.

The Commission also asks if the purchasing of advertising time slots for television, radio, or other media should be added to the list of common vendor services covered in proposed paragraph (d)(4)(ii). Given my research on the implementation of media strategy in campaigns, the media production vendor, pollster, and media buying firm (for purchasing the particular time slots for broadcasting the ads) work closely together and thus must be included in your list.

109.35 Restrictions on political party committees making both independent expenditures and coordinated party expenditures. (a) Applicability; (b) Restrictions on certain expenditures; (c) Restrictions on certain transfers and assignments; (d) Declaring an intention to make an independent expenditure.

The Commission seeks comments on its definition of "political party group" at 109.35 (a) (1) and (2). The Commission's interpretation of a national party group and a state party group is certainly consistent with the behavior of contemporary political parties making coordinated and independent expenditures. The national party committees (a national committee, senatorial committee, and congressional committee of the same party) routinely act as one unit. Indeed, it is typical to find that one committee has made the full coordinated expenditure for a candidate and the other committees have made none. Similarly, while the national committees have made only limited independent expenditures in congressional campaigns, they are made exclusively by one committee where the race in question is normally served (i.e. the congressional committee for a race to the US House of Representatives). Therefore, the Commission's interest in having various committees of a political party group notify the others of intentions to make coordinated or independent expenditures is currently part of the national parties' current operating procedures.

The state political party group is a slightly different matter. Generally, only the state party central committees make coordinated or independent expenditures in congressional races, and for the vast majority of states, the new rules for notification of the making of coordinated or independent expenditures will not change their current operating practices. Likewise, communications between national and state party committees has usually been efficient on these matters. However, a few states do have active local party organizations that have made some expenditures on the behalf of candidates. Though only present in a few states, the Commission will have to be clearer about what types of filings it expects from the state central committees and how long such records must be kept, as in

109.35(d). I suspect, however, that many of the local groups will cease making expenditures to make compliance with the new law easier.

Finally, there are several issues still at 109.35(c). How will the Commission interpret the phrase "on or after the date on which a political party nominates a candidate for election to Federal office"? Who reports that the nomination has been made? Will political parties be required to report the date a nomination is made? What happens if a primary or convention has occurred, but no nominee is yet certified (due to the need for a run-off, a recount, or some other dispute in need of resolution)? Will both political party groups be able to make both coordinated and independent expenditures during that time?

On another point, is it the intent of Congress that one party group may make their full coordinated expenditure in a race for Congress before the nomination is made and the other political party group can make their full coordinated expenditure after the nomination is made? Also, would both party groups be able to make independent expenditures to influence the primary election campaign?

I hope my observations have been helpful. If the Commission wishes for me to present these remarks in person, I would be pleased to do so.

Sincerely,



Robin Kolodny
Associate Professor of Political Science

Work number: 215-204-7709

Home phone number: 410-889-5759

Email: rkolodny@temple.edu; Rakolodny@aol.com