



"Carrie Olson"  
<carrie@moveon.org>  
01/13/2006 05:13 PM

To <coordination@fec.gov>  
cc "Eli Pariser" <eli@moveon.org>, "Carrie Olson"  
<carrie@moveon.org>  
bcc  
Subject Notice of Proposed Rulemaking: Coordinated  
Communications



January 13, 2006

**Via Email**

Brad C. Deutsch, Esq.  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Notice of Proposed Rulemaking: Coordinated Communications

Dear Mr. Deutsch:

I am the Executive Director of Moveon.org Political Action ("MoveOn PA") a non-connected federal political committee. MoveOn PA is one of the largest federal political committees in the United States. Since its formation in 1998, MoveOn PA has raised over 43 million dollars, almost exclusively from individuals. Its average contribution is \$40. MoveOn PA has over 3.3 million members with whom MoveOn PA primary communicates with via email and its Internet website. In addition to its Internet activities, MoveOn PA has purchased advertising both through newspapers and television and has undertaken large scale grassroots get-the-vote campaigns to mobilize voters.<sup>111</sup>

Generally, MoveOn PA conducts its electoral advocacy programs through public communications independently of any federal candidate or party committees. However, like many other political and interest group organizations in the United States, MoveOn PA also engages in grassroots lobbying efforts and discusses legislative and policy issues of national importance with Members of Congress, political parties and other political and non-political organizations. Recently, such efforts have included:

--A social security campaign where MoveOn PA worked with members of Congress and outside

groups to oppose President Bush's Social Security Plan. Such efforts included online petitions, town meetings and petition gathering events.

--MoveOn PA sent out emails highlighting Senate Democrats' demand for an independent Commission to study the Bush Administration's response to the Hurricane Katrina disaster.

--MoveOn PA has worked closely with members of Congress to advocate for paper trail voting machines through mostly online petitions, as well as an in-person lobbying day in Congress.

These are just a few recent examples of several significant non-electoral grassroots projects undertaken by MoveOn PA for the purpose of growing its politically-active membership and building popular awareness of political issues. Many MoveOn PA programs involve grassroots lobbying of Members of Congress and generally entail significant contact with Members to discuss the most effective way to communicate on these issues with both Moveon members, the general public, and those Members' colleagues.

As a general matter, MoveOn PA supports the principles of campaign finance reform and we support all efforts to stamp out corruption in American politics. We have reviewed the seven alternatives proposed by the Commission with respect to the Commission's proposed content prong of its coordination regulations. The Commission's current regulations attempt to balance the need to protect non-electoral speech by requiring independent electoral speech within 120 days of a federal election. Although MoveOn PA engages in a significant amount of non-electoral speech even within these windows, we believe that the Commission has properly balanced the need to protect non-electoral speech with communications that are designed to influence federal elections through its existing 120-day window.

With respect to the alternatives proposed by the Commission, MoveOn PA is opposed to any overbroad content standard that impinges on the rights of political organizations to lobby and discuss matters of national importance with Members of Congress, candidates for federal office and political party organizations. Thus, MoveOn PA opposes the following alternatives:

Alternatives 3 & 4 – Alternative 3 would eliminate the 120 day window from the content prong of the Commission's coordination regulation. Thus, any communication that referred to a political party or candidate, at any time, would be subject to the Commission's coordination regulations if that communication were discussed with any Member of Congress. Such a broad standard will clearly impinge on non-electoral speech by prohibiting any contact between members of Congress or party leaders in connection with grassroots lobbying, even when such efforts are undertaken over one year or even 18 months from a federal election. Similarly, although Alternative 4 replaces the "reference" standard with a "promote, support, attack or oppose" standard, many grassroots lobbying communications would likely meet this standard. In most cases, grassroots lobbying involves an attempt to influence a member of Congress' view on a particular issue. Such efforts often involve praising or criticizing that member's view on a particular issue. The term "promote, support, attack or oppose" is not otherwise defined by the Commission and it is my expectation that many grassroots lobbying communications would likely trigger this standard. Therefore, Alternative 4 suffers from the same overbreadth as Alternative 3.

Alternative 5 – Alternative 5 purports to create a stricter conduct standard for political committees than that for non-political committees. This Alternative is discriminatory, bad policy and should be rejected by the Commission. As stated above, MoveOn PA is funded through small individual contributors whose average contribution is \$40. Based upon recent legal and political developments, I believe that federal political committees will increasingly become an attractive vehicle for both electoral and non-electoral advocacy. Thus, MoveOn PA has chosen to finance the overwhelming majority of its non-electoral advocacy through its federal political committee for the purpose of building a broad, unified progressive political movement. Financing organizations through small individual contributions should be encouraged, not discouraged. Therefore, this alternative protects organizations that are not regulated by the prohibitions and limitations of federal law while tightening regulation on organizations that fully disclose its activities to the Commission and receive relatively small contributions, mostly from individuals.

Alternative 6 – Although Alternative 6 attempts to draw a distinction between electoral and non-electoral speech, attempting to undertake such judgments on a case-by-case basis without providing any other guidance to the regulated community will result in a severe chilling of speech. If the Commission eliminates the time-frame approach to its content prong, a case-by-case approach would provide no advance guidance to the regulated community on what speech is covered by its regulations--an approach that the Commission itself has rejected as unworkable and constitutionally problematic. See Brief for the Federal Election Commission at 26-31, Wisconsin Right to Life, Inc. v. FEC, No. 04-1581, probable jurisdiction noted, 126 S. Ct. 36 (2005).

Alternative 7 – Alternative 7 attempts to eliminate the content prong altogether and deem any communication that meets the Commission's conduct prong to be for the benefit of a federal candidate or party committee. Of all the Alternatives offered by the Commission, Alternative 7 would have the most detrimental effect on American politics and would result in numerous bizarre and unintended results. As a general matter, the American political system is a constant discourse between different actors, including officeholders, party organizations, individuals and various interest groups. This process requires a constant dialogue between these actors, which in most cases, involve the day-to-day governance of this country. For example, any person that merely discusses matters relating to a non-federal election with a political party committee would appear to be covered by the rule. Furthermore, it would appear that the appearance in a charitable solicitation by a member of Congress, even if it is several months prior to his or her election would also be covered by such a rule, even though the Commission has consistently ruled that such appearances could not be considered "expenditures" under the Federal Election Campaign Act. See e.g. Federal Election Commission Advisory Opinion 2004-14. Furthermore, the proposed Alternative would also eliminate the requirement that a communication be directed to the jurisdiction in which the individual is a candidate. Therefore, if a member of Congress from Massachusetts was featured in an advertisement that was run exclusively in California, it would somehow constitute a contribution to that member. See Federal Election Commission Advisory Opinion 2004-33. These are just a few of what would be numerous examples of the unintended consequences of such an approach.

I urge the Commission to reject the above alternatives and undertake an approach that properly balances the need to regulate truly electoral speech and protect legitimate issue speech and grassroots lobbying. I believe that the Commission's current content standard properly balances such considerations.

Thank you for your consideration of our comments in this rulemaking.

Respectfully submitted,

Carrie Olson,  
Chief Operating Officer,  
MoveOn.org Political Action  
for

Eli Pariser  
Executive Director  
Moveon.org Political Action

---

<sup>iii</sup> In addition, MoveOn PA has a sister organization, Moveon.org Civic Action, a not-for-profit organization, that is organized under section 501(c)(4) of the Internal Revenue Code. This organization engages exclusively in



non-electoral advocacy, public education, and citizen involvement. [FEC coord rules comment 11305.pdf](#)



January 13, 2006

**Via Email**

Brad C. Deutsch, Esq.  
Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Notice of Proposed Rulemaking: Coordinated Communications

Dear Mr. Deutsch:

I am the Executive Director of Moveon.org Political Action (“MoveOn PA”) a non-connected federal political committee. MoveOn PA is one of the largest federal political committees in the United States. Since its formation in 1998, MoveOn PA has raised over 43 million dollars, almost exclusively from individuals. Its average contribution is \$40. MoveOn PA has over 3.3 million members with whom MoveOn PA primary communicates with via email and its Internet website. In addition to its Internet activities, MoveOn PA has purchased advertising both through newspapers and television and has undertaken large scale grassroots get-the-vote campaigns to mobilize voters.<sup>1</sup>

Generally, MoveOn PA conducts its electoral advocacy programs through public communications independently of any federal candidate or party committees. However, like many other political and interest group organizations in the United States, MoveOn PA also engages in grassroots lobbying efforts and discusses legislative and policy issues of national importance with Members of Congress, political parties and other political and non-political organizations. Recently, such efforts have included:

--A social security campaign where MoveOn PA worked with members of Congress and outside groups to oppose President Bush’s Social Security Plan. Such efforts included online petitions, town meetings and petition gathering events.

---

<sup>1</sup> In addition, MoveOn PA has a sister organization, Moveon.org Civic Action, a not-for-profit organization, that is organized under section 501(c)(4) of the Internal Revenue Code. This organization engages exclusively in non-electoral advocacy, public education, and citizen involvement.

--MoveOn PA sent out emails highlighting Senate Democrats' demand for an independent Commission to study the Bush Administration's response to the Hurricane Katrina disaster.

--MoveOn PA has worked closely with members of Congress to advocate for paper trail voting machines through mostly online petitions, as well as an in-person lobbying day in Congress.

These are just a few recent examples of several significant non-electoral grassroots projects undertaken by MoveOn PA for the purpose of growing its politically-active membership and building popular awareness of political issues. Many MoveOn PA programs involve grassroots lobbying of Members of Congress and generally entail significant contact with Members to discuss the most effective way to communicate on these issues with both Moveon members, the general public, and those Members' colleagues.

As a general matter, MoveOn PA supports the principles of campaign finance reform and we support all efforts to stamp out corruption in American politics. We have reviewed the seven alternatives proposed by the Commission with respect to the Commission's proposed content prong of its coordination regulations. The Commission's current regulations attempt to balance the need to protect non-electoral speech by requiring independent electoral speech within 120 days of a federal election. Although MoveOn PA engages in a significant amount of non-electoral speech even within these windows, we believe that the Commission has properly balanced the need to protect non-electoral speech with communications that are designed to influence federal elections through its existing 120-day window.

With respect to the alternatives proposed by the Commission, MoveOn PA is opposed to any overbroad content standard that impinges on the rights of political organizations to lobby and discuss matters of national importance with Members of Congress, candidates for federal office and political party organizations. Thus, MoveOn PA opposes the following alternatives:

Alternatives 3 & 4 – Alternative 3 would eliminate the 120 day window from the content prong of the Commission's coordination regulation. Thus, any communication that referred to a political party or candidate, at any time, would be subject to the Commission's coordination regulations if that communication were discussed with any Member of Congress. Such a broad standard will clearly impinge on non-electoral speech by prohibiting any contact between members of Congress or party leaders in connection with grassroots lobbying, even when such efforts are undertaken over one year or even 18 months from a federal election. Similarly, although Alternative 4 replaces the "reference" standard with a "promote, support, attack or oppose" standard, many grassroots lobbying communications would likely meet this standard. In most cases, grassroots lobbying involves an attempt to influence a member of Congress' view on a particular issue. Such efforts often involve praising or criticizing that member's view on a particular issue. The term "promote, support, attack or oppose" is not

otherwise defined by the Commission and it is my expectation that many grassroots lobbying communications would likely trigger this standard. Therefore, Alternative 4 suffers from the same overbreadth as Alternative 3.

Alternative 5 – Alternative 5 purports to create a stricter conduct standard for political committees than that for non-political committees. This Alternative is discriminatory, bad policy and should be rejected by the Commission. As stated above, MoveOn PA is funded through small individual contributors whose average contribution is \$40. Based upon recent legal and political developments, I believe that federal political committees will increasingly become an attractive vehicle for both electoral and non-electoral advocacy. Thus, MoveOn PA has chosen to finance the overwhelming majority of its non-electoral advocacy through its federal political committee for the purpose of building a broad, unified progressive political movement. Financing organizations through small individual contributions should be encouraged, not discouraged. Therefore, this alternative protects organizations that are not regulated by the prohibitions and limitations of federal law while tightening regulation on organizations that fully disclose its activities to the Commission and receive relatively small contributions, mostly from individuals.

Alternative 6 – Although Alternative 6 attempts to draw a distinction between electoral and non-electoral speech, attempting to undertake such judgments on a case-by-case basis without providing any other guidance to the regulated community will result in a severe chilling of speech. If the Commission eliminates the time-frame approach to its content prong, a case-by-case approach would provide no advance guidance to the regulated community on what speech is covered by its regulations--an approach that the Commission itself has rejected as unworkable and constitutionally problematic. See Brief for the Federal Election Commission at 26-31, Wisconsin Right to Life, Inc. v. FEC, No. 04-1581, probable jurisdiction noted, 126 S. Ct. 36 (2005).

Alternative 7 – Alternative 7 attempts to eliminate the content prong altogether and deem any communication that meets the Commission's conduct prong to be for the benefit of a federal candidate or party committee. Of all the Alternatives offered by the Commission, Alternative 7 would have the most detrimental effect on American politics and would result in numerous bizarre and unintended results. As a general matter, the American political system is a constant discourse between different actors, including officeholders, party organizations, individuals and various interest groups. This process requires a constant dialogue between these actors, which in most cases, involve the day-to-day governance of this country. For example, any person that merely discusses matters relating to a non-federal election with a political party committee would appear to be covered by the rule. Furthermore, it would appear that the appearance in a charitable solicitation by a member of Congress, even if it is several months prior to his or her election would also be covered by such a rule, even though the Commission has consistently ruled that such appearances could not be considered "expenditures" under the Federal Election Campaign Act. See e.g. Federal Election Commission Advisory Opinion 2004-14. Furthermore, the proposed Alternative would also eliminate the requirement that a communication be directed to the jurisdiction in which the individual

is a candidate. Therefore, if a member of Congress from Massachusetts was featured in an advertisement that was run exclusively in California, it would somehow constitute a contribution to that member. See Federal Election Commission Advisory Opinion 2004-33. These are just a few of what would be numerous examples of the unintended consequences of such an approach.

I urge the Commission to reject the above alternatives and undertake an approach that properly balances the need to regulate truly electoral speech and protect legitimate issue speech and grassroots lobbying. I believe that the Commission's current content standard properly balances such considerations.

Thank you for your consideration of our comments in this rulemaking.

Respectfully submitted,

Carrie Olson,  
Chief Operating Officer,  
MoveOn.org Political Action  
for

Eli Pariser  
Executive Director  
Moveon.org Political Action