



# **GUN OWNERS OF AMERICA**

June 3, 2005

Mr. Brad C. Deutsch  
Assistant General Counsel  
Federal Election Commission  
999 E Street Northwest  
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

Dear Mr. Deutsch:

These comments are submitted in response to the Federal Election Commission's Notice of Proposed Rulemaking 2005-10, published in 70 Fed. Reg. 16,967 (April 4, 2005), seeking comment on how the FEC should amend the rule defining "public communications" in 11 CFR 100.26, as it relates to the Internet, pursuant to the ruling of U.S. District Court Judge Colleen Kollar-Kotelly in the case of Shays v. Federal Election Commission, 337 F.Supp.2d 28 (D.C., 2004).

## **Interest of Gun Owners of America**

Gun Owners of America (GOA) is a membership organization of 300,000 gun owners, organized under section 501(c)(4) of the Internal Revenue Code. GOA operates a web site (which accepts no advertising) and has an extensive e-mail alert system which it regularly activates on behalf of Second Amendment issues. Gun Owners Foundation is a 501(c)(3), and Gun Owners of America Political Victory Fund is a political action committee.

## **Comments**

### **1. The Definition of "Unsolicited"**

Gun Owners of America has some concern over the new proposed definition of "unsolicited" which limits that term

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to "those e-mails that are sent to electronic mail addresses purchased from a third party."

We understand that this addition is intended to limit the scope of the underlying disclaimer requirement. However, we fear that even further limitation may be justified.

Like other Second Amendment groups, GOA purchases lists of pro-gun Americans from a variety of sources. Many individuals on these lists decide to become members of GOA, and these members continue to receive e-mails from us on topics relevant to the Second Amendment. We do not segregate our membership by the manner in which each member first came to our attention. Nor are we comfortable with the membership-related information which the Federal Election Commission might try to obtain from us in order to determine whether we are in compliance with this new definition. In fact, we believe demands for such information would be unconstitutional under NAACP v. Alabama.

In sum, we believe the definition of "unsolicited" should, at the very least, be tightened to restrict it to persons who have no relationship with an organization.

## **2. "CONTRIBUTIONS" AND "EXPENDITURES" BY CORPORATIONS**

Similarly, we would urge you to tighten the standards under which Internet communications using corporate equipment might bring a corporation into non-compliance.

Many corporations, labor unions, and other organizations provide their officers and employees with portable computers and other handheld Internet communication devices. In many cases, notwithstanding the best efforts of the corporation to the contrary, the distinction between the use of those devices for professional and non-professional purposes blurs.

We would urge that the Commission raise the threshold by which the personal use of corporate-owned equipment would constitute a corporate violation.