



Jonathan Dichter <grizzpyre@yahoo.com> on 10/20/2001 04:17:56 PM

To: internetnprm@FEC
cc:

Subject: Comment Letter

Comment Letter
11 CFR 100, 114, 117
Federal Election Commission: The Internet and Federal
Elections

To: Rosemary C. Smith, Assistant General Counsel
internetnprm@fec.gov

From: Jonathan Dichter
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RE: 11 CFR 117.1

Ms. Smith,

I am writing to you upon reading the proposition of 11 CFR 117.1 in October 3rd, 2001's Federal Register in order to register my comments on this particular part of the proposition. I decline to comment on the corporate/labor and press release sections, as I am not directly affected by them, and could not do so intelligibly. I do, however, have a strong opinion on the implications of granting an exception to the contribution and/or expenditure category for individual use of the Internet. Before elaborating, I will tell you a bit about my background, so you are aware of the knowledge and experience of your commenter. I am currently a second-year law student at Seattle University School of Law. Prior to this I worked for an Internet Service Provider (ISP) as a technician. I have been a consumer on and user of the Internet for nearly 10 years now. I am a staunch proponent of individual liberties, and cringe at the prospect of being told how I can and cannot express myself.

That being said, I am, in general, for the proposal of allowing individuals to use the tool that is the Internet to express their political views and stances freely without having it "count against them", as it were. If I choose to post a link on my personal website to the homepage of my senator, who happens to be running for re-election, so be it. That is not a substantive contribution to his/her campaign, and is merely the functional equivalent of using a search engine, such as "Yahoo!".

I said above that I was "in general" for the proposal, but I do have problems with it. I am curious about how the FEC will attempt to rectify these problems, as I

see them as a major area of concern. The problems do not lie in the majority of cases who will be similar to my example above, but at the margins. However, those margins have the potential to be greatly exploited, and since the CFR proposes a flat exception without clarification to address these problems, it is necessary to bring them up, and the best way to do this is by example.

Suppose I am an independent website operator, running a large website that has over 200,000 pure hits daily. (Many independent websites, such as movie rumors sites, etc. have this number and greater, and are owned personally by one person ? by pure hits, I mean people typing in my particular web address, i.e. www.mysite.com) I also have enough money to register a number of domains personally that I have set up to re-direct to my large site (i.e. ? www.jonathandichter.com which then transfers you to www.mysite.com), bringing my total daily hits over 1,000,000. Now suppose that at the top of my website (seen by all visitors) I have a large, full-color banner that acts as a weblink to a candidate's website. I've posted it freely, and do not require people to click on it. It is the virtual equivalent of a billboard that gets 1 million viewings daily.

But don't private individuals who pay to put up billboards for candidates and front the money themselves have to declare that as a contribution or expenditure? where's the difference? where's the line? why differentiate between a virtual billboard and an actual billboard? Since the proposed rule makes no distinction as to the type or nature of the website other than the personal ownership, problems like this could abound, and the magnitude of them ends only with the imagination of the individual site administrator.

This limit also opens the door to fraud and extortion (again, at the margins ? I have no doubt that the majority of website owners wouldn't conduct themselves this way).

Suppose again I am the same website owner with 1 million hits daily. I now cover my webpage with banners for one candidate. I then contact his/her opponent and inform them that they can have equal time, if they pay for it. Granted, this exchange of money would fall outside the realm of this CFR, but the general implications of this kind of extortion are clear enough from the example.

Further, there are a myriad of problems relating to free speech and affiliation in regards to this CFR. Not that people shouldn't be able to freely express their support of a candidate, but imagine this scenario.

Again, I am a website owner with 1 million hits daily. This time I cover my page with banners against a specific candidate, some bordering on libelous and/or slanderous. All of them are in bad taste and accuse candidates of certain unproven actions. Having to declare this as an expenditure and/or contribution to the other side makes people more careful to display

only information that is backed up, whereas without that limitation?well, as they say, the sky?s the limit.

In summary, I want to re-emphasize that I am in general for the provisions of 11 CFR 117.1, as all of us should be able to use this technology to express our views freely (I even e-mailed this comment in instead of using the USPS). However, I urge the FEC to consider the implications of such a broad sweeping policy decision, and perhaps build a few safeguards into the rule before passage. I thank you for your time and for reading this comment.

Sincerely,

Jonathan P. Dichter

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