



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20541

February 6, 1997
(Revised March 3, clarifications in *italics*)

Advisory to News Editors, Correspondents, Broadcasters:

The ongoing nationwide discussion on campaign finance abuses and reform has brought many new participants into the debate. Although beneficial to the debate, it has led to some amount of misunderstanding of the standard terms of art, in turn confusing the dialogue.

Specifically, the FEC has encountered the misuse of the term "independent expenditure," erroneously used to describe any political ad that is financed outside the purview of the federal election law. Often, speakers, broadcasters, and reporters use "independent expenditures" to describe what are, in fact, "issue advertisements."

For the record, these two terms have distinct meanings under the law and are mutually exclusive. To assist you in understanding and clarifying this issue, the following definitions are offered:

— **Issue Advertisement:** A public advertisement, *not sponsored by a federal office candidate or political committee*, encouraging readers or listeners to take action to advance whatever public cause is being promoted. An issue advertisement may implicate electoral politics, but it cannot contain "express advocacy." The Federal Election Commission has no jurisdiction over issue advertisements *unless they have been coordinated with a candidate or the candidate's committee*. *Assuming there has been no such coordination*, issue ads not sponsored by a political committee would not be reportable and soft money may be used to pay for them.

These ads differ from independent expenditures which expressly advocate the election or defeat of a clearly identified candidate (see p.2):

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— **Independent Expenditures:** A public advertisement expressly advocating the election or defeat of a clearly identified candidate which is not made in cooperation or consultation with any federal candidate or his/her committee. Independent expenditures can be made without limit. However, they are subject to Federal Election Commission regulations in the following ways:

1. They must be financed with "hard" dollars — either the speaker's own money or money raised within the limits and prohibitions of the federal law.
2. The advertisements must have a conspicuous disclaimer telling the audience who paid for the advertisement and that the ad was not authorized by any candidate.
3. The expenditure must be reported to the Federal Election Commission by the committee making the expenditure. This reporting obligation also applies to individuals if the expenditure exceeds \$250.

There are various court decisions involving issue advocacy and express candidate advocacy, some pertinent cases for your research purposes being *FEC v. Massachusetts Citizens for Life*, *Maine Right to Life Committee v. FEC*, and *FEC v. Furgatch*.

If you desire further clarification on items in this advisory or anything involving campaign finance, the Federal Election Campaign Act, or the Federal Election Commission, contact the FEC Press Office, 999 E St. NW, Washington, DC 20463, 202-219-4155.

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