



FEDERAL ELECTION COMMISSION
999 E STREET, NW
WASHINGTON, D.C. 20463

FEBRUARY 11, 2015

OPENING STATEMENT OF VICE CHAIRMAN MATTHEW S. PETERSEN REGARDING THE COMMISSION'S HEARING ON THE *McCUTCHEON v. FEC* ADVANCED NOTICE OF PROPOSED RULEMAKING

The Commission is currently considering how, or even whether, it may further respond to the Supreme Court's opinion in *McCutcheon v. FEC*. The *McCutcheon* decision, which struck down as unconstitutional the federal aggregate contribution limits, is the most recent instance in which the Supreme Court has held that a significant plank in the federal campaign finance legal architecture impermissibly encroaches upon the freedom of speech protected by the First Amendment.

As we undertake this task, a number of important considerations must be kept in mind.

- First and foremost, as the Court has consistently reminded us, “the First Amendment has its fullest and most urgent application precisely to the conduct of campaigns for political office.”
- Second, since *Buckley v. Valeo*, the Court steadfastly rejected “the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others,” labeling any such attempt as “wholly foreign to the First Amendment.”
- Third, as the *McCutcheon* Court recently reminded us, the government “may not regulate contributions simply to reduce the amount of money in politics.”
- Fourth, the Commission is an independent administrative agency tasked with interpreting and enforcing the federal campaign finance laws as adopted by Congress and limited by the courts. As a body, we lack the authority to do what Congress has declined to do or what the courts have said we cannot do.

It is against this backdrop that the Commission must evaluate the comments and testimony presented as part of this proceeding.

As we move forward in this process, several important questions will need to be answered: Are the proposals advanced in this proceeding consistent with both the constitutional rulings handed down by the Supreme Court and the statutory language we are responsible for administering and enforcing? Do the promised benefits of particular regulatory proposals outweigh the associated burdens? And finally, considering that *McCutcheon* dismantles a substantial piece of the campaign finance legal framework, to what extent is it appropriate to use this decision as a launching point for extending the Commission's regulatory reach?

Today's hearing will play an important role in answering these and other essential questions. I thank those participating in today's hearing, and I look forward to their testimony, which undoubtedly will provide the Commission with much food for thought.

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