



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 2011

**Statement of Chair Cynthia L. Bauerly and Commissioner Steven T. Walther regarding
Notices of Proposed Rulemakings to Address *Citizens United***

Today, we voted to issue two draft notices of proposed rulemaking (“NPRMs”). One addresses certain regulatory restrictions on corporate and labor union activity that needed to be revised to be consistent with the Supreme Court decision in *Citizens United*.¹ The other would have addressed important questions surrounding disclosure of independent expenditures which, we believe, are necessarily implicated by the *Citizens United* decision.² While we are disappointed that the Commission has been unable to approve a comprehensive rulemaking to address all of the issues raised by the *Citizens United* decision, including disclosure and foreign nationals, we believe supporting both NPRMs was the appropriate and responsible thing to do.

On January 20 of this year, approximately one year after the Supreme Court’s decision in *Citizens United*, we voted to issue a notice of proposed rulemaking that represented a comprehensive effort to address the impact of the *Citizens United* decision on the Commission’s regulations.³ That NPRM included proposals to address our regulations governing corporate and labor organization activity, as well update our reporting requirements and consider possible amendments to our restrictions on foreign nationals made necessary by *Citizens United*. Our proposal failed to receive majority support, and we have since supported even more scaled back approaches in an effort to reach consensus with our colleagues. The NPRM adopted today addresses what might be called the bare minimum necessary to make our regulations consistent with *Citizens United*. Nonetheless, if the decision or the proposed changes to our regulations contained in this NPRM require additional changes to our regulations, we expect – and encourage – those submitting comments to make those arguments part of the record.

By issuing today’s NPRM, nearly two years after *Citizens United* was decided, we are finally beginning the process of developing revised rules in the areas that lie at the core of our political process. And though the proposals issued today may bring our regulations out of clear conflict with the *Citizens United* decision, addressing these important questions in this limited way will leave numerous aspects of our regulations unrevised and unexplored. We lose something important by taking such a narrow approach to this process. We remain convinced that supporting both NPRMs today was the right thing to do. But while necessary, today’s votes are not sufficient to effectively respond to such a hugely important decision.

¹ This rulemaking was initiated in response to a Petition for Rulemaking filed by the James Madison Center for Free Speech. See Agenda Document 11-74, available at http://www.fec.gov/agenda/2011/mtgdoc_1174.pdf.

² This draft NPRM was initiated in response to a Petition for Rulemaking from Representative Chris Van Hollen. See Agenda Document 11-73, available at http://www.fec.gov/agenda/2011/mtgdoc_1173.pdf.

³ Draft Notice of Proposed Rulemaking on Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations, Draft A, Agenda Document 11-02, available at http://www.fec.gov/agenda/2011/mtgdoc_1102.pdf.