

Statement of Commissioner Ellen L. Weintraub  
On Adoption of Final Rules Affecting Certain Internet Communications  
March 27, 2006

First of all, I want to thank all the staff who worked so tirelessly on this rulemaking. Richard Ewell, Rosie Smith, Brad Deutsch, Esa Sferra, Amy Rothstein, Larry Norton, you really went above and beyond on this one. I also want to thank your families for putting up with all the late nights and weekend work. And I want to thank my colleagues, all of whom participated in this process, but especially Chairman Toner. The Chairman and I serve on the Regulations Committee, and we really were in the trenches with the staff on this rulemaking. Your assistant, Melissa Laurenza, and mine, Rebekah Harvey, also worked ceaselessly on this project, and I want to thank them as well.

This draft represents a consensus. Probably each of us would have written various sections differently if we were writing it on our own, but overall, I think it represents an appropriate balancing of the concerns of all the stakeholders in this process.

A lot of work and a lot of time went into this draft, and I feel pretty good about the result. I think it's a win-win-win.

As I think everyone knows, no one at the FEC woke up one morning and decided that this would be a good day to regulate the Internet. Congress wrote a campaign finance law restricting how one could pay for certain "public communications," including any form of "general public political advertising." The Commission issued a regulation in 2002 defining that term so as to exempt anything transmitted over the Internet. But a Federal judge struck it down. The court said "general public political advertising" must include some communications over the Internet, and the court ordered us to amend our definition accordingly.

I think in this draft, we adopt the most natural reading of the words "general public political advertising," construing them to include paid advertisements placed on other persons' websites. And that is all we're regulating on the Internet. If someone chooses to challenge this regulation in court again, and I hope they don't, I think we have a common sense, well justified, and eminently defensible position. So if we adopt this regulation, we will have complied with the Court's order. And that's one "win."

Secondly, as we look to the concerns of the stakeholders in this process, I think we have addressed the largest concern of the campaign finance reform community. And in so doing, we are regulating only that aspect of Internet communications that most commenters agreed either already was regulated, or should be.

The reformers said that they were afraid that the 2002 rule left the door open for corporations and labor unions to spend large sums on campaign advertisements placed on the web. Now, others argued that that was already banned by section 441b of the law (and I agree with that position), but we will, by adopting this regulation, confirm that. So we've responded to the reformers, and that's two wins.

Finally, with this regulation, we affirm the right of bloggers to blog, of on-line media to avail themselves of the media exemption, and of individuals to use whatever computer resources are available to them to communicate about politics. Email as much as you want -- No one has to worry about disclaimers on email except for political committees. So that's a win for everyone who wants to foster free-wheeling, on-line political debate.

This may be the most deregulatory regulation this agency has adopted since I have been here. And that is appropriate because the Internet really is a special case in politics. We have yet to begin to tap its potential, and this agency should not get in its way.

Mr. Chairman, I most sincerely thank you, and at the appropriate time, I will be delighted to move approval of this document.