



January 15, 2015

Amy L. Rothstein
Assistant General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Ms. Rothstein:

Thank you for the opportunity to submit the following comments on the Federal Election Commission's proposed rulemaking to revise certain regulations in light of the Supreme Court's decision in *McCutcheon v. FEC*. I respectfully request the opportunity to testify at the hearing scheduled for February 11, 2015.

On multiple occasions over recent years, the Supreme Court has affirmed that transparency surrounding the receipt and expenditure of campaign funds is of critical importance to the health of our country's public elections. In *Citizens United v. FEC*, eight of the Court's nine justices concurred that "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

The Court reiterated this view in its *McCutcheon v. FEC* decision, stating that disclosure can serve to "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity."

A number of public opinion polls have shown that an overwhelming majority of Americans – upwards of 80% – want to see full disclosure of the money being raised and spent in political campaigns and believe that we need better rules surrounding disclosure than we currently have.

Looking at recent trends in political spending, it is hard to argue that this sentiment is unjustified. In the 2014 midterm elections, \$200 million was spent by groups for which there is currently no requirement at all surrounding the disclosure of funding sources, and for which the voting public therefore had no information about who was behind the campaign messages being paid for.

Even in cases where expenditure-making groups *are* required by law to disclose their funding sources, as with “Super PACs,” all too often the sources that they disclose are themselves organizational entities whose sources of funding are unknown, and for which disclosure of this information is not required. Although this “dead-end disclosure” may not be an intentionally devious practice in most cases, the fact that it is a *common* practice among independent-expenditure committees across the ideological spectrum is highly concerning. It exposes a glaring loophole that, in effect, makes it possible for anybody to spend money to influence the outcome of federal elections and remain anonymous.

Under the status quo, there is nothing preventing special interests from establishing front groups and shell companies for the express purpose of serving as funding vehicles for independent-expenditure committees while simultaneously keeping the ultimate sources of that money hidden from public view. In fact, there is not even a mechanism to ensure that American elections aren’t being influenced by money from foreign entities.

In 2014, CounterPAC undertook a campaign to address some of these failures of campaign finance disclosure by urging candidates to take a pledge rejecting the support of any groups for which the sources of funding are not publicly traceable to a satisfactorily transparent source. We defined this as: an individual; a well known corporation with revenue from trade or commerce of at least \$50 million for each of the past five years; or a nonprofit that has more than one million members, has been in existence for more than 10 years, has members in all 50 states and raises 15 percent or less of its funds from corporations. Of course, this definition of what counts as a satisfactorily transparent funding source is just one example of how the disclosure of political spending activity might be made more effective and meaningful.

As the Commission considers potential rulemakings, I strongly urge it to take action to improve the rules surrounding disclosure of political spending, particularly with an eye toward eliminating the problem of dead-end disclosure. The American people deserve to know who is seeking to influence their decisions about how to vote in federal elections. It is high time we have rules that give the public real, meaningful disclosure of this critically important information.

Sincerely,



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