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To secretary@fec.gov
cc
bcc
Subject For the Commissioners

Please provide copies to each Commissioner as their individual emails are not available on your web site. I have also copied my Senators.

Commissioner,

I am deeply troubled by the apparent arrogance of unelected civil servants to propose rules regarding any individual's right to purchase and use the means to exercise his God-given right to free speech, speech that is guaranteed by the First Amendment. If you have not read it in some time, let me provide it for you:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

When I use the word "arrogance", I am addressing the Commission's assumption that they can exempt certain entities from their rules.

That assumption implies they also assume they have the power to restrict those same things if so desired. Alexander Hamilton, writing in the 84th Federalist Paper, warned of this attitude when debating the need for a Bill of Rights:

"I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision

would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power."

In case you don't understand the lexicon of 18th century America, he said that there was no need for an Amendment to guarantee freedom of speech because the Constitution did not cede power to the Government to restrict free speech.

Regardless, James Madison and others felt that any government would eventually try to usurp the Constitution, and he insisted on the following as his proposal for an Amendment:

"The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable."

Inviolable . I'd say our Founders' intent was pretty clear.

With all that as prelude, anything I might add seems fairly mundane.
But I will add it regardless.

"The Commission also seeks comment on whether bloggers, whether acting as individuals or through incorporated or unincorporated entities, are entitled to the statutory exemption."

No. Bloggers need no exemption. Nor does The New York Times. Nor does CBS news. If you doubt this, read again from the beginning. You, and anyone else in the Federal Government, have no authority to restrict speech or press; therefore you have no authority to exempt.

I will also add that you have the power within bounds of the law to restrict or exempt organizations, as they do not share the rights of individuals. And within the bounds of BCRA, you have the authority to restrict how a candidate's campaign collects and distributes money.

You do not have the authority to restrict the individuals who receive that money. Consider a campaign manager and his salary. That income is taxable, and subject to monitoring by the IRS. The same could be said for any internet site receiving money from a campaign. Once the funds leave the candidate's hands (figuratively), your authority is ended.

"Should bloggers' activity be considered commentary or editorializing, or news story activity?"

It is all of the above, and none of the above. It is that individual's exercising of his rights. Period.

"The Commission further seeks comment on whether it makes any difference under the Act if a blogger receives compensation or any other form of payment from any candidate, political party, or political committee for his or her editorial content. Would any such payments mean that the blogger is "controlled" by a candidate or political party within the meaning of 2 U.S.C. 431(9)(B)(i), and therefore is not entitled to the exemption?"

If a blogger receives compensation, that is between him and the IRS, not the FEC. The FEC may be authorized to audit a campaign's expenditures, but the campaign is responsible for such expenditures, not someone receiving that money. As to being controlled, I can tell you from personal experience that trying to control bloggers is like herding worms. We are all pretty independent-minded. If a blog is run by a campaign, deal with the campaign.

"The news reports further indicate that not all of the bloggers disclosed the payments to the blogs' readers."

People who read blogs are generally unconcerned about such issues. We find blogs which offer good information, and those who are "party hacks" tend to get identified quickly. So it is also with major

media outlets. That is irrelevant. Bias exists. We all know that. William Randolph Hearst built his castle on bias. The internet is a source for all views and opinions. Those of you living insular lives in Washington are the last to understand this. I suggest you read Hugh Hewitt's excellent book. It might help you in your deliberations.

To sum up my comments, the Federal Election Commission has no authority to restrict nor exempt individuals in their support or opposition to a candidate or political party. If the Commission insists on controlling moneys expended in a campaign for public office, the Commissioners would do well to look at restricting a candidate's or party's spending activities rather than where that money is spent.

You also have no authority to restrict my freedom to spend my own money in operating a television station, newspaper, or internet weblog.

Here is the Commission's opportunity to stand up for individual freedoms.

Thank you,

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