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03/22/2006 04:16 PM

To <coordination@fec.gov>
cc
bcc
Subject FW: Comments to Supplemental Notice

-----Original Message-----

From: MWagner@perkinscoie.com [mailto:MWagner@perkinscoie.com]

Sent: Wednesday, March 22, 2006 4:03 PM
To: Wagner, Mark (Perkins Coie)
Subject: Comments to Supplemental Notice

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March 22, 2006

Mr. Brad C. Deutsch
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington DC 20463

**RE: Comments to Supplemental Notice of Proposed Rulemaking on
Coordinated Communications**

Dear Mr. Deutsch:

The Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee (the "DSCC" and "DCCC") submit these comments on the Supplemental Notice of Proposed Rulemaking on Coordinated Communications, published at 71 Fed. Reg. 13,306 (Mar. 15, 2006). The DSCC and DCCC wish to respond to the data published by the Commission in the Supplemental Notice.

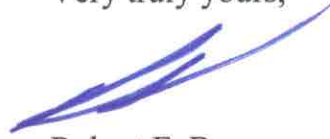
In our January 13, 2006, comments, we argued that the Commission should adopt BCRA's coordinated electioneering communications timeframe for the "content" prong of the general coordination standard. Congress considered extensive record evidence when it adopted that timeframe. The Supreme Court gave great weight to that evidence when it upheld Congress' action in *McConnell v. FEC*, 540 U.S. 93 (2003). To reject the claim that the timeframe was overbroad, the Court relied on the fact that "the vast majority of ads" airing during that timeframe had an election-influencing purpose. *Id.* at 206.

The data now presented by the Commission are entirely consistent with the Congressional judgment. They show that the vast majority of media spots run by Senate or House candidates during the 2004 election cycle aired within 60 days before an election, and that the vast majority of costs relating to those spots were incurred during that same timeframe. Thus, the data tend to support the judgment made by Congress when it adopted the 30- and 60-day electioneering communication windows. To the extent the data present any evidence that would support extending the window beyond 60 days, they suggest that 90 days would be the outer limit of any plausible extension.

Mr. Brad C. Deutsch
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As before, we appreciate the opportunity to comment on these matters.

Very truly yours,

A handwritten signature in blue ink, consisting of several overlapping, sweeping strokes that form a stylized, cursive name.

Robert F. Bauer
Marc E. Elias
Counsel to the DSCC and DCCC