

## **800 Line**

### **Internet Communications and Activity**

On March 27, 2006, the Commission approved new regulations governing certain types of Internet communications. The rules took effect May 12, 2006. 71 FR 18589 (4/12/06). The questions and answers that follow address not only those new regulations, but also past Commission precedents regarding use of the Internet in connection with federal elections. Copies of both the new regulations and the cited advisory opinions (AOs) are available via the FEC's web site at <http://www.fec.gov/>.

If you have any questions after reading this, please call or write:

Federal Election Commission:  
999 E Street, N.W.  
Washington, D.C.  
800/424-9530  
202/694-1100 (local)  
202/219-3336 (for the hearing impaired)  
[info@fec.gov](mailto:info@fec.gov)

### **Internet Activity Conducted by Individuals**

#### **Can I use my computer for political activity in connection with federal elections? How about a library computer, school computer, or neighbor's computer?**

Yes. An uncompensated individual or group of individuals may engage in Internet activities for the purpose of influencing a federal election without restriction. The activity would not result in a "contribution" or an "expenditure" under the Act, and would not trigger any registration or reporting requirements with the FEC. This exemption applies to individuals acting with or without the knowledge or consent of a campaign or a political party committee.<sup>1</sup> 11 CFR 100.94 and 100.155. Possible Internet activities include, but are not limited to, sending or forwarding electronic mail, providing a hyperlink to a web site, creating, maintaining or hosting a web site and paying a nominal fee for the use of a web site. 11 CFR 100.94(b). Please note that these exemptions apply regardless of whether the individual owns the computer in use.

#### **What are the rules for sending personal e-mails regarding political topics or federal elections?**

Basically, there are no rules for individuals. Individuals may send unlimited e-mails on any political topic without identifying who they are or whether their messages have been authorized by any party or campaign committee. 11 CFR 110.11(a).

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<sup>1</sup> Because the activity is exempt from the definitions of "contribution" and "expenditure", a group of individuals that spends more than \$1,000 on such activity does not trigger political committee status under the Act and FEC regulations. See 11 CFR 100.5.

**May I post comments to a blog in connection with a federal election?**

Yes. Uncompensated blogging, whether done by individuals or a group of individuals, incorporated or unincorporated, is exempt from regulation. See 11 CFR 100.94 and 100.155. This exception applies even in those cases where a nominal fee is paid. See also “**How has the Commission applied the Act to online news media?**” under Press Entities, below.

**Are the rules different if I pay to place an ad on someone else’s web site?**

Yes. Internet communications placed on another person’s web site for a fee are considered “general public political advertising,” and are thus “public communications” under the law. 11 CFR 100.26. As such, paying to place a communication on another person’s web site may result in contributions or expenditures under the Act. Other regulations regarding coordinated communications, 11 CFR 109.21 and 109.37, and disclaimer requirements, 11 CFR 110.11(a), would also apply.

**May I use my work computer for online political activity?**

Yes, this is permissible subject to your employer’s rules for personal use of computers and Internet access, and so long as you are not compensated for the activity. 11 CFR 100.94 and 114.9(a) and (b). See “**May a corporation or union allow its employees or members to use their work computers for individual volunteer activity?**” under Use by Corporations/Labor Organizations/Trade Associations, below.

**Internet Activity Conducted by Federal Political Committees**

**Is a disclaimer required on e-mail or our web site?**

Yes. The Act and regulations require FEC-registered political committees to place disclaimers on their public web sites. Moreover, if a political committee sends more than 500 substantially similar e-mails, each message must include a disclaimer. 11 CFR 110.11(a). For specific disclaimer requirements, see 11 CFR 110.11(b) and the Commission’s brochure “Special Notices on Political Ads and Solicitations,” available online at <http://www.fec.gov/pages/brochures/notices.shtml>,

**Do the new regulations affect online fundraising by our committee?**

No. Over the years, the Commission has issued several opinions concerning online fundraising by political committees. The AOs make it clear that political committees must adapt online fundraising to comply with the Act’s recordkeeping and reporting provisions.

First, committees using the Internet for fundraising must make “best efforts” to obtain and report the identification of donors who contribute more than \$200 during a calendar year. Committees must maintain electronic records and contributor data for three years after the date on which it reported the contributions. AOs 1999-22 and 1995-9.

Second, to avoid receiving prohibited contributions, web sites soliciting contributions in connection with a federal election must inform potential contributors of all of the Act’s prohibitions, including the prohibitions on contributions from corporations, labor

organizations, federal government contractors and foreign nationals,<sup>2</sup> and the restrictions at 11 CFR 110.19 on contributions from minors. AOs 1999-22, 1999-9 and 1995-9 contain detailed examples of Commission-approved language and mechanisms for vetting contributors.

Third, in several AOs, the Commission has said that online contributions may be made via credit card or electronic checks. Such contributions are acceptable for publicly funded Presidential campaigns and are matchable provided that the correct documentation is provided to the Commission. See 11 CFR 9034.2(c)(8) and AOs 1999-36, 1999-22, 1999-9 and 1995-9. The Commission has also permitted businesses to administer online fundraising for political committees, so long as they provide their services at the usual and normal charge and in their ordinary course of business. See below.

Finally, separate segregated funds established by corporations, labor organizations or trade associations should consult “**Are there special rules for online fundraising by corporate/labor/trade association PACs?**” under Internet Activity by Corporations/Labor Organizations/Trade Associations, below.

## **Internet Activity Conducted by Corporations/Labor Organizations/Trade Associations**

### **Our corporation normally provides commercial services online – may we do so for candidates and political committees?**

Yes, this is permissible as long as the corporation charges the usual and normal fee for its services. Failure to do so could result in a prohibited contribution. For example, in AO 2004-6, an online service offering a web platform for arranging local gatherings was permitted to provide both its free and fee-based services to federal candidates and political committees as long as it did so on the same terms it offered to all similarly situated persons in the general public. In contrast, in AO 1996-2, the Commission concluded that a corporation could not provide online accounts--for which it normally charged a fee--to candidates free of charge.

### **May our corporation/labor union/trade association send out an e-mail to endorse a federal candidate or place an endorsement on its web site?**

It depends. As has long been the case, a corporation, union or trade association may only direct express advocacy communications to its restricted class. So, if the organization addressed its e-mail endorsing a federal candidate only to individuals within its restricted class, it would be permissible. By contrast, the organization generally cannot place endorsements or solicitations for a candidate on its web site, unless access to those portions of the site is limited to members of the restricted class.<sup>3</sup> See AO 1997-16, 2 U.S.C. §441b(b)(2)(A) and 11 CFR 114.3.

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<sup>2</sup> See 2 U.S.C. §§441b, 441c and 441e.

<sup>3</sup> If the organization routinely posts press releases on its web site, it may post a release announcing its endorsement of a federal candidate in the same manner. 11 CFR 114.4(c)(6).

**Are there special rules concerning online fundraising for corporate/labor/trade association PACs?**

Yes. Since a corporate/labor/trade association PAC may only solicit contributions from its restricted class, access to online solicitations must be limited to members of that group (e.g., password protected).<sup>4</sup> 2 U.S.C. §441b(b)(4). Alternatively, a corporation/labor organization/trade association could maintain an e-mail list serve--i.e., mailing list--to send PAC solicitations to members of the organization's restricted class. AO 2000-7.

**May a corporation or union allow its employees or members to use their work computers for individual volunteer activity?**

Yes, a corporation or a labor organization may permit its employees, shareholders, officials and members to use its computer and Internet facilities for individual volunteer Internet activity, without making a prohibited contribution. This exemption is contingent on the individual completing the normal amount of work for which the employee is paid, or is expected to perform, that the activity would not increase the overhead or operating costs of the organization, and that the activity is not coerced. The organization may not condition the availability of the Internet or the computer on their being used for political activity or for support for or opposition to any particular candidate or political party. Revised 11 CFR 114.9(a)(2) and (b)(2).

**By Press Entities and Bloggers**

**How has the Commission applied the Act to online news media?**

Under the Act and FEC regulations, a media entity's costs for carrying news stories, commentary and editorials are not considered "contributions" or "expenditures." See 2 U.S.C. §431(9)(B)(i) and 11 CFR 100.73 and 100.132. This exemption, commonly known as the "news story exemption" or the "media exemption" now extends to media entities that cover or carry news stories, commentary and editorials on the Internet, including web sites or any other Internet or electronic publication. See also AOs 2005-16, 2004-7 and 2000-13.

The media exemption applies to the same extent to entities with only an online presence as those media outlets that maintain both an offline and an online presence. See the explanation and justification for revised regulations 11 CFR 100.73 and 100.32.

**Are bloggers considered press entities?**

Bloggers and others who communicate on the Internet are entitled to the press exemption in the same way as traditional media entities. However, the Commission has decided not to change its rules regarding the media exemption so as to specifically include *all* blogging activity within the "media exemption." Many bloggers may also be entitled to the new Internet activities exemptions for individuals. 11 CFR 100.94 and 100.155. This includes incorporated blogs that are wholly-owned by an individual, are engaged primarily

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<sup>4</sup> See 11 CFR 114.5(g), 114.7(a) and 114.8(c).

in Internet activities and derive a substantial portion of their income from their Internet activities. See the explanation and justification for revised 11 CFR 100.73 and 100.32 and AO 2005-16. Whether covered by the media exemption or the individual activity exemption, blogging will generally not be subject to FEC regulation.