



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE

FROM: OFFICE OF THE COMMISSION SECRETARY *MWD*

DATE: December 8, 2005

SUBJECT: *Ex Parte* COMMUNICATION
RE: Draft Notice of Proposed Rulemaking:
Coordinated Communications (11 C.F.R. 109.21)
Agenda Document No. 05-60

Transmitted herewith is an *ex parte* communication sent to Chairman Thomas from Laurence E. Gold, Associate General Counsel, American Federation of Labor and Congress of Industrial Organizations, regarding the above-captioned matter.

Attachment

American Federation of Labor and Congress of Industrial Organizations



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VIA FACSIMILE

December 7, 2005

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 DEC -7 P 4: 11

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
999 E St., NW
Washington, DC 20463

Re: Agenda Document No. 05-60, Draft Notice of Proposed
Rulemaking: Coordinated Communications (11 C.F.R.
109.21)

Dear Chairman Thomas:

I have had an opportunity briefly to review the draft notice of proposed rulemaking prepared by the General Counsel and submitted to the Commission for its consideration at tomorrow's public meeting. Without commenting on the specific substance of the notice, it is plainly a complex document presenting numerous alternative approaches in an area of acute sensitivity and importance for virtually every organization, individual, committee and other person that is involved in federal elections. If the Commission issues this document or anything like it for public comment and hearing, the AFL-CIO expects to participate fully.

The January 13, 2006, deadline for comments proposed in the draft, however, will make it most difficult for the AFL-CIO and, I believe, many other interested parties to evaluate and respond to the notice in a manner satisfactory to the participants and helpful to the Commission in its deliberations. The brevity of such a comment period and its coincidence with the holidays (when some organizations, including the AFL-CIO, are closed entirely for a week or more) will impair both the preparation of submissions and the consultations with clients necessary in order to develop positions and present an adequate rulemaking record. (Nor does it assist that much of the party and *amicus* briefing in the two campaign finance cases pending in the Supreme Court also must occur, without possibility of relief, during the same period.)

The Honorable Scott E. Thomas
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I am mindful that the Commission is acting with some urgency given the recent final judicial rejection of some aspects of its coordination regulations and the imminence of the 2006 federal election year. Nonetheless, this rulemaking originally was scheduled to commence last July, and the Commission is not under a precise judicial deadline to revisit these regulations. I suggest that establishing a comment period that includes an additional two weeks and so would end on January 27, with the public hearing similarly rescheduled, would considerably improve the rulemaking record while still enabling the Commission either to achieve its goal of issuing final regulations by the end of February, or to issue regulations very soon afterward.

Thank you for your consideration.

Sincerely,



Laurence E. Gold
Associate General Counsel

LEG:ab

cc: Hon. Michael E. Toner, Vice Chairman
Hon. Danny L. McDonald, Commissioner
Hon. David M. Mason, Commissioner
Hon. Ellen L. Weintraub, Commissioner
Lawrence H. Norton, General Counsel
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