

disclaimer if it expressly advocated the election or defeat of a federal candidate or solicited contributions.

Bloggers Paid by Candidates

The Federal Election Campaign Act (the Act) and Commission regulations require a political committee to report disbursements to the Commission, including any disbursement made to a blogger, and the Commission makes these reports publicly available. The Commission does not, therefore, propose to change the disclaimer rules to require bloggers to disclose payments from a candidate, a campaign or a political committee. The Commission asks whether this approach is appropriate and whether, in the alternative, a blogger could or should be required to disclose payments.

Coordinated Communications

Under the proposed expansion of the definition of “public communication” at 11 CFR 100.26, certain Internet ads could be considered “coordinated communications” (and thus in-kind contributions to the candidate or committee) if they are:

- Placed on another person’s or entity’s web site for a fee; and
- Coordinated with a candidate, campaign committee or party committee. 11 CFR 109.21.

The proposed rules would continue to exempt from the definition of “coordinated communication” ads that are created by outside vendors for a fee but placed on the payor’s own web site—including the web site of a corporation or other prohibited source. The rules would also continue to exempt from the coordinated communication rules ads that are placed on a prohibited source’s web site for free, even though a fee would normally be charged. The Commission asks whether this is an appropriate approach and whether any of the Commission’s other rules already regulate this type of activity.

Dissemination, distribution or republication of campaign material. A

person who finances a public communication that disseminates, distributes or republishes, in whole or in part, campaign-prepared materials may, under certain circumstances, be found to have made a coordinated communication under the current regulations. 11 CFR 109.21(c)(2). Changes to the definition of “public communication” would expand the reach of this regulation to include certain Internet ads placed for a fee on another entity’s web site, but would not affect content placed by an individual on his or her own web site, blog or email. The Commission asks whether it should specifically exempt all dissemination, distribution or republication of campaign material on the Internet.

Media Exemption

Under the Act, a news story, commentary or editorial distributed through the facilities of a broadcasting station, newspaper, magazine or other periodical publication is not considered an “expenditure” unless the facilities are owned or controlled by a political party, political committee or candidate. 2 U.S.C. §431(9)(B)(i). This “media exemption” assures that newspapers, television stations and other media can freely cover and comment on political campaigns. The Commission proposes to amend its regulations to make clear that any media activities that otherwise would be entitled to the “media exemption” are likewise exempt when they are transmitted over the Internet. 2 U.S.C. §431(9)(B)(i). The Commission requests comments on this proposal and asks whether the exemption should be limited to the Internet activities of media entities that are covering or carrying a news story, commentary or editorial and/or to media entities that also have off-line operations. Additionally, the Commission asks whether bloggers and/or on-line forums should be entitled to this exemption. Does it make any difference under the statute if a blogger receives compen-

sation or any other form of payment from any candidate, political party or political committee for his or her editorial content? Would such a payment mean that the blogger is “controlled” by a candidate or party committee and, thus, not entitled to the press exemption under 2 U.S.C. §431(9)(B)(i)?

Definition of “Contribution” and “Expenditure”

The Commission proposes to create exceptions from the definitions of “contribution” and “expenditure” for certain individual or volunteer Internet activity. Under these proposed rules, an uncompensated individual acting independently or as a volunteer would not make a contribution or expenditure simply by using computer equipment or Internet services to engage in Internet activities for the purpose of influencing a federal election. The proposed rule would apply to computers and other facilities that the individual would ordinarily have access to—including those provided at a public library or school—but would not permit someone to purchase this equipment for the sole purpose of allowing another person to participate in volunteer activity. The purchase of mailing lists, including email lists, for the purpose of forwarding candidate and political committee communications would continue to be considered an expenditure. Likewise, the exceptions would not apply to paid advertising or payments for the use of another person’s web site, other than a nominal fee.

Under these proposed rules, an individual or volunteer producing or maintaining a web site or blog, or conducting grass-roots campaign activity on the Internet, from his or her own home or elsewhere, would not make a contribution or expenditure and would not incur any reporting responsibilities for that activity. Thus, an individual could download materials from a candidate or party

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