

MEDIA MENTION

Michael Toner Comments on Recent Split FEC Ruling on Mobile Phone Political Advertising

Campaigns & Elections

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Michael E. Toner, co-chair of Wiley Rein's Election Law & Government Ethics Practice, was quoted in a *Campaigns & Elections* article published this week about a recent split ruling by the Federal Election Commission (FEC) that has led some to question whether a rulemaking on mobile political advertising rules is necessary.

In a 3-3 split ruling last month, the FEC failed to provide guidance in an advisory opinion for a Democratic mobile advertising firm seeking a disclaimer exemption for its product. The split decision, which failed to clarify the issue, has some wondering if the FEC shouldn't undertake a rulemaking in the area —similar to what the commission did for the Internet in 2006. Mr. Toner believes the FEC should launch such a rulemaking in the near future and said that the divided advisory opinion ruling "was an unfortunate outcome because I don't see a lot of abuses in this area." Mr. Toner pointed out, "When you have a 3-3 deadlock in an advisory opinion, you're probably not going to see enforcement action." Mr. Toner added, "I think there's always a danger some of the activity will go underground."

Related Professionals

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Practice Areas

Election Law & Government Ethics