

FEC Proposes New Rules Regarding Issue Advertisements in the Wake of *Wisconsin Right to Life*

September 2007

In a notice of proposed rule making (NPRM) announced on August 23, the Federal Election Commission ("FEC" or "Commission") has put forward for public comment two separate proposals in the wake of the Supreme Court's decision in *Federal Election Commission v. Wisconsin Right to Life*. Under one option, the FEC would allow corporations and unions to pay for issue advertisements that refer to candidates but would require payments for such advertisements to be publicly disclosed. The second alternative would allow corporations and unions to pay for such issue ads without having to comply with the disclosure requirements.

Separate from the above proposals, the NPRM also seeks public comment on a number of related issues, including a proposed exemption for true business advertisements featuring a candidate for federal office (e.g., "Buy your next car from Joe Smith Cadillac"). The NPRM also asks what types of ads should be covered by the grass roots lobbying exemption. To this end, the Commission has asked for comment on whether specific examples of protected grass roots lobbying communications would be helpful, and, if so, whether the language of certain advertisements drawn from prior court cases would satisfy the Commission's criteria.

The deadline for public comments on the proposed alternatives is October 1, 2007, and the Commission will listen to public testimony at a hearing scheduled for October 17, 2007. The FEC anticipates voting on a final rule by November.

Authors

Andrew G. Woodson
Partner
202.719.4638
awoodson@wiley.law