

Comments on Internet Regulations Due

May 2005

Comments are due on June 3, 2005, in the pending Federal Election Commission (FEC) rulemaking on the regulation of the Internet. This rulemaking, involving such topics as blogging, paid Internet advertising, paid bloggers, Internet advertising rates, and the occasional and isolated use of employer computers, has generated much press and online activity from all sides. The FEC has scheduled a public hearing on June 28 and 29, 2005, and those wishing to testify at this hearing should so indicate in their comments by the due date. The Notice of Proposed Rulemaking (NPRM) can be found at www.fec.gov/pdf/nprm/internet_comm/notice_2005-10.pdf.

The proposed rules, as written, attempt to follow a court ruling from the U.S. District Court for the District of Columbia and regulate at least some Internet activity. One aspect of the proposed rules regulates paid Internet advertising on another person's web site but goes no further and does not otherwise touch most other Internet activities. A second proposal affects state, district, and local party web sites. A third proposal attempts to clarify what type of mass emails are covered by the FEC's disclaimer regulation.

The rest of the proposed rules and related discussion covers the Internet generally, with lots of questions and unresolved issues (as is the case with many NPRMs). The discussion covers bloggers paid by candidates, the media exemption and its application to the Internet, and what type of Internet activity constitutes coordinated activity, resulting in a contribution. At the March 24, 2005, FEC meeting at which the FEC approved the NPRM, the commissioners all had seemingly diverging views on the necessary scope of any new rules and, on one issue, diverging views on the application of old regulations to the Internet. This means that the results of the rulemaking will be hard to predict.

Authors

D. Mark Renaud
Partner
202.719.7405
mrenaud@wiley.law