

FEC Denies Request for Grassroots Lobbying Exemption

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The Democratic members of the Federal Election Commission (FEC) voted against a proposed rule that would have created a grassroots lobbying exception to the nation's "electioneering communications" rules. The vote was cast in the face of a long-filed petition for rulemaking by a bipartisan group and after considering a narrowly tailored rule proposed by Republican Commissioner Hans von Spakovsky. By a vote of three to three, the Commission failed to pass the interim rule and also failed to authorize the General Counsel to initiate a formal rulemaking on the topic of a grassroots lobbying exception.

In February 2006, a diverse group of nonprofit organizations, including the U.S. Chamber of Commerce and the AFL-CIO, petitioned the FEC for a rulemaking with respect to the blackout period for electioneering communications. Under the McCain-Feingold statute of 2002, corporations and unions and persons using funds from corporations and unions may not air television or radio communications within 30 days of a primary election or within 60 days of a general election if the communication features or mentions a clearly identified federal candidate and the communication can be received by 50,000 or more persons in the candidate's congressional district or state. The bipartisan group requested a regulatory exemption for legitimate grassroots lobbying advertisements since Congress is in session for all or part of the 30- and 60-day blackout periods in election years.

Without such an exception, nonprofit corporations, labor unions and for-profit corporations will remain unable to reach those individuals who are the most likely to put political pressure on a member of Congress to take a certain action with respect to a pending bill or

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other aspect of the legislative process—even in the face of critical or devastating legislation affecting them and their members directly. The 60-day corporate and union blackout period for electioneering communications for the 2006 general election begins on September 8, 2006.