

Regulation of Political Activity on the Internet Remains Unclear

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The regulation of political content on the Internet, such as political and regular blog sites, remains unclear given recent events in the U.S. House of Representatives. On November 2, 2005, the House failed to pass HR 1606, the Online Freedom of Speech Act, by the necessary two-thirds majority. (Certain procedural maneuvers caused the supermajority to be necessary.) The failure of the House to pass HR 1606 calls into doubt the future of legislation to set bright lines regulating permissible political activities on the Internet heading in to next year's elections. Currently regulation of Internet activity is a hodge-podge of case law on express advocacy, the media exemption and rules from the Federal Election Commission (FEC) that have been struck down by the U.S. District Court for the District of Columbia, but none of these offers any guidance to the many pressing Internet-related questions.

Since earlier this year, the FEC has undertaken a rulemaking that addresses certain aspects of political activity on the Internet. After receiving voluminous comments and holding two days of hearings on June 28-29, 2005, the FEC has yet to promulgate the final rules. Of note is the fairly large number of *ex parte* communications related to the rulemaking, including those from members of the House Judiciary Committee, Minority Leader Harry Reid, Senators McCain and Feingold and Congressmen Shays and Meehan. The Notice of Proposed Rulemaking, comments and *ex parte* communications, among other things, for the Internet rulemaking can be found at www.fec.gov/law/law_rulemakings.shtml#internet05. Persons interested in the current state of passions surrounding the issue of political activity on the Internet may find particularly pointed discussions at various blogs across the web.