



November 9, 2005

Dear Member of Congress,

As bloggers from the right and left, we don't often agree on much. But **when it comes to free speech online, we couldn't agree more.**

We urge you to oppose H.R. 4194, the Shays-Meehan "Internet Anti-Corruption and Free Speech Protection Act of 2005". We oppose H.R. 4194 primarily because despite claims by its supporters - **it does not in fact offer adequate protections for speech and political activity online.** In particular:

- It would **stifle technological innovation.** H.R. 4194 would not adequately protect Internet activity which is not "blogging", such as already-widely used technologies like podcasting, wikis and peer-to-peer networks, let alone the technologies of tomorrow. In the face of regulatory doubt, no one will want to invest in emerging technologies to enhance citizen participation not clearly protected by the law; and
- It offers no guidance as to the treatment of **group political activity**, potentially treating all group websites that discuss federal candidates as political committees, with voluminous filing and disclosure requirements, so long as members spent \$1000 on server and other costs, an easily-reached amount;
- Its alleged protection to incorporated bloggers offers **no real protection.** In comments filed before the FEC, supporters of H.R. 4194 have stated explicitly that those websites which endorse, expressly advocate, and urge readers to donate funds to the election of preferred candidates do not qualify for protection under the law.* In other words, rather than protecting popular sites like DailyKos.com or FreeRepublic, H.R. 4194 would actually force them to seek counsel and comply with voluminous campaign finance law requirements, **stifling and chilling grassroots political activity across the Internet.**

For those members committed to extending the BCRA rules and regulations to the Internet, it would be preferable to pass **no bill at all rather than H.R. 4194**, which would only chill free speech and technological growth, and instead wait for the Federal Election Commission to complete its current rulemaking process.

Better still would be to pass **H.R. 1606, the Online Freedom of Speech Act.** H.R. 1606 would preserve the status quo which governed the 2004 election cycle, during which none of the fears now trumpeted by H.R. 4194's supporters came to pass. Moreover, as FEC Vice Chairman Michael

* See Comments on AOR 2005-16 filed by Democracy 21, Campaign Legal Center and the Center for Responsive Politics.

Toner has stated, the charge that H.R. 1606 would somehow allow federal candidates to coordinate with corporations and unions to spend soft money funds to purchase Internet banner and video ads on behalf of candidates “**has no legal foundation.**” As he has explained:

The FEC's regulation exempting the Internet was based on its interpretation of the statutory definition of “public communications” in the McCain-Feingold law. However, neither the FEC's regulation, nor the Hensarling bill, in any way touches the broad statutory prohibition found at 2 U.S.C. Section 441b that bars corporations and unions from making expenditures in connection with federal elections.

The purpose of campaign finance law is to blunt the impact of accumulated wealth on the political process, but this does not occur online. While wealth allows a campaign or large donor to dominate the available space on TV or in print, **there is no mechanism on the Internet by which entities can use wealth or organizational strength to crowd out or silence other speakers.** Any citizen who wants to establish a website that discusses political matters can do so within five minutes, and their words are instantly available to hundreds of millions of users on an equal basis with every other site.

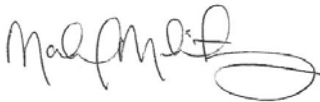
Moreover, one need not invest millions of dollars to reach people on the Internet. The most popular Web sites are often the cheapest ones, many using the free Blogger.com service to publish their thoughts at no cost at all. Content is king on the Internet, and the idea that accumulated wealth could have a corrupting influence online demonstrates a profound misunderstanding of how the medium operates or how citizens approach it.

In sum, the Internet now fulfills through technology what the rest of campaign finance reform attempts via law – and this occurred under the legal regime which H.R. 1606 seeks to codify. We urge you to proceed cautiously, and **steer clear of additional restrictions like H.R. 4194** until real corruption becomes evident. At that point, Congress and the Federal Election Commission will still be around, and can prevent actual problems, and not merely hypothetical ones.

Before considering support for H.R. 4194, ask yourself this question: if everything its supporters are saying is true, why did no one take advantage of these “loopholes” in 2004?

We urge you to oppose H.R. 4194.

Sincerely,



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