

**April 7, 2004**

**CONGRESSIONAL LEADERS TO FEC: *ALLOW POLITICAL ORGANIZATIONS TO PARTICIPATE FULLY IN ELECTIONS***

**WASHINGTON, D.C. --** In a letter sent today, House Democratic Leader Nancy Pelosi, Whip Steny Hoyer, Representatives John Larson, Jan Schakowsky, and more than 120 other Democratic Members of Congress who support the Bipartisan Campaign Finance Reform Act (BCRA) emphasized to the Federal Election Commission that the law as enacted does not impose the same restrictions on independent political organizations that it requires of federal elected officials and candidates. The Federal Election Commission is scheduled to meet next week to address the issue of independent political organization expenditures and is expected to issue a ruling in May.

The Members who voted for BCRA did so to prohibit federal elected officials and political parties from raising and controlling soft money - activities that have a corrosive influence on federal policymakers. BCRA was not directed at political organizations or public advocacy groups that are not controlled by or do not coordinate their activities with political parties or officeholders. It was intended to encourage citizens to exercise their First Amendment rights and participate in the political process through activities such as voter registration, voter education and get-out-the-vote drives.□

"There has been absolutely no case made to Congress, or record established by the Commission, to support any notion that tax-exempt organizations and other independent groups threaten the legitimacy of our government when criticizing its policies," the Members wrote. "We believe instead that more, not less, political activity by ordinary citizens and associations they form is needed in our country."

The following is the full text of the letter:

**April 7, 2004**

**Commissioners  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463**

**Re: NPRM regarding Political Committee Status**

**Dear Commissioners:**

**We are writing to express our concerns about the pending Notice of Proposed Rulemaking on "political committee status."**

**We take a particular interest in this regulatory initiative because it seeks to raise and address "soft money" issues very different from those that Congress resolved in the Bipartisan Campaign Reform Act of 2002. Yet while charting this different course, the proposed rules claim as their authority both BCRA and the Supreme Court's decision in *McConnell v. FEC* upholding the new law. We are troubled by the suggestion that these proposed rules follow the path we laid out, because they would lead to results that many of us voting for the new law did not consider or approve.**

**We support BCRA because we believe that the link between unregulated contributions and federal officeholders, candidates and their parties should be broken. We believe that the statute achieved this goal, striking a careful balance between needed additional regulation of campaign finance, on the one hand, and the protection of speech and associational rights, on the other. And we believe that the proposed rules severely undermine that balance, with potentially severe consequences for vital speech on the central issues of the day.**

**Specifically, the proposed rules before the Commission would expand the reach of BCRA's limitations to independent organizations in a manner wholly unsupported by BCRA or the record of our deliberations on the new law. For example, Congress crafted a new term for certain election-influencing activities by political parties - so-called "Federal election activities" - as part of the BCRA approach to limiting party soft money. The proposed rules would appropriate this concept of "Federal election activities" for the very different purpose of regulating "issues" speech and other political activity of 501(c) and other organizations. Congress did not choose to vastly extend in this way the concept of "Federal election activities."**

**More generally, the rulemaking is concerned with new restrictions on "527" organizations, primarily through the adoption of new definitions of an "expenditure." Congress, of course, did not amend in BCRA the definition of "expenditure" or, for that matter, the definition of "political committee." Moreover, while BCRA reflects Congress' full awareness of the nature and activities of "527s, it did not consider comprehensive restrictions on these organizations like those in the proposed rules.**

**There has been absolutely no case made to Congress, or record established by the Commission, to support any notion that tax-exempt organizations and other independent groups threaten the legitimacy of our government when criticizing its policies. We believe instead that more, not less, political activity by ordinary citizens and the associations they form is needed in our country.**

**These and other issues go to the heart of how the federal campaign finance laws may**

affect for the worse a host of organizations engaged in speech on controversial political issues. The Congress took care to act with caution in this area; the Commission should do the same. As the Supreme Court noted in *McConnell v. FEC*:

Congress' "careful legislative adjustment of the federal election laws, in a 'cautious advance, step by step,' to account for the particular legal and economic attributes . . . warrants considerable deference."

124 S.Ct. 619, 645 (2003) (citing *FEC v. National Right to Work Comm.*, 459 U.S. 197, 209 (1982)). This is a fair statement of Congress' intent to improve the enforcement of existing law, not to promote an aggressive expansion of the law in the near-term.

The FEC should also take into account the dangers of reviewing and resolving these issues quickly, on the eve of presidential and congressional elections and in a charged partisan environment. These are not conditions best suited to the task of thoughtful and credible rulemaking on critical issues.

The dangers associated with rushed judgment in a partisan crossfire became apparent in recent weeks, when the FEC issued its Advisory Opinion on "allocation" issues to the "ABC" Committee. In that Opinion, the Commission made changes in existing law, in the middle of an election cycle, in response to a request from a sham committee formed solely to advance partisan objectives. The Commission should not rush more new rules with major impact, in this cycle, such as those now proposed.

Congress, when enacting BCRA, elected to defer the effective date to the next cycle. Even in establishing the day after the last general election, November 2, 2002 as the effective date, Congress fashioned, with great care, transitional rules to allow time for an appropriate and manageable change from one set of legal rules to another. The Commission would turn this approach on its head by promulgating significant and controversial new rules - rules that Congress did not consider or enact in its own "soft money" reform - in the thick of this election year.

The FEC should take the time necessary to assure that any changes it proposes are carefully considered and crafted, with minimum disruptive impact on ongoing activities by political committees, organizations and candidates.

For this reason, we ask that the Commission reconsider the nature and timing of the current rulemaking initiative.

Sincerely,

[In alphabetical order]

Abercrombie  
Ackerman  
Alexander  
Allen  
Andrews

Baca  
Baldwin  
Ballance  
Becerra  
Bell  
Berkley  
Berman  
Berry  
Bishop, T.  
Blumenauer  
Boswell  
Brady  
Brown, C.  
Brown, S.  
Capps  
Capuano  
Cardin  
Carson, J.  
Conyers  
Costello  
Crowley  
Cummings  
Davis, D.  
Davis, L.  
Davis, S.  
DeFazio  
DeGette  
Delahunt  
Deutsch  
Dicks  
Dingell  
Dooley  
Doyle  
Emanuel  
Engel  
Eshoo  
Etheridge  
Evans  
Fattah  
Filner  
Frost  
Gephardt  
Grijalva  
Hinchey  
Hinojosa  
Holt

Honda  
Hoyer  
Israel  
Jackson-Lee  
Johnson  
Jones  
Kanjorski  
Kennedy  
Kilpatrick  
Kucinich  
Lampson  
Langevin  
Lantos  
Larsen  
Larson  
Lee  
Lewis  
Lofgren  
Lowey  
Lynch  
Majette  
Markey  
Matsui  
McCarthy  
McCarthy  
McCollum  
McDermott  
McGovern  
McNulty  
Meek  
Meeks  
Menendez  
Michaud  
Millender-McDonald  
Miller  
Miller  
Moran  
Nadler  
Napolitano  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor  
Pelosi

Pomeroy  
Price  
Rangel  
Rodriguez  
Ross  
Rothman  
Roybal-Allard  
Rush  
Ryan  
Sanchez, Linda  
Sanders  
Sandlin  
Schakowsky  
Serrano  
Slaughter  
Solis  
Stark  
Strickland  
Tauscher  
Thompson, M.  
Tierney  
Udall, M.  
Velázquez  
Visclosky  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Woolsey