



April 26, 2006

**VOTE “NO” ON THE RULE ALLOWING ATTACHMENT
OF 527 REGULATION TO H.R. 4975**

Dear Representative:

On behalf of the ACLU, a non-partisan organization with hundreds of thousands of activists and members and 53 affiliates nationwide, we write to urge you to oppose the rule allowing attachment of 527 regulation to H.R. 4975. The rule would allow further regulation of entities organized under Section 527 of the Internal Revenue Code, and would severely curtail the ability of average people to have their voices heard in the election process. Attachment of this provision would convert virtually all 527 organizations into federal PACs, requiring them to register with the Federal Elections Commission (FEC) and comply with its regulations. H.R. 4975 is a bill aimed at lobbying reform; regulation of 527 organizations has nothing to do with lobbying reform.

Further regulation of these independent organizations is unwise and unconstitutional. 527 organizations engage in speech independent of parties and candidates and there is no constitutional support for FEC regulation of 527 groups, as opposed to 501(c) or other organizations, simply because they mention candidates in their communications.

Contrary to a popular misconception, regulating 527 organizations does not close a “soft-money loophole.” The Supreme Court upheld the Bipartisan Campaign Reform Act of 2002 (BCRA) because the Court found that large contributors of soft money to parties and candidates create at least a perception of corruption. While we disagreed, the Court found it permissible to force federal candidates, officeholders and parties to finance their political activities with federally regulated dollars. Because 527 organizations are independent of parties and candidates, the possible corrupting influence of giving money to candidates and officeholders does not exist with these organizations. BCRA did not reach and specifically did not extend its regulations to independent groups.

While some groups now wish to extend BCRA restrictions to outside groups such as 527 organizations, there is no constitutionally supported interest in this additional regulation of independent speech. Rather than closing a loophole, the legislation before the House is a radical departure from First Amendment principles. Associating to support or attack candidates and their policies, independent of candidates and their parties, fails to raise issues of corruption that

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would be necessary to establish a basis for regulation of this speech.

At stake are the free speech rights of millions of Americans. 527s are a vehicle for average Americans to band together and pool their money to speak out about federal officeholders, candidates, political parties and issues before, during, and after election periods. Ironically, wealthy individuals, about whom much has been said and written, will not be prohibited under this bill from making their views known. For example, it would be unconstitutional to restrict the ability of a wealthy individual to pay for a series of newspaper advertisements that cost \$2 million and are unflattering to one or the other party. Indeed the bill before the House appropriately does not reach such activity. Instead, the bill restricts a smaller contributor from joining others to form a 527 and pooling his or her money along with other contributions to take out the very same advertisement. Wealthy individuals will still have an avenue to get their views known. Curtailing the ability of 527 groups to join together and pool their money only hurts the average citizen and significantly diminishes speech.

Some have referred to 527s as organizations that operate in the shadows. To the contrary, 527 organizations already publicly report to the IRS (“pure” 527s) or the FEC (political committees). These organizations report all contributions of \$200 or more and all recipients of their spending of \$500 or more. 527s have to file reports detailing their contributions and spending quarterly during an election year and semi-annually in non-election years. Pre- and post-general reports are also required if the committee makes expenditures in connection with a federal election. There are criminal and civil penalties for failing to comply with the reporting regulations.

In sum, in *McConnell v. FEC*, the Supreme Court noted the extensive record developed by Congress on the corrupting influence of giving money to candidates. No such record exists regarding 527 organizations. These organizations are independent of candidates and uncontrolled by the parties, many of them speaking out on issues of public interest, the quintessential purpose of the First Amendment. Congress should not shut down speech on political issues. For all of these reasons, we urge you to oppose this rule.

Sincerely,



Caroline Fredrickson
Director



Marvin J. Johnson
Legislative Counsel