

November 9, 2017

Federal Election Commission
Attention: Neven F. Stipanovic, Acting Assistant General Counsel
999 E Street, NW
Washington, DC 20463

Re: Comments in Response to Advance Notice of Proposed Rulemaking on
Internet Communication Disclaimers

Dear Commissioners:

Citizens for Responsibility and Ethics in Washington respectfully submits these comments in response to the Advance Notice of Proposed Rulemaking on Internet Communication Disclaimers.¹ We welcome this opportunity to provide the Federal Election Commission (“FEC” or “Commission”) comments on modifying Commission rules, and we urge the FEC to act to protect the integrity of the federal campaign finance process. As the original 2011 date on this notice demonstrates, the Commission has long recognized that the Internet is an important space for public political discourse, and its importance is only increasing; a failure by the Commission to effectively exercise its statutory authority in this space would thus represent a major failure by the Commission to meet its obligations to Congress and the public. The Commission should open a rulemaking as soon as possible.

Recent developments have highlighted several weaknesses of the current system. One of the most serious is the ability of foreign actors to abuse the system and improperly influence U.S. elections.² However, the public’s need for information regarding the sources of political communications on the internet reaches far beyond these circumstances. As the Supreme Court affirmed in *Citizens United*, this information serves an important free speech interest: “providing ‘the electorate with information’ about election-related spending sources.”³ The Commission’s responsibility, then, is to ensure that the public receives this information in an effective manner.

¹ 82 Fed. Reg. 46937 (Oct. 10, 2017) (REG 2011-02).

² See, e.g., Intelligence Community Assessment, “Assessing Russian Activities and Intentions in Recent US Elections”, ICA 2107-01D (January 6, 2017).

³ *Citizens United v. Federal Election Comm’n*, 558 U.S. 310, 315 (2010) (quoting *Buckley v. Valeo*, 424 U.S. 1, 76 (1976)).

The Commission has noted changes in the legal and technological landscapes that, it posits, could affect the operation of any Commission regulations in this area.⁴ However, at no time in the more than six years since the Commission first identified this issue has it even held a hearing to educate itself and the public about these changes or to receive expert assessments of their effect on Commission regulations. The Commission should open a proposed rulemaking as soon as possible and hold a hearing on these issues as soon as practicable. The importance of these issues will only continue to increase; the Commission cannot continue to fail to act.

Sincerely,



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington

⁴ 82 Fed. Reg. at 46938 (“Given the speed at which technological advances are developing, the Commission welcomes comments that address possible regulatory approaches that might minimize the need for serial revisions to the Commission’s rules in order to adapt to new or emerging technologies.”).