



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**STATEMENT OF VICE CHAIR CAROLINE C. HUNTER AND
COMMISSIONERS DONALD F. McGAHN II AND MATTHEW S. PETERSEN
ON NOTICE OF PROPOSED *CITIZENS UNITED* RULEMAKING**

Today, as we did five months ago, we support a rulemaking to address the direct holding of the Supreme Court in *Citizens United v. FEC*, and we reiterate our earlier-stated reasons for opposing our colleagues' alternative proposal.¹ In *Citizens United*, the Court forbade the Commission from enforcing the regulatory prohibitions on corporate- and labor-union-funded independent political spending. More than a year after the Court's landmark decision, these regulations remain on the books. Our colleagues still will not begin the process of repealing these unconstitutional regulations without, in the same rulemaking, addressing requirements that the Court either expressly upheld or declined to consider.

Attaching new regulatory proposals to a rulemaking under the guise of responding to the Court's holding was no more responsible today than it was in January. Moreover, Congress has considered and failed to pass the so-called "DISCLOSE Act," and while our colleagues' newer proposal did not track the proposed legislation as closely as their earlier version did, it still raised the same objections. Further, there *was* consensus to vote out two Notices of Availability that, combined with the pending *Van Hollen* and *Bluman* litigation,² address the issues our colleagues included in their alternative, thus rendering it premature.

We would have preferred to pass a clean Notice of Proposed Rulemaking limited to the issues the Supreme Court actually ordered us to address.³ However, under established Commission procedures, we approved Notices of Availability addressing separate rulemaking petitions submitted by the James Madison Center for Free Speech and Congressman Chris Van Hollen. These Notices properly decouple the regulations directly affected by *Citizens United* from other regulations not directly impacted by the decision. Hopefully by maintaining this separation, the Commission will soon be able to bring its regulations in line with the Court's decision in *Citizens United*.

¹ See Statement of Vice Chair Caroline C. Hunter and Commissioners Donald F. McGahn II and Matthew S. Petersen on Notice of Proposed *Citizens United* Rulemaking, January 20, 2011, at <http://www.fec.gov/members/statements/GOPCommissionersCNPRMStatement1-20-11.pdf>.

² *Van Hollen v. FEC*, No. 1:11-cv-00766-ABJ (D. D.C. filed Apr. 21, 2011); *Bluman v. FEC*, No. 1:10-cv-01766-RMU (D.D.C. filed Oct. 19, 2010).

³ Unlike our colleagues' NPRM, which attempts to anticipate issues that have yet to be decided in the *Van Hollen* and *Bluman* litigation, our NPRM was limited only to addressing the issues the Supreme Court already *has* decided.