

Political Speech is Flourishing Under Strong Online Protections

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As it did in the 2004 election cycle, the political speech on the Internet is playing a vital role in energizing voters and highlighting key political issues. Online activists from across the ideological spectrum are engaged in vigorous debate about the issues facing the country. Meanwhile, the mainstream media appears to be recognizing the major contribution that online speakers are having in the election process. Many major candidates now employ staffers focused on the debate as it unfolds in the political blogosphere in recognition of the fact that blogs are playing an ever-growing role in the political agenda, at the national, state, and local levels.

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(1) Political Speech is Flourishing Under Strong Online Protections

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All of this political activity is taking place against a backdrop of strong protections for individuals' online political speech that the Federal Election Commission (FEC) issued in the Spring 2006. Under the FEC's rules, the vast majority of online political speech by individuals is insulated from regulations. Except for the placement of paid advertisements, almost all online activities -- such as blogging and political discussions in chat rooms and on social networking sites -- are protected.

(2) Background on the Debate Over Campaign Finance Rules Online

By drastically lowering the costs associated with mass communication, the Internet has given ordinary individuals the opportunity to participate in the political debate on a scale never before possible. But with the Internet's growing impact on electoral politics has come increased scrutiny by policymakers and regulators regarding how federal campaign finance reform laws should be applied to the medium.

In early 2005, the Federal Election Commission undertook a new rulemaking to determine what online speech should be regulated. The FEC initiated the process in response to a lawsuit that challenged the commission's earlier decision to exclude the Internet entirely from campaign finance rules.

An early draft of regulations prepared by the FEC's staff would have imposed heavy and chilling burdens on political speech and debate online. CDT and many others, including leading blogs across the political spectrum, raised strong objections to such burdensome rules. CDT helped to draft and organize a set of principles to help guide the FEC in protecting individuals' rights to engage in online political speech, and CDT and others testified and submitted written comments to the FEC during its rulemaking process.

The end result of this effort was that the Federal Election Commission issued rules that are very protective of individuals' political activities on the Internet. The FEC largely limited its rules to focus on paid political advertisements that someone places on another person's web site. Although the FEC was somewhat constrained by the underlying campaign finance laws, the rules it issued sought to provide comprehensive protection for individual political speakers.

[Campaign Finance Principles](#) [4]

(3) New "Net Democracy Guide Promotes" Vigorous Political Participation

Under the FEC rules, the vast majority of political speech by individuals on the Internet is fully protected by the law and carries no risk of violating campaign finance rules. Those rules, however, are part of a much larger and very complex set of campaign finance rules, and it is important that ordinary Internet users not let those rules deter them from engaging in political activity online.

To address this concern that the campaign finance rules themselves can be very difficult for laypeople to navigate, CDT developed NetDemocracyGuide.org, which offers users a series of simple questions to determine whether their online political activities fall under the campaign finance regime. Developed with the support of the Carnegie Corporation of New York, NetDemocracyGuide.org makes it easy for bloggers and other citizen activists to quickly understand the new campaign finance rules, and how those rules apply to them.

The site is broken down into three easy-to-read sections. The Quick Checklist identifies a range of common online political activities that are not restricted in any way by the campaign finance rules. For users unsure whether their activities fall into that protected category, the Questions & Answers section walks users through possible scenarios and how they are affected under the law. Finally the Glossary describes the major terms and includes links to the regulations themselves.

As part of the Net Democracy Guide, CDT is seeking feedback and input about how the FEC's campaign finance rules are affecting or harming political speech online. CDT will be monitoring whether and how -- in actual practice in the current election -- the campaign finance rules chill or burden valuable political speech on the Internet. After the 2006 election cycle, if major problems have emerged, CDT will seek to change or improve the protections for online political speech.

[Net Democracy Guide](#) [5]

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- [FEC](#)
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