

New media and technology can jeopardize political transparency



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COMMENTARY

The challenge for campaign finance regulators in the new media environment is how to maintain transparency while not infringing on free speech rights.

New media opened up numerous opportunities for candidates to

communicate with voters. It has introduced innovative ways to raise money and target individual voters. It has allowed operatives to identify clusters of voters and their positions on issues. It has given people opportunities to more readily communicate their own views to governmental officials. And it has encouraged participation in the electoral process.

New media has moved our society more toward direct democracy and away from republicanism.

Technology is refreshing our democratic tendencies in ways that a decade ago may have been unimaginable. It is transforming our politics and political campaigns. At the same time it is jeopardizing transparency.

One recent issue involves texting contributions. Raising money through texting would certainly make fundraising easier.

Online fundraising would also facilitate fundraising. Websites, twitter and Facebook accounts all open up new avenues for raising campaign dollars.

But with texting and online fundraising challenges to disclosure arise. By discarding the traditional contribution arrangement between donor and candidate, accurate disclosure may be harmed.

Disclosure of spending by campaigns is also endangered by new media. A new computer application for smart phones, called visible vote, allows give and take between public officials and constituents regarding votes on issues and other

matters. This software joins with other new media in enhancing direct communications between public officials and their constituents. While a good thing, it is fraught with pitfalls for disclosure.

How much of the communication is issue oriented and how much is campaign related?

Campaigns, moreover, are increasingly turning to robo-calls to contact voters. Though federal regulations require the caller to be identified (and the caller's telephone number), the person or organization paying for the call may remain anonymous.

New Jersey law, by requiring the entity paying for the robo-call to be disclosed, does take the federal rule further. However, enforcement of robo-call disclosure can be tricky. Voters can see a television advertisement, hold mailers in their hand or look up at a campaign billboard. Unlike other media outlays, robo-calls pretty much vanish without a trace unless someone records their phone calls. And, even then, the calls are hard to trace if there is no identification.

In the absence of voluntary disclosure by those paying for robo-calls, enforcing disclosure is very difficult. It can consume many staff hours, time, and expense obtaining phone and consultant records, etc. That has not stopped ELEC from enforcing the law, including cases involving robo-calls.

The challenge for regulators is to not only stay on top of the technology boom but to develop ways to insure disclosure while not impeding free and open political dialogue.

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The opinions presented here are his own and not necessarily those of the Commission.