



May 23, 2019

Lisa Stevenson, Esq.
Acting General Counsel
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RE: Comment on Draft Interpretive Rule on Paying for Cybersecurity
Using Party Segregated Account (Agenda Doc. No. 19-21-A)

Dear Ms. Stevenson,

Campaign Legal Center respectfully submits this comment in response to the Commission document entitled “Draft Interpretive Rule on Paying for Cybersecurity Using Party Segregated Account,” which the Commission made public on or about May 21, 2019, for its May 23 open meeting.

CLC concurs wholeheartedly with the comment submitted yesterday in this matter by Democracy 21. As Democracy 21 notes, federal law provides the Commission no statutory authority to take the proposed action, the Commission has done nothing to delineate impermissible uses of the relevant accounts, and the Commission’s plan to promulgate the rule without public notice and comment flagrantly violates the Administrative Procedure Act.

In addition, we note that one Commissioner has [described](#) the draft rule as being modeled on S. 1569, the Federal Campaign Cybersecurity Assistance Act. Campaign Legal Center [supports](#) that bill, but the Commission’s proposed rule omits one of the legislation’s most critical provisions: that “cybersecurity products or services . . . that are provided at less than fair-market value to a political committee or a candidate for Federal office . . . other than in accordance with [the bill], shall be considered an in-kind contribution.” Such a provision is necessary to make clear that the new rule would supplant, not supplement, the Commission’s prior rulings in this area. Otherwise, the rule would simply add another invented exception to

the Commission's record of statutory derogations. *See, e.g.*, Advisory Opinion 2018-11 (Microsoft) (concluding that corporate contributions do not violate federal ban on corporate contributions).

We respectfully urge the Commission to reject the proposed rule.

Sincerely,

/s/ Adav Noti

Adav Noti

Senior Director, Trial Litigation

/s/ Brendan Fischer

Brendan Fischer

Director, Federal Reform Program