

Brennan Center for Justice
Summary of Major Rulings in the District Court Decision in
***McConnell v. FEC* (May 2, 2003)**

Provisions Upheld or Held Non-Justiciable

Soft Money (Title I):

- Restrictions on national or state party use of soft money on advertisements, in any media, which clearly identify a federal candidate and promote or support a candidate or attack or oppose a candidate, regardless of whether the advertisements expressly advocate a vote for or against the candidate. BCRA § 101(a).
- Ban on federal officeholders raising or using soft money. BCRA § 101(a).
- Ban on soft money use by state officeholders or candidates to fund any public communication that identifies a candidate for federal office and promotes or opposes such a candidate. BCRA § 101(a).

Electioneering Communications (Title II):

- The following portion of the secondary definition of “electioneering communication”: “any broadcast, cable, or satellite communication that promotes or supports a candidate for [federal] office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate).” BCRA § 201(a). The language in the definition’s parenthetical is an explicit rejection of the magic words test.
- Ban on use of corporate or union treasury funds to fund electioneering communications. BCRA § 203(a).
- Application of ban on corporate electioneering communications to nonprofit advocacy groups, BCRA § 204, except for narrow category of advocacy groups that are purely political, accept no corporate or union money and are not corporate or union controlled, and provide no economic benefit to members (so-called *MCFL* organizations).
- Requirement that the sponsor of an electioneering communication file a report identifying any donors that gave more than \$1,000 to the group that ran the electioneering communication, BCRA § 201(a), so ad sponsors cannot hide behind misleading names.

Coordination (Title II):

- Treatment of expenditures coordinated with party committees as contributions to those committees. BCRA § 202.
- Requirement that the Federal Election Commission redraft its regulations on coordination (held nonjusticiable). BCRA § 214(b)-(c).

Miscellaneous (Title III):

- Requirement that the sponsor of an election-related ad (whether or not broadcast) identify itself in the ad. BCRA § 311.
- “Millionaire Provisions” (held non-justiciable). BCRA § 304, 316, 319.
- Higher contribution limits (held non-justiciable). BCRA § 307.

Provisions Struck Down

Soft Money:

- Restrictions on national or state party use of soft money for non-federal purposes or mixed federal/non-federal purposes. BCRA § 101(a).
- Restrictions on national or state party use of soft money (money contributed in unregulated amounts from any source) on voter registration activities, voter identification, get-out-the-vote activity, or generic campaign activity, and on services provided by an employee of a State, district, or local committee who spends more than 25 percent of that employee’s compensated time on activities in connection with a federal election. BCRA § 101(a).
- Ban on national, state, or local parties giving money to nonprofit groups that spend money on federal elections. BCRA § 101(a).

Electioneering Communications:

- Primary definition of electioneering communications (broadcast ads that refer to a candidate, air within 60 days of the election or 30 days of the primary, and are targeted to the voters in the candidate’s district). BCRA § 201(a).
- Portion of secondary definition that would have limited the definition only to ads that are suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. BCRA § 201(a). This clause introduced a version of the “reasonable person” test. Striking the clause leaves BCRA with a definition of “electioneering communication” that is broader than either of the two original definitions.

- Requirement that funders of electioneering communications disclose their expenditures before the ads are run, when the money to run the ads is committed. BCRA § 201(a).

Coordination:

- Requirement that parties choose between making expenditures coordinated with candidates and making expenditures of unlimited amounts. BCRA § 213.

Miscellaneous:

- Ban on contributions by minors. BCRA § 318.
- Requirements for record-keeping and disclosure of information about broadcast ads. BCRA § 504.