Response to Professor Gibson's November 5th Supplemental Rebuttal

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Professor Gibson's supplemental rebuttal of November 5 repeats his earlier charge that the coding of question 6 (regarding an advertisement's purpose) for eight storyboards reflects a deliberate effort to manipulate some of the results reported in *Buying Time 1998*. In this response, I also repeat my written and oral testimony about the coding process and these storyboards, and I offer a brief discussion of the content of the disputed storyboards themselves. This analysis leaves no doubt that the final coding of these commercials is correct, and with it, the findings reported in *Buying Time 1998* and in my affirmative report.

The occasion for Professor Gibson's latest submission is his discovery that an early version of the CMAG data set ("307k final3") includes different coding of question 6 for six of these eight storyboards than found in the later versions.[1] This is hardly surprising. All the participants in this project have acknowledged that various minor corrections of missing data and internally contradictory data occurred in the months after the data set became available. Professor Gibson's latest rebuttal does not report the other small changes made between "307k final3" and "307k final4," nor does he put these changes into the context of a data set of approximately 16,000,000 data points (i.e. the number of cases times the number of variables). Instead, he suggests that any changes to any student's coding of question 6 reflects an intentional effort to reduce estimates of BCRA's effect, in the process ignoring sworn testimony by all of the participants in the project and the written record of e-mails and command files that we have provided.

There is, of course, a simple and straightforward alternative to Professor Gibson's suspicions, one that everyone connected to the data set has affirmed and that every scholar who works with large and small data sets will immediately recognize: an effort to make the data set as sensible and accurate as possible. Much of our work identifying potential errors in the data set (of any kind, with respect to any of the questions on the coding sheet) comes from searching for internal contradictions in the data, a common process. Two such contradictions are readily apparent in the coding of question 6 for these eight storyboards in "307k final3." To start, five of the eight ads have values coded for question 7 thru question 18, which they should not, under the instructions provided to the coders, unless they viewed them as electioneering advertisements rather than genuine issue ads. This was an error discussed in Professor Gibson's affirmative report and my rebuttal that might have attracted attention during the preparation of Buying Time 1998. In addition, all of these ads were scored in a parallel process on another variable, "favcan," as favoring a Democratic or Republican candidate. Again, the potential conflict between question 6 and favcan should have attracted attention as the data set was being prepared.

Professor Gibson's position about such conflicts now seems to be that the student coders' decisions should be rigidly adhered to, although it is not clear how he would resolve

[1] The purpose of advertisement #2 was coded as "promoting the election or defeat of a particular candidate" and another commercial, #7, was coded as missing data on the same item (Gibson Report at 4).

disagreements among student coders (several exist in Exhibit 7 to his affirmative report). Previously, of course, he suggested that student coders could not be trusted to reach accurate perceptions about the storyboards, especially without a training program (Gibson Report at 10). Not only are these two extreme positions entirely incompatible, each is wrong. The point of having a combination of student coders and an expert like Professor Goldstein working to prepare the data set is to take advantage of their disparate strengths, not to automatically confer ultimate authority on one over the others.

The test of whether this process worked as intended is whether the ads are coded properly. Incredibly, Professor Gibson avoids this issue entirely. It is clear from examining the disputed storyboards, however, that coding decisions in the later versions of the data set (the ones used for *Buying Time 1998*) are correct. For brevity's sake, I restrict my comments to five of the storyboards discussed by Professor Gibson, eliminating the two that are not coded as pure issue advocacy in "307k final3" (see fn. 1 above; neither ad is included in Professor Gibson's latest calculations of BCRA's impact) and another ad (#1411) that I testified having had some conversations about. The latter, an ad criticizing Wisconsin Senators Feingold and Kohl for their positions on partial birth abortion, is an admittedly close call, but one that only appeared 6 times in 1998 and thus would have no real effect on any calculations of BCRA's impact regardless of its question 6 coding. That leaves five ads (attached below): two spots by the AFL-CIO and three by the Americans for Limited Terms ("AFLT") (Attachment 1).

Both AFL-CIO ads focus on the same subject, a plan (or "scheme" as it is called by the AFL-CIO) described as weakening the Social Security system by using its money to fund tax cuts. If this topic by itself is not familiar enough from the last two decades of campaign rhetoric, both ads also use another staple of partisan politics from 1998, Speaker Newt Gingrich, to drive their point home by linking this plan to him. Given Speaker Gingrich's extreme unpopularity at that time, especially among Democrats, it is hard to imagine how either ad could be anything but an attempt at electioneering. This is reflected in the coding instrument itself that lists "friend of Newt Gingrich" as a potential attack used against a candidate (q15-6). Indeed, there were more than 20 ads by Democratic candidates and parties linking specific candidates to Speaker Gingrich contained in the 1998 data base.[2] Attached is one of these ads (#843) by Democratic House candidate Chris Gorman on Representative Anne Northup that precisely echoes the AFL-CIO's attack on Northup in one of Professor Gibson's disputed ads (#15) (Attachment 3). Of course, unlike the AFL-CIO ad, the Gorman ad was paid for with hard money, its financial details were reported to the FEC and it is already treated as electioneering because it was aired by a candidate.

The term limits ads are equally clear-cut. One, #21, connects "career politicians" to increased taxes and claims that the candidate named wants to "follow the path of career politicians." The other two (#16 & #22) are only slightly less obvious**,** discussing candidates while using the visual of spaghetti cooking in a pot of boiling water to illustrate the point that politicians lose their backbone when submersed for long in the "boiling cauldron" of Washington politics and begin siding with "power brokers and special interests" against their constituents. Taxes are, of course, a common theme in political campaigns, as are accusations about being

[2] The others are idnumbers 125, 679, 752, 809, 825, 826, 842, 843, 867, 1082, 1083, 1085, 1386, 1717, 1726, 1903, 2870, 2873, 2884, 3046, 3419, 3442 (Attachment 2).

beholden to special interests, though the spaghetti image seems fairly unique. The electoral nature of these ads, all of which relayed that specific candidates had been asked to sign a term limits pledge and tied their refusal to do so to submitting to special interests is unmistakable. In fact, the target of one of these ads, Representative Merrill Cook (R-UT), claimed that a representative of the organization threatened to run ads against him months before. Said Cook: "Huey Ridge called me up two months ago and said if I didn't sign the pledge, he'd make sure there was an (advertising) campaign run against me in the district that would cost more than $100,000. I told him to go to h---."[3]

There are other factors that also support the coding of these three ads as "promoting the election or defeat of a particular candidate." They appeared within a few weeks of Election Day, months after the candidates had refused to sign the term limits pledge. They ran up until the day before the election (except for #21, recorded as appearing only once in any of the top 75 markets). The candidates mentioned were involved in the three of the most competitive races in the country (KY 4, UT 2, and WI 2). In addition, AFLT and its affiliate, U.S. Term Limits, ran 19 other ads besides these three.[4] Seventeen of these other term limits ads, including a number of positive spots congratulating candidates for having signed term limits pledges, are listed in the "307K final3" data set as promoting a particular candidate on question 6. Given the content of these three disputed ads and the circumstances in which they appeared, it makes sense to code them as other similar spots are scored.

In short, none of these ads can reasonably be categorized as pure issue ads. The fact that some coders at some point may have thought so – on such a small number of ads out of the thousands coded – is an understandable part of the process. That these errors would be detected and corrected is part of the same process, as Professor Gibson must surely be aware. The notion that a small handful of mistakes must be perpetuated because they were once made is both ludicrous and an extraordinary departure from the usual practice of compiling data sets. Professor Gibson's argument would be more credible if he offered any explanation for why these commercials really are pure issue ads. His silence on this topic speaks volumes. Instead, these ads offer a fairly clear rationale for BCRA's passage and for its requirement that their sponsors, like other sponsors of campaign ads, use hard money and disclose their financing.

As a result, Professor Gibson's latest calculations that the true proportion of issue ads affected by BCRA's 60-day window that are pure issue ads ranges from 50.5 to 60.1 percent are incorrect for they rely on the mistaken view that these storyboards are pure issue ads. Again, this exercise confirms that it is possible to use the wrong numbers and the wrong calculation to reach the wrong results. The challenge is to reach the right figures, as I have done in *Buying Time 1998* and my affirmative report.

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[3] See Bob Bernick Jr., "Cook does not get endorsement of U.S. Term Limits," Deseret News (October 14, 1998) (Attachment 4). The source of the disagreement between Representative Cook and Mr. Long is somewhat murky since Cook had been a strong supporter of term limits and he retired in 2000 after just two terms.

[4] These are idnumbers 17, 20, 2282, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2531, 2532, 2533, 2987, 3400 (Attachment 5).