

OPPOSE EFFORTS TO REGULATE GRASSROOTS LOBBYING

Dear Member of the Subcommittee on the Constitution, Civil Rights, and Civil Liberties:

The undersigned organizations urge you to reject efforts to regulate paid attempts to stimulate grassroots lobbying. The Senate wisely rejected such an effort, and we urge you to do likewise. In a representative democracy, citizens not only have the inviolable right but also should be encouraged to contact their elected representatives. Erecting reporting barriers, particularly when coupled with civil and criminal penalties for failure to report, raises the stakes for inadvertent compliance failure and discourages such communication.

Placing any reporting requirements on efforts to communicate with the general public and thereby “stimulate grassroots activity” would seriously undermine the basic premise of our system of government. The rights of the grassroots, who are “citizen-critics of government,” encompass the separate and distinct political freedoms of petitioning, speech, the press (publishing), assembly and even the free exercise of religion. All are highly prized and protected under the First Amendment for all citizens. Indeed, not only would the legislation violate all five individual First Amendment rights stated above, but would harm the very essence and purpose of the First Amendment – the right of the people to express ideas among themselves, and to collectively express their will to their elected representatives.

Imposing any reporting requirements would chill these rights, particularly for smaller and unpopular organizations, but regardless of size, citizen groups are entitled to freely speak to the public on policy concerns. Coupling these reporting requirements with criminal penalties for compliance failure makes it even more likely that organizations of all sizes will forego this activity rather than risk sanctions for noncompliance. Additionally, groups that are disfavored are less likely to wish to be identified in a public report as funding efforts on a specific policy position for fear of reprisal by both the government and citizens in the majority.

Proponents of regulation argue that something needs to be done to regulate so-called “Astroturf” lobbying. We do not necessarily agree that such communications need to be regulated, and we have yet to see an adequate definition of “Astroturf lobbying” that does not infringe on what *everyone* agrees is entirely legitimate and fully protected activity. Neither the size nor form of an organization nor that of its efforts to inform or motivate citizens make its public communications dangerous in a democracy. The First Amendment protects the right of citizens on their own or collectively through their associations to express their will or discontent to Congress. Required reporting of the members, their agents or even funders behind such efforts eliminates or reduces no real threat, but instead creates a barrier to the free and open expression of ideas that is the hallmark of a democracy.

The burden of proof that some harm is being targeted, rather than core political speech, lies with the proponents of the grassroots legislation. There is no factual record to sustain

the assertion that these burdens on fundamental rights are warranted or that paid efforts to stimulate grassroots lobbying needs to be regulated. These efforts wrongly assume that constituents who contact their representatives are not doing so “voluntarily” if someone seeking to stimulate grassroots lobbying has first contacted them. In fact, *how* the individual learned of the issue that motivated him to contact his representative is irrelevant. The *action* taken by that individual in making contact is based on the individual’s own belief in the importance of the matter.

A grassroots lobbying provision would not be based upon a record demonstrating illegal or unethical conduct. To the contrary, proposals thus far cover a vast range of legitimate, constitutionally protected activities by individuals and groups that merely seek to inform their fellow citizens and encourage them to make their voices heard on important public issues. Given the impact on fundamental constitutional rights, the House should not use this opportunity to suppress the people’s voices and their right to voice their opinions to their elected representatives. We therefore urge you to reject any efforts to regulate grassroots lobbying.

Sincerely,

American Association of Christian Schools
American Center for Law and Justice
American Civil Liberties Union
Center for Individual Freedom
Concerned Women for America
Council for Citizens Against Government Waste
Eagle Forum
Free Speech Coalition, Inc.
GrassrootsFreedom.com
Home School Legal Defense Association
National Religious Broadcasters
National Rifle Association
National Right to Life Committee
National Taxpayers Union
RenewAmerica
RightMarch.com
The American Conservative Union
Traditional Values Coalition