

IN THE SUPREME COURT OF THE UNITED STATES

Nos. 02-1674, et al.

MITCH MCCONNELL, SENATOR, ET AL., APPELLANTS/CROSS-APPELLEES

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOTION OF THE FEDERAL ELECTION COMMISSION, ET AL.,
FOR DIVIDED ARGUMENT

The Solicitor General, on behalf of the Executive Branch appellees/cross-appellants Federal Election Commission, et al. (appellants in No. 02-1676), respectfully moves for divided argument in these cases. Appellees/cross-appellants Senator John McCain, et al. (appellants in No. 02-1702), agree to the division of argument time proposed herein and accordingly join in this motion.

1. These consolidated cases involve a variety of constitutional challenges to the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. On June 5, 2003, this Court issued an order noting probable jurisdiction in these cases, setting the cases for oral argument on September 8, 2003, and allotting a total of four hours for argument.

2. In addition to the Executive Branch parties, the McCain defendants intervened in the district court to defend the

constitutionality of BCRA. The Executive Branch and McCain defendants are the only parties in these consolidated cases who are defending BCRA against the plaintiffs' constitutional challenges. We respectfully move that the argument time allotted to the defendants be divided as follows: one hour and 20 minutes for the Executive Branch parties, which the government contemplates would be divided relatively equally between the Solicitor General and the Principal Deputy Solicitor General, and 40 minutes for the McCain parties.

3. With respect to the questions presented in these cases, we respectfully move that the argument time be allotted as follows: two hours for Title I and Section 213 of BCRA, and two hours for the remainder of the challenged BCRA provisions. Title I and Section 213 of BCRA principally regulate the conduct of national and state committees of political parties and of individual officials of the parties. The remaining BCRA provisions principally regulate the conduct of individuals and entities other than political parties and their officials. Allotment of a specified portion of the argument time to each of those categories of issues is likely to result in a more focused and coherent presentation than if the plaintiffs and defendants were unconstrained in the use of their allotted time. If the Court wishes to subdivide the argument time further, it could do so as follows: one hour and 30 minutes for Title I; 30 minutes for Section 213; one hour and 30 minutes for Title II (other than Section 213); and 30 minutes for the challenged provisions contained within Titles III-V.

Respectfully submitted.

THEODORE B. OLSON
Solicitor General
Counsel of Record

JULY 2003