



April 26, 2016

The Honorable David Roe
Chairman, Subcommittee on Health, Employment,
Labor and Pensions
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jared Polis
Ranking Member, Subcommittee on Health,
Employment, Labor and Pensions
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Roe and Ranking Member Polis,

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 members, I am writing in regards to the April 27 Subcommittee on Health, Employment, Labor and Pensions hearing titled, "The Persuader Rule: The Administration's Latest Attack on Employer Free Speech and Worker Free Choice." We appreciate you calling this hearing and your attention to this important matter.

In June 2011, the U.S. Department of Labor (DOL) issued proposed changes to redefine "persuader" activity under the Labor Management Reporting and Disclosure Act (LMRDA). Section 203 pertains to federal reporting and disclosure requirements for individuals and entities hired by employers "to persuade employees to exercise or not exercise or persuade employees as to the manner of exercising, the right to organize..." Employers and true "persuaders" have long been required to file disclosure reports with DOL. However, when attorneys or consultants do not communicate directly with employees, but instead simply advise the employer, they have not been required to disclose. DOL's proposal virtually eliminates this exemption, resulting in the drastic expansion of the types of circumstances that will trigger reporting—including communications between attorneys and their clients. The proposal denies employers their rights to free speech, freedom of association and legal counsel, and deprives employees of their right to obtain balanced and informed input as they decide whether to be represented by a union.

The rule will require complex and unprecedented levels of disclosure for attorneys, consultants, associations and other professionals who provide advice to employers about how to legally communicate with their employees.

It is essential that employers in the construction industry retain the ability to receive expert counsel and advice on labor relations matters. The vast majority of employers are small businesses without in-house attorneys or advisors; accordingly, they should not be burdened with vague and intrusive reporting regimes before, during and after a union organizing campaign.

ABC supports a resolution introduced by Rep. Bradley Byrne (R-Ala.) (H.J. Res. 87) under the Congressional Review Act to prevent DOL from proceeding with this dramatic overreach and we urge all members of Congress to support this resolution.

Thank you again for calling this hearing and we look forward to working with Congress to protect American businesses and their employees.

Sincerely,

Kristen Swearingen
Vice President of Legislative & Political Affairs

