

October, 2007

TO: Interested Parties
FROM: Jim Kessler, VP for Policy and Rachel Laser, Director of the Culture Program
RE: How to Talk About ENDA Support

This week, the House of Representatives will take up legislation entitled the Employment Non-Discrimination Act (“ENDA”) which will provide legal protections for gays and lesbians in the workplace. Third Way supports this legislation and sees it as the next step on America’s journey toward fulfilling the promise of our founders— one of an accepting society that protects the rights of all to pursue life, liberty, and happiness. We realize that along America’s journey toward this ideal, some steps were difficult at the time. But looking back, we have steadily progressed toward a stronger, freer nation.

ENDA takes a next careful step. It is common ground legislation that provides appropriate protections for gays and lesbians without putting onerous restrictions on business. It is significant, in our view, that the business lobby has largely stayed out of this debate even though the legislation targets companies. It demonstrates that many in business do not see ENDA as burdensome and they realize that most employers are already ahead of Washington when it comes to non-discrimination laws.

In addition, lawmakers have listened to the concerns of people of faith. This legislation exempts faith-based employers who may feel that the hiring of gays and lesbians violates religious doctrine. Thus, supporters can reject what groups like the Traditional Values Coalition say about the legislation. This concern has been addressed.

The rest of this memo is meant to provide message guidance to lawmakers who seek to support ENDA. It is based on our extensive original quantitative and qualitative research into gay and lesbian equality issues. Our message advice is divided in two short sections: Section 1 identifies the target audience you should focus on; and Section 2 provides advice on how to reach them most effectively.

Section 1: Concentrate on persuading the “Grays,” not the persuaded or un-persuadable.

The Grays represent the large segment of the population that is ambivalent about, but not hostile to, expanding gay and lesbian protections. On the one hand, they want to be fair and open-minded. On the other, they worry about what the consequences of that change means to society, families, and children.

They are turned off by both sides of the debate. They think the far-right is too mean-spirited and obsessive about the gay issue. They find the left elitist and dismissive of their concerns. They don't want to be associated with the language and attitudes of the far-right. They feel the left looks down their noses at them, sees them as simpletons, and implies that their ambivalence is really bigotry.

The Grays are up for grabs and can be persuaded, but their concerns must be addressed, not dismissed.

Section 2: Connect effectively with the Grays.

We offer three pieces of advice on how to connect and persuade the Grays.

1. Show how this is a reasonable fix to a real problem.

Don't assume that people believe that discrimination against gays and lesbians in the workplace really exists. Our research found that on most gay issues (including relationship recognition and employment non-discrimination), many Americans, including the Grays, see gays as more of a protected class than a discriminated one. That is why the "special rights" argument from the other side has traction.

The Grays need to be convinced that there is a problem to be solved, and the solution is narrowly tailored to solve it. The problem must be defined within a size and scope that is believable to them.

This legislation says that you cannot fire someone for being gay who is otherwise doing a good job. Although the large majority of the most successful businesses in America already ban this type of behavior, many businesses employing millions of people in America still do not. This law would catch all of America up to where leaders of corporate America are already going. And it would ensure that everyone is judged at work on the job they do and nothing more. That is the American way.

2. Make clear that people's concerns were directly addressed.

The Grays don't want their concerns steamrolled over, so supporters must show that they were heard and addressed. That means talking about this legislation in terms of a common ground solution that took account all sides. It is not onerous for employers, because they raised legitimate concerns that were addressed. There is a specific exemption for religion, that respects the foundational American principle of protecting the freedom of religious communities to follow their own doctrines. And ENDA is careful not to create, or imply, any rights for gays and lesbians that every other employee doesn't already have.

We listened to people on both sides of this issue to find common ground. We wanted to make sure that businesses would not be burdened by the law and that religious institutions would remain untouched.

3. Frame this as Progress for America, not a civil rights battle.

We asked people whether they thought same-sex civil unions would be allowed throughout America within the next 10 years and 70% said yes. When we asked whether they thought this constituted progress for America, only 49% said yes.

In both our quantitative and qualitative testing, it was striking how many people felt that expansion of gay rights was inevitable but how many simultaneously worried about what it meant for America. We also learned that “the fight” for rights was a turn-off to all but the most liberal Americans.

The civil rights frame is tempting and it is powerful, but it has limitations in this particular context. Gays and lesbians do not “appear” oppressed to many people in the way blacks in the 1950s and 1960s did (they were overwhelmingly poor and suffered outward and visible humiliation and discrimination). By contrast, the Grays see the gay community as made up of largely wealthy and successful individuals.

Furthermore, the Grays want to take their time, deliberate, and move forward in a non-confrontational manner. The Grays are willing to move ahead if it seems the step is truly necessary and well-thought out.

This is the next careful step along America’s journey to fulfill its national ideals. In the past, each time America took a step forward, many were scared. But looking back, it was always the right step for America to take to make us a freer and stronger nation.