

PACs, Super PACs, and *Citizens United*

What's this all about?

Welcome to the world of Super PACS. Super PACs are a newly created vehicle used to funnel enormous sums of money into the political process. The original form of PACs – political action committees – have actually existed since the 1940's. They are limited to accepting donations of no more than \$5,000 from individuals, and contributions are not allowed from corporate treasuries or union dues, but they can donate directly to campaigns.

Now, as a direct result of the 2010 decision of the U.S. Supreme Court in the case of *Citizens United v. Federal Election Commission*, corporations, unions, and individuals are allowed to spend unlimited amounts of money communicating political messages. However, with donations directly to candidate campaigns still limited to \$2,500 from individuals and not permitted from corporations, Super PACs were created to collect and spend large sums to influence elections.

Contributions to the Super PACs are permitted from **all types of donors** and come in all sizes up to \$250,000, \$500,000, \$1 million or more. Disclosure of contributors is required, but certain “501c”-type organizations, where disclosure is not required, can contribute to Super PACs, thus keeping contributors' names undisclosed. Also, deadlines for disclosure often reveal sources after elections are over.

The *Citizens United* case overturned decades of limitations on **political** contributions **that had** culminated in the McCain-Feingold Act of 2002. The 2010 Court decision struck down a key provision of this law which prohibited corporate or union spending on “electioneering communications” such as advertisements, within 30 days of a general election or 60 days of a primary, ruling that the free speech clause in the First Amendment to the Constitution prohibits such restrictions.

The case arose because a non-profit corporation, Citizens United, wanted to advertise and televise a film critical of Hillary Clinton when she was a candidate for the presidency. Under the McCain-Feingold Act, a U.S. District Court blocked the film from being shown during the 2008 primaries. Citizens United then appealed that decision to the Supreme Court.

In the 5-4 majority decision the Court held that under the right to freedom of speech guaranteed by the First Amendment, corporate funding of independent political broadcasts cannot be limited. It maintained that political speech is indispensable to a democracy, and that this is no less true when the speech comes from a corporation.

The dissenting opinion argued that the idea that corporations must be treated the same as natural persons is inaccurate. Corporations are not human beings; they cannot vote or run for office. Corporate influence, due to the amount of money they can spend, may drown out the voices of real people.

Critics of the decision say that it has opened the floodgates for billions of dollars in corporate money, further corrupting an already corrupt political process. They also contend that various courts have used this doctrine to strike down a whole range of laws important to the public, from clean elections to environmental protection, public health, consumer protection, and more. Even though Super PACs are supposed to refrain from contact or coordination with the candidates they support, the New York Times and other

news media have reported that many Super PACs are “closely entwined” with their favorite candidates’ campaigns, often sharing staff, office space and fundraising activities. Clearly many Super PAC donors are involved in businesses and industries which have financial agendas that can profit from governmental actions. Their ability to influence individual candidates and officials at all levels of government demonstrates the potential for corruption.

These changes in campaign finance law have led to a growing impression that the nation’s election finance system is broken. Our next article will discuss some possible solutions to this problem.

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