



IN THE KNOW, Election 2010: Political Ads and Campaign Spending

Back in January, the U.S. Supreme Court shook up the political world with a decision saying, for the first time, that corporations and labor unions have sweeping freedom to spend as much as they want on campaign ads that directly support or oppose political candidates.

What nobody knew then was exactly what this ruling would mean – would it open the floodgates for non-stop political ads?

Now we know the answer – and it's playing out over and over, night after night, on your television screen as Pennsylvania becomes a battleground in the fight for control of Congress. With the stakes as high as they are in this election, there would be plenty of ads anyway, but the court decision has taken it to new heights.

This week, as part of our Election 2010 project in collaboration with Philly.com, IN THE KNOW takes a look at the flood of campaign ads: who's behind them and why we're seeing so many.

-- October 27, 2010

I'm bombarded with political ads. Am I imagining it, or are there more than usual?

Candidates and political parties tend to run a lot of ads right before an election. We haven't counted, but there are definitely more political ads this fall – and more to come with polls reporting a tightening race between Republican Pat Toomey and Democrat Joe Sestak for Pennsylvania's open U.S. Senate seat.

Why are there so many ads?

It goes back to January of this year, when the U.S. Supreme Court ruled on a case called "*Citizens United v. Federal Election Commission*" – generally referred to just as *Citizens United* – that corporations and unions could spend their own money on political ads to directly support or oppose candidates for elective office.

Was this something new?

Yes. The Court's decision dramatically reversed almost 60 years of law that forbid corporations and unions from spending their own general funds on political ads that expressly urge people to "vote for," "vote against," "support," or "defeat" specific candidates.



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Don't corporations already give a lot of money to candidates?

Yes, and Pennsylvania is one place they do. Unlike presidential and congressional candidates, who are subject to a campaign finance law limiting donations to their campaigns, Pennsylvania permits unlimited contributions. Although corporations can't give money directly to candidates, they can give as much as they want to candidates for Governor and the state General Assembly through their "political action committees," or PACs, groups organized to elect candidates.

Isn't giving from a PAC essentially the same thing as giving from the company itself?

The difference is that PACs raise money from individuals within the company. The company itself cannot fund the PAC from its general accounts. The Supreme Court ruling, however, opened the door for those general funds to be used directly to buy ads.

Why would the Supreme Court allow this?

Basically, it's about the right to free speech in the First Amendment of the Constitution. But it used to be applied just to individuals. In *Citizens United*, the Supreme Court extended that same right to corporations and unions. They said the government was guilty of censorship if it tried to command "where a person may get his or her information or what distrusted source he or she may not hear."

Is this a good or bad decision?

Like most court rulings, reactions are mixed. It depends on whether you support regulations on campaign contributions and spending – or you don't. The Committee of Seventy expressed concern about the ruling at the time and we prepared some background on the case from an earlier IN THE KNOW, available here:

[http://www.seventy.org/OurViews/In the Know Will Corporate Dollars Overwhelm Campaigns.aspx](http://www.seventy.org/OurViews/In_the_Know_Will_Corporate_Dollars_Overwhelm_Campaigns.aspx)

So Citizens United really has opened the floodgates for political ads in 2010?

Yes. A great deal is at stake in this mid-term election, which what an election year in the middle of a president's term is called. To take control of the U.S. Congress, for example, Republicans need to gain 10 seats in the Senate and 39 seats in the House. The common wisdom is that more spending will yield more votes and could push the GOP over the top.

How much money are corporations and unions actually spending?

The numbers change every day as the November 2 election gets closer. As of October 18, the Center for Responsive Politics, which tracks spending by outside groups (groups not affiliated with a candidate or political party) reported \$167 million in spending nationally – up from \$69 million and \$27 million during the 2006 and 2002 midterm elections respectively.



That's a lot of money. Who is the biggest outside spender?

This answer may be old news by the time you read this. But on national races as of October 22, CBS News reported that the GOP-leaning U.S. Chamber of Commerce has spent \$28 million, while the top outside spender for Democratic candidates is the American Federation of State, County and Municipal Employees (AFSCME), a union that represents many public workers, with at least \$23 million (a Wall Street Journal story put the union's spending at almost \$88 million). This doesn't include giving by members of the Chamber or AFSCME through their PACs.

How much money has been spent in Pennsylvania?

The numbers are still in flux. But the Center for Responsive Politics says that, as of October 25, only Colorado topped Pennsylvania in outside spending for a U.S. Senate seat. What's especially interesting is that more outside money is going towards urging voters to vote against, a candidate, rather than for a candidate. Of approximately \$19 million all told, \$2.4 million has been spent to say "vote for," and \$6.8 million to say "vote against," Joe Sestak; \$1.3 million has been spent for, and \$6.8 million against, Pat Toomey.

How about in the big Congressional race in New Jersey?

The Third Congressional District contest between Democrat John Adler and Republican Jon Runyan is the hottest race in New Jersey this year, but outside spending hasn't come anywhere close to the Sestak-Toomey totals. According to the Center for Responsive Politics, as of October 25, about \$1.2 million has been spent: \$590,543 in support of, and \$403,509 against, Adler; \$3,295 in support of, and \$10,337 against, Runyan.

Is this all the money being spent on political races?

Not by a long shot. Candidates run their own ads, as do political parties. On top of that are funds spent by "527 committees," which are tax-exempt "issue advocacy groups" that are permitted to advocate either on behalf of or in opposition to political issues, but may not specifically push to elect or defeat a particular candidate.

Haven't we heard about "527 committees" before?

Oh, yes. Probably the most famous is the Swift Boat Veterans for Truth – a "527 committee" that spent over \$22 million to attack John Kerry in the 2004 presidential election. The group was forced to pay penalties when the Federal Election Commission, which administers and enforces the federal campaign finance law, said that some of its activities were improperly focused on influencing the outcome of Kerry v. Bush.

So that's everyone who can spend money on elections?

No, there are also non-profit organizations formed to "promote social welfare" under section 501(c)(4) of the U.S. tax code. These groups don't have to report their donors to the Federal



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Election Commission and are not allowed to devote a majority of their activities to partisan elections. But they can – and do – get involved in supporting candidates of their choice.

Is the big spending only in Congressional races? What about statewide races?

Although legal analysts predicted that the *Citizens United* ruling would extend to state and local races, it hadn't had much affect yet, at least in Pennsylvania. The Philadelphia Inquirer reports that virtually all spending in the governor's race has been made by the candidates - Democrat Dan Onorato and Republican Tom Corbett - and not outside groups. It's certainly possible, however, that companies and unions will get involved in future state and local races.

Should we expect to see political ads in Philadelphia's 2011 elections?

It's too early to tell. It depends on whether any races are hotly contested. But right after the Supreme Court's opinion was issued last January, some top executives of local companies said they weren't likely to spend their general funds on ads to support or oppose city candidates. Companies and unions give most of their money to local candidates through their PACs, which are subject to limits in the city's campaign finance ordinance.

Is anyone trying to rein in spending under Citizens United?

With President Obama's support, House Democrats tried to pass legislation requiring greater disclosure of the funds behind political ads (for example, heads of companies and unions would have been required to appear on camera during their ads). But the bill, known as the "Disclose Act," was successfully blocked by Senate Republicans, who said its provisions would have violated free speech rights.

So now what?

Since the Supreme Court in *Citizens United* said that political ads could run anytime, including on Election Day (overturning a ban on "electioneering communications" within 30 days of a primary or caucus or 60 days of a general election) brace yourself for more and more ads over the next week. If you are tired of them, look at the bright side: At least with the Phillies out of the World Series, there's less reason to watch TV.

In addition to being part of our Election 2010 project, this Q&A is part of a continuing debate about the appropriate role of money in political campaigns. The Committee of Seventy will keep you informed as this debate unfolds. In the meantime, please feel free to e-mail your comments, or requests for other IN THE KNOW topics you care about, to info@seventy.org. We look forward to hearing from you.