

["Citizens United": The Supreme Court Decision One Year Later](#)

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The Supreme Court issued its landmark opinion in *Citizens United v. FEC* one year ago today. That case **allowed corporations and labor unions to make independent expenditures for or against political candidates**. An [editorial](#) in today's Washington Post by the President of Citizens United and its lead counsel argues that the hysteria following that decision was unfounded because the amount spent by citizen groups in the last election paled in comparison to the amount spent by the Democratic and Republican parties and by the candidates themselves. Rather, the authors argue, the primary political speech to come out of the Supreme Court's decision has been that of independents, and politicians are upset by this because they cannot control the speech of independents.

As a reminder, the Supreme Court case arose as a result of a film directed against then Presidential candidate, Hillary Clinton. Citizens United was a nonprofit corporation that produced the film, and there was debate whether this was a "documentary" or an "electioneering communication," as well as whether distribution via video on demand constituted "public distribution" of the film. The Supreme Court found that the film was indeed an "electioneering communication" and that VOD was likewise a public distribution of the film. Thus, Citizens United ran smack up against the FEC prohibition on independent corporate political expenditures.

As we [blogged last year](#), the Supreme Court found that the prohibition on such corporate expenditures violated the **First Amendment right of speech** belonging to corporations and unions. This decision was followed by a firestorm of critical comments, including those of [President Obama](#) in last year's State of the Union address. The fear among many was that the money of big corporations would overwhelm the political messages of others who are less able to afford advertising time and that those corporations would therefore have a disproportional voice in future elections.

The [editorial](#) in today's Washington Post argues that those fears have not been realized, and that permitted corporate political expenditures are still vastly outspent by the major parties and candidates themselves. While the editorial's authors are not unbiased, their point is well taken as to the first election since *Citizens United* was decided.

What we do not know, of course, is what effect *Citizens United* will have on a Presidential election, although we will find that out within the next two years for sure. We also do not know

whether corporate political expenditures will increase over time as those new First Amendment rights become realized. However, most big corporations have directors and shareholders holding all sorts of political viewpoints. It is unlikely that many publicly traded companies will want to risk offending investors by siding with a Democrat or Republican candidate.

So, perhaps the fears that followed the Supreme Court's decision were indeed misplaced, and *Citizens United* was a true victory for the First Amendment, as today's editorial argues. The future will ultimately reveal any yet unrealized impact of this decision. Just as the Supreme Court made its decision a year ago in view of all the circumstances then existing, it can just as easily revise its holding in the future should different circumstances warrant correction.

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