



## Supreme Court Ruling Changes Campaign Landscape for Big Business

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When President Obama in his State of the Union address chastised the Supreme Court for its ruling allowing corporations to support a political candidate, potentially allowing foreign interests to influence elections, Justice Samuel Alito was caught by cameras shaking his head and mouthing the words “simply not true.”

The high-profile moment reveals the chasm the decision opened between free speech advocates and those who believe the political process is already over-burdened with special interests.

The decision by the court overturned two earlier precedents that limited the use of corporate treasury funds to support a political candidate on the grounds that the restrictions impinged on free speech. In the past, a company or trade union could only donate money using a political action committee, or PAC, which was generally funded by employees.

The ruling wiped out that restriction and will allow unions and corporations to spend money on political advertising in direct support of a candidate. Both are still prohibited from donating directly to a candidate, or from working directly with a campaign. Also lifted were timing restrictions on campaign advertising, allowing companies can run an ads right up until election day.

Reaction to the decision has broken down into two camps. On one side are campaign finance reformers and Democratic lawmakers, who say the ruling will drown out the voice of the voters amid special interests spending vast amounts of money.

“This decision basically makes a bad situation worse,” said Mary Boyle, a spokeswoman for campaign finance reform advocate Common Cause. “The public’s voice is going to be further drowned out in favor of deep-pocketed industries.”

On the other are free speech advocates, businesses and some Republican lawmakers, who say the ruling upholds a foundation of American society: the right to speak freely.

Businesses embraced the court's ruling, saying the decision upholds "open and honest debate."

The ruling "protects the First Amendment rights of organizations across the political spectrum, and is a positive for the political process and free enterprise," said Robin Conrad, executive vice president of the National Chamber Litigation Center, the public policy law firm of the U.S. Chamber of Commerce.

Amid the war of words, there are several big winners from the decision, said David Donnelly, national campaign director for the Public Campaign Action Fund. First, deep-pocketed corporations will now wield tremendous power in politics. That power may not even come in the form of donations, but rather from the mere threat of campaign support, Donnelly said.

"If you are lobbying on behalf of an organization or a labor union that has the ability to spend money in an election, all you need to do is tell the legislator 'we are going to be active in this election cycle and reward our friends and punish our enemies.' You don't even have to spend the money for it to have an effect on legislation," he said.

Attorney Ciara Torres-Spelliscy of the Brennan Center for Justice at New York University's School of Law, said the ruling could make corporations more important to the process than the political parties, long the seat of power in the democratic process. After all, she said, a mammoth company such as ExxonMobil (XOM: 64.91, -0.52, -0.79%) could outspend both party organizations combined.

"If a corporation really takes this new license they have and uses it, voters may be bombarded with political ads that are misleading," she said. "What would happen is it would generate a noise machine around a particular candidate."

Also benefiting from the court's ruling are media companies, which are likely to see millions in additional revenue from political commercials. By some estimates political spending could increase by \$300 million in the coming election cycle, which will feature dozens of competitive national races.

Evan Tracey, president of the Campaign Media Analysis division of Kantar Media, said the additional money should more than offset a decline in political giving brought about by the faltering economy.

"We are forecasting political spending of \$2.6 billion to \$2.8 billion this year and I think this decision pushed that to the higher end," Tracey Said. "A lot remains to be seen because a lot of this money was getting in before the ruling."

Tracey said spending will likely increase toward the tail end of the election cycle as groups determine which races are in play. Still, he said ads with, for example, disclaimers like "I'm Pepsico CEO Indra Nooyi and I approve this ad" are still a long way off.

"I think many large companies are sensitive to the fact that their boards and their shareholders will not be jumping for joy to see them get political on either side of the aisle," he said.

Based on public response, it seems companies and politicians would do well to tread lightly in exercising their new found power. According to a poll conducted this week by Common Cause and the Public Campaign Action Fund, 64% of voters surveyed said they oppose the decision, with only 27% in favor. Three of every four voters said special interests already hold too much sway in Washington and 82 % said limits should be placed on campaign spending.

Several remedies to the ruling have already been discussed including one that would make federal elections largely publicly funded and another that would require corporations to get shareholder okay before using money to support a candidate.

On Thursday, Democratic Sen. Chuck Schumer of New York and Democratic U.S. Rep. Chris Van Hollen of Maryland called on Congress to pass legislation that would bar companies with more than 20% foreign ownership, government bailout recipients and government contractors from participating in elections.

The legislation the lawmakers plan to introduce next month would also require companies to inform shareholders about political spending, and force corporate chief executives to appear in political advertisements paid for by their companies. The legislators said they are considering whether to require shareholder approval of political spending.

“The Supreme Court decision opened the floodgates to a torrent of corporate money,” Schumer told reporters. “The good news is that there are solutions that can help repatch the dam.”

In a release, Public Campaign and Common Cause said the proposal was a good start but doesn’t go far enough. Representatives of the two groups urged Congress to pass their proposal for publicly funded elections.

“These are good first steps but as a package they fall short of getting to the heart of the problem of money in politics,” said Nick Nyhart, president and CEO of Public Campaign. “At the end of the day, these proposals still leave members of Congress dependent on money from Wall Street interests, insurance companies and the other deep pocket interests who control Washington, D.C. Congress needs to move quickly to enact the Fair Elections Now Act that gives voters control, and do so without delay.”