

We could see unions and corporations dominate campaigns because of Citizens United case



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BY JEFF BRINDLE

COMMENTARY

A recent U.S. Supreme Court ruling could give independent political groups even greater power over campaigns by enabling them to bury candidates in advertising blitzes they can't control.

By letting unions and corporations spend

virtually unlimited sums on campaigns as long as the funds are spent independently, the Citizens United case may usher in a period in which independent groups dominate campaigns by controlling the "air war" and defining which issues are paramount.

This clearly was not the intent of the Bipartisan Campaign Reform Act (BCRA) of 2002, better known as McCain-Feingold.

That federal law prohibited corporations, unions, individuals and others from making large "soft money" donations to national political parties. Most of those donations far surpassed the contribution limits that applied to individual candidates.

While the U. S. Supreme Court in January upheld the soft money ban that applies to the national parties, it is likely to spur the growth of outside political groups such as 527 non-profits that are not subject to that ban.

Even before the ruling, these groups had been assuming many of the roles traditionally played by political parties in providing assistance to candidates as they pursue elective office. But rather than representing a broad coalition of groups and individuals, independent outside groups tend to represent narrow interests.

While the high court gave corporations and unions more freedom to advocate on behalf of those interests, they are more

likely to channel their resources into 527 groups rather than spend directly on behalf of candidates.

This is because unlike more traditional political fundraising committees, nonprofits organized under section 527 of the Internal Revenue Service code are subject to more lenient disclosure requirements. They often can hide the full extent of their activities until a campaign is over.

That happened in last year's New Jersey gubernatorial campaign, when national 527 groups made large media buys to attack both candidates.

While the Citizens United may unleash more activity by independent groups, the case does not impact New Jersey's campaign finance laws directly. However, it does provide a great opportunity because it strongly endorsed more disclosure of financial activity undertaken by outside groups. This can be accomplished by amending federal and state campaign finance laws to require this disclosure.

Outside groups have a huge advantage over candidate and party committees because they can accept much larger checks from well-heeled donors.

This has the potential to enable them to take a lead role in campaigns.

For instance, they will be able to make media buys earlier than candidates because their war-chests fill up quicker. Even though candidates normally have available to them a television station's lowest price, these rates and time slots can be preempted by early ad-buyers. So in the heat of a campaign, 527 groups can monopolize ad-time traditionally reserved for candidates.

In the not-too-distant future, maybe even this November's Congressional elections, voters may witness more candidate ads being squeezed out by ads paid for by independent groups. Media buyers for candidates may be forced to look more toward less expensive online media that can be more narrowly targeted.

The influence of 527s and other outside groups may well grow in other areas as well, such as get-out-the-vote, voter registration, polls, and telemarketing.

Legislative reforms as well as court decisions often have unforeseen consequences. In the wake of McCain-Feingold and

Citizens United, the unforeseen consequence may well be the further empowerment of outside groups at the expense of political parties, candidates and the electorate.

That's why accountability for these groups is so important. Citizens United gave a strong vote of confidence to the principal of disclosure. So it is important that federally, and in New Jersey, reforms be enacted to require 527 groups to make the public better aware of their financial activities.

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