

Citizens united case

[Law](#), [Justice](#)



In January 2008, Citizens United released a documentary that was critical of Senator Hilary Clinton and planned to run commercials of it at that time. However, through the Bipartisan Campaign Reform Act, also known as the McCain-Feingold Act which “ prohibits corporations and unions from using their general treasury funds to make independent expenditures for speech that is an ‘ electioneering communication’ or for speech that expressly advocates the election or defeat of a candidate”, the United States District Court for the District of Columbia ruled that the commercials violated the act.

The case was brought up to the Supreme Court and would be one of the more important cases about the First Amendment with a controversial decision. On March 24, 2009, the Supreme Court took oral arguments from Malcolm Stewart, then Deputy Solicitor General representing the Federal Election Commission. He pointed out that with the current laws in place for the campaign-finance system, even a book that had the same content as the documentary would be banned. An even more disturbing point that Stewart made was that the government could ban a book that has just one sentence about candidate advocacy.

This caused the Supreme Court to ask the parties to reargue the case due to two cases that Stewart used: *Austin v. Michigan Chamber of Commerce*, a statute that prohibited a corporation to use its funds for or against a political candidate, and *McConnell v. Federal Election Commission*, the decision that upheld the constitutionality of the McCain-Feingold law. The reason for rearguing the case was to determine if they, the justices, should overrule

those two decisions. The court reversed the ruling from the lower court and overruled *Austin v.*

Michigan Chamber of Commerce and partially overruled *McConnell v. Federal Election Commission*. The overall ruling was 5-4 with Justice Steven's dissent that was joined by Justice Breyer, Ginsberg, and Sotomayor. Justice Kennedy, part of the majority opinion, believed that " If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech. " In general, the Justices in the majority opinion believed that the case was based mostly on the First Amendment.

Due to freedom of speech, corporations, whom the Justices believed were counted as individuals, could not be denied their right to voice out their opinion on running officials. The justices that favored the ruling brushed aside the warnings that might result in overturning the lower court's decision. The dissenting justices warned that treating a corporation's right to speech to be the same as an individual human was dangerous. However, eight of the justices agreed that Congress can require corporations to disclose how much they spent and to have disclaimers in the absence of facts.

Chief Justice Roberts, one of whom that was part of the majority opinion, believed that " the important principles of judicial restraint and stare decisis implicated in this case" had to be addressed. He believed that overturning a past decision, such as *Austin v. Michigan Chamber of Commerce* and *McConnell v. Federal Election Commission*, in certain circumstances were necessary. Roberts stated that cases such as <https://assignbuster.com/citizens-united-case/>

segregation and minimum wage would not be as of what they are today if it were not for judicial activism. Justice Stevens wrote a passionate dissent that was joined by the other three Justices who opposed the ruling.

He stated that the Court's ruling "threatens to undermine the integrity of elected institutions across the Nation." Because corporations and the general public could now spend unlimited money to promote or demote politicians who are running for office anytime, Stevens fears that it would cause a large disturbance in the election process. Although the majority opinion did not touch the laws about direct contribution to the candidates, part of the argument was whether a direct contribution versus an indirect contribution was the same thing.

The time between the case being introduced to the Supreme Court until the official ruling of the case created a large amount of publicity and different opinions. President Obama believed that the decision gave the corporations too much power to influence the election process. However, other politicians such as a Senate Republican leader, Mitch McConnell, believed that the First Amendment applied to corporations which would let corporations to voice out their opinions on campaigning officials. The fundamental question here is whether the Supreme Court's decision in Citizens United v.

Federal Election Commission a good decision or a bad decision. I personally feel that the arguments from both sides were valid. The fact that Congress essentially denied a form of free speech from a corporation is unconstitutional in my opinion. However, my opinion in corporations becoming involved in political campaigns where they might have a large impact on how people view a certain politician is that it is not fair. I

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believethat the decision made by the Supreme Court was good in part of retaining the First Amendment's freedom of speech but bad in part of the campaigning process for politicians.

The decision gives too much power to a corporation versus the general public. If a corporation was allowed to spend without limit in the elections, politicians could strategically support a topic that the corporation would benefit from. This would result in the corporation to have the power to directly contribute in the campaign by running their own ads that promotes the politician. Campaigning would then become a war of getting the support of many of the biggest corporations. This gives too much power to the corporations and essentially removes the voices of the general public.

As Obama pointed out in his state of the union address in 2010, it would also give the power to foreign corporations to help fund a certain election. I strongly oppose any kind of foreign involvement in any political activity in the United States. With the potential of candidates to "sell-out" to corporations would just ruin the whole election process. With the potential of unlimited spending of corporations, not only would they be allowed to endorse a political candidate, but they would also be able to attack candidates such as the documentary made by Citizens United.

With the current campaigning process, political candidates have created attack ads that give negative images of an opposing candidate. Now that corporations can voice their opinions, there may be an increase of these attack ads. Through an ethical standpoint, it ruins the integrity of the election process. The election process would not just become a fight

between politicians to gain support from corporations but also a fight of who can destroy another candidate's image to the public.

It not only defaces the opposing candidate, but it shows how dirty a politician can be. The election process turns into an all-out fight between candidates who would deploy such a tactic. With the inclusion of corporations now, it would worsen the current state of the campaigning process. I see why the Justices would overrule the lower court's decision due to the First Amendment. The argument made by Malcolm Stewart definitely gave the impression that the law was too restrictive in such a way that it banned any forms of view from a corporation of a political candidate.

I would agree with how the law would be unconstitutional through Stewart's argument; however, I would oppose it through an ethical view. A poll conducted by Washington Post showed that eight in ten poll respondents opposed the decision made by the Supreme Court. William Rehnquist, a former Supreme Court justice, also opposed the decision made by the court by joining the dissent made by Stevens. Sandra Day O'Connor, also another former Supreme Court justice, made a point that the checks and balances on campaign spending were demolished. However, O'Connor was an author of *McConnell v.*

Federal Election Commission. The Supreme Court's case about allowing the Westboro Baptist Church to protest at military funerals is similar to this case due to both cases involving the right to free speech. In both cases, the general public did not like the ruling; however, it made sense constitutionally. There may be alternatives that Congress can take in battling the problems of corporations being involved in political campaigns. Although

the court overruled it, I believe that there should be some sort of regulation on how much a corporation could spend on a candidate.

Instead of limiting the corporation's freedom of speech, why can't we limit how much they can endorse a candidate? One can argue that money is not speech, so limiting the amount a corporation could spend would be constitutional. Another way to tackle the problem is to let shareholders decide on the political expenditures made by a corporation, as Great Britain does. This would let a larger majority decide on what the corporation would do for political expenditures. However, even though it is still a larger pool of people, they probably will still act in the interest of the company due them be driven by profits.

Now that the court has made its decision, corporations can now spend as much as they want on politics. Many problems would arise due to this; however, it would still be constitutional. I believe that the decision of overruling Citizens United v. Federal Election Commission and partially overruling McConnell v. Federal Election Commission was good due to following the First Amendment. However through a practical stance, it would create a large possibility of corrupting the campaigning process.

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