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The Effect of Independent Expenditures on Congressional Elections following Citizens United v. Federal Elections Commission (2010)

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The Effect of Independent Expenditures on Congressional Elections following Citizens United v. Federal Elections Commission (2010)

A honors thesis presented
by
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Presented to the
Department of Government

University of Redlands
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Abstract

Independent expenditures can greatly influence campaigns and the outcome of elections, a phenomenon that many expect will become more evident following the U.S. Supreme Court's ruling in Citizens United v. FEC (2010). Corporations first had the chance to flex their free speech muscle in the 2010 elections, and as expected, spending on campaigns appears to have increased. What patterns are emerging? How has increased spending influenced electoral results? In this paper I will examine this increase and the subsequent effects of corporate independent expenditures on all 2010 House races. Using multivariate analysis, I will show that corporate independent expenditures substantially increased following Citizens United (2010) and how this monetary surge affected electoral outcomes in the 2010 Congressional election.

Introduction

On January 27th, 2010 President Barack Obama spoke out against the Supreme Court's ruling of Citizens United v. Federal Elections Commission (2010) in his State of the Union address: "With all due deference to the separation of powers, last week, the Supreme Court reversed a century of law that I believe will open the floodgates for special interests — including foreign corporations — to spend without limit in our elections." As a standing ovation filled the room, Justice Alito shook his head disapprovingly. Slowly and with hesitation, he rose to his feet. As the applause continued Justice Alito's mouth opened to form a three-word dissent, "That's not true."

This interaction illustrates the political tension surrounding corporate First Amendment rights. Two diverging perspectives dominate the debate over campaign

finance reform. Those who advocate restrictions claim that corporate free speech corrupts the electoral process by diminishing political equality, a foundational value of the United States. Opponents argue that corporations are merely large groups of associated people. To deny them First Amendment free speech because of a corporate heading violates constitutional principles of political liberty. While both perspectives represent polar views of what free speech means, they converge on one point; money matters.

Citizens United v. Federal Elections Commission (2010) was a landmark Supreme Court case that questioned the constitutionality of corporate First Amendment rights. The judicial dispute was over whether Citizens United, a non-profit corporation, could air a controversial film critiquing Hillary Clinton and whether the non-profit could advertise the film using Clinton's image. In 2010, the question reached the Supreme Court on appeal from a January 2008 decision by the United States District Court of the District of Columbia. The lower court's decision upheld the McCain–Feingold Act that prevented *Hillary: The Movie* from being shown on television within 30 days of the Democratic primaries (Lindbloom and Terranova 2008).

The Supreme Court ruled in favor of Citizens United. This decision negated a provision of the 2002 Bipartisan Campaign Reform Act that banned corporations and unions from broadcasting electioneering communications. Electioneering communications advocate a candidate or issue but do not use words such as "elect" or "vote for" (Apollonio 2010). The decision also struck down Austin v. Michigan Chamber of Commerce (1990) that banned corporations from using treasury money in independent expenditures to support candidates and partially nullified McConnell v. Federal Election Commission (2003) that prohibited corporations from making "soft-money" contributions

to a political party for purposes other than supporting a candidate. The court upheld disclaimer and disclosure requirements for advertisement sponsors and the federal ban on direct contributions from corporations or unions to candidate campaigns or political parties (Lindbloom and Terranova 2008). The 5-4 decision split the Supreme Court and illustrated two diverging definitions of free speech.

Citizens United (2010) was resolved on an understanding that free speech serves political liberty. Justice Kennedy, Roberts, Scalia, Thomas, and Alito presented the majority opinion. Justice Stevens, Ginsburg, Breyer, and Sotomayor formed the dissenting opinion that advocated free speech in terms of political equality.

Political liberty views the First Amendment as a negative check on an overly powerful government. Political liberty considers government regulations aimed at limiting speech as a type of suppression that distorts the "private ordering of ideas". Though government involvement may be appropriate in order to level social inequalities, liberal markets best support an unregulated discussion of ideas.

The second view of free speech serves the interest of political equality. Political equality embraces antidiscrimination principles that protect ideological minority opinions. It does not support the judicial protection of corporations. Neither opinion completely disregards the other. Each perspective acknowledges the other by calling on the differing theory to support their cause (Sullivan 2010). While these views are discussed in the ruling of Citizens United (2010), they did not emerge from the case. First Amendment arguments based on political equality and liberty have existed since the rise of Jacksonian democracy.

Legislative action and judicial ruling presuppose that money matters in the United State political system. It proves important to fully understand campaign finance reform so that objective assessments can be made concerning its impact on the United States electoral system. These assessments can then be used to create and implement increasingly effective legislation. The following sections examine the effect Citizens United v. FEC (2010) had on the 2010 Congressional elections. The first section reviews the history of campaign finance legislation. The second section discusses campaign finance reform and its effects on democracy, candidate behavior, and corporate spending. Using this information, I will develop testable relationships about the effects of Citizens United (2010) in competitive Congressional races. The third section discusses the methodology and analytical approach of the study. The fourth section will test the hypotheses using statistical analysis. The fifth section will discuss conclusions and suggest future research.

History

Before Jacksonian democracy emerged in 1824, campaign finance reform did not exist. Political contenders did not engage in "politicking" and paid the expenses associated with candidacy themselves. As the United States matured, so did the political system. Jacksonian democracy gave rise to party politics and expanded franchise. This political reinvention opened elections up to those with political aspirations but shallow pocketbooks and prompted organizations to create fundraising methods to support candidates. One method developed was called the assessment system. The assessment system required individuals in office to give a percentage of their wages back to their

sponsoring party. Proponents of this system argued that it was a legitimate way to show party support. Opponents claimed that it threatened the freedom of elections. In 1937, the first bill regulating campaign spending was placed before Congress. It addressed the assessment system and asked that it be prohibited. Proponents believed that assessments allowed officials to show party support, a fundamental political liberty. Opponents argued that it threatened the freedom of elections, therefore, hurting political equality. Although the bill did not pass at this time, this legislation illustrates the emerging reform and diverging views surrounding it. The following account of campaign finance reform in the United States discusses prominent legislation that has shaped our current understanding of electoral spending.

The Tillman Act of 1907 was the first federal campaign finance legislation to restrict corporate giving in federal elections. Introduced by Senator William Chandler, a New Hampshire Republican, the Tillman Act made it illegal for a national bank or a government backed corporation to contribute money to any federal election (Corrado 2005: 12). It also made it illegal for a corporation to contribute to any election in which the President, Vice President, Congressional Representatives, or State Representatives were to be voted for. This ban became a cornerstone of campaign finance reform and was reaffirmed throughout the New Deal Era.

The New Deal Era brought further campaign finance regulations. The Republican party pushed the Taft-Harley Act of 1947 through congress. The act intended to strengthen the prevention of contributions by prohibiting expenditures made by labor unions and corporations in federal elections. Labor unions responded by creating political action committees (PACs). These committees collected money from union members,

apart from general dues, and used those funds to make candidate and party contributions. The Congress of Industrial Organizations' formed the first PAC in 1943. It raised and contributed $1.4 million to candidates in federal elections. While PACs allowed unions legal political speech, their role in financing federal candidates did not emerge until the Federal Election Campaign Act was enacted in 1971(2005: 18).

The Federal Election Campaign Act was premised on an increasingly popular argument that exorbitant media costs were responsible for increasing campaign expenditures. The law established limits on the amount a candidate could contribute to his or her own campaign and set restrictions on how much a candidate could spend on media. The law also subjected federal candidates and political committees to disclosure laws. Following intense fiscal corruption in the 1972 federal elections, the FECA was amended in 1974. These amendments created more stringent disclosure laws, strengthened limits on political contributions, replaced media-based spending caps with aggregate financial limits, and restricted expenditures in support or opposition of a candidate in all federal elections (2005: 22). Furthermore, it developed public financing programs for presidential elections and created the Federal Elections Commission. The FEC, a governmental agency, administered and enforced campaign finance law. These monumental reforms passed through Congress on the understanding that unions and corporations did not have First Amendment rights. While many who supported this First Amendment view of political equality championed the FECA and other reforms, those who believed in corporate political liberty claimed that unions and corporations were being denied inalienable rights.

In 1976, the first of many landmark Supreme Court decisions overturning campaign finance regulations began. In Buckley v. Valeo (1976), the court ruled that electoral expenditure limits imposed by the FECA violated free speech rights guaranteed by the First Amendment (2005: 93). The court held that restrictions on individual contributions were not in violation of the constitution. In 1978, the Supreme Court ruled in First National Bank of Boston v. Belotti (1978), that a criminal statute against certain corporate and banking expenditures aimed at influencing referendum votes violated First Amendment rights (2005: 96). In 1986, the Supreme Court challenged independent expenditures for candidates in federal elections. In Massachusetts Citizens for Life, Inc. v. FEC (1986), "the Supreme Court held that the First Amendment barred the government from prohibiting ideological corporations from making independent expenditures" (2005: 97). The prohibition of ideological spending meant that corporate advocacy groups could make direct independent expenditures to support a candidate. In Austin v. Michigan State Chamber of Commerce (1990) the Supreme Court questioned whether economic corporations could use treasury money to make independent expenditures in support or opposition of a candidate. The court ruled against corporate independent expenditures for candidates with the understanding that economic corporations were not ideological. Though corporate restrictions lifted by the Supreme Court limited the scope of campaign finance legislation, it did not discourage Senators John McCain and from Russell Feingold from advocating new campaign finance reform.

In 2002, the Bipartisan Campaign Reform Act (BCRA) was passed in Congress to restore protections against unlimited outside spending (2005: 39). The BCRA (McCain-Feingold Act) created a ban on soft money contributions and soft money revenues

available to party committees, developed fundraising regulations for federal officials, candidates, and national party committees, articulated strict rules concerning publically financed state and local party activities, further defined and expanded "issue advocacy", and finally, required financial disclosures of electioneering costs. This reform represents the most recent attempt at limiting corporate free speech. While it created stringent rules that regulated independent expenditures, the Supreme Court found it unconstitutional in 2006.

The Bipartisan Campaign Reform Act was first reviewed in Massachusetts Right to Life v. Federal Elections Commission (2006). The court ruled in favor of Massachusetts Right to Life (2006) and declared that broadcasted advertisements were exempt from Congressional restrictions if they could be reasonably interpreted as concerning a legislative issue (2005: 97). In Citizens United v. FEC (2010), the most recent case to review restrictive measures issued by the BCRA, the court ruled that federal action aimed at restricting electioneering communications violated corporate First Amendment rights.

The majority opinion expressed in Citizens United (2010) validates the judicial overhaul of the BCRA, the nullification of Austin v. Michigan Chamber of Commerce (1990), and the partial nullification McConnell v. Federal Election Commission (2003) by disputing three common arguments against corporate First Amendment rights. These include the anti-distortion, dissenting shareholder and anti-corruption arguments.

The anti-distortion argument claims that corporate political speech creates a disproportionate marketplace of ideas. The marketplace of ideas, a democratic ideal, stems from a fundamental belief that accurate policy arises from the open competition of

divergent ideas in a free, transparent, and public dialogue. Reformers argue that because corporations have larger funds, they can amplify their voice disproportionately. This stifles dissenting voices and creates a closed, unequal market. The Supreme Court's majority opinion rejects proponents' claims that a corporation's larger, disproportionate voice warrants their exclusion from the electoral arena. To deny corporations access, Justice Kennedy claims, would negate the marketplace's original intent.

The dissenting shareholders' argument claims that because all shareholders do not actively agree to engage in company speech, corporate money used to express political preference is not representative of a natural entity. Thus, corporations are not protected by or allowed First Amendment rights. Justice Kennedy refutes this argument by asserting that one dissenting opinion does not provide sufficient grounds for dissolving an entire entity's right to free speech. Furthermore, if dissenting shareholders feel abused by their corporate parent, they have access to a procedural democracy that will correct such injustices.

The final argument, anti-corruption, negated by the majority opinion, maintains that corporate First Amendment rights corrupt the electoral system. The corruption argument claims that corporate speech places undue, negative influence on candidates. This leads to manipulated and corrupt policy that serves the interest of corporations over that of the American people. The majority opinion denied this argument by explaining that corporate independent expenditures, the freedom questioned in Citizens United (2010), are made without candidates' knowledge. Because an independent expenditure is, by definition, not coordinated with the candidate, corporate influence and access will not lead to electoral corruption.

Literature Review:

Coleman and Manna (2007) question whether campaign spending benefit democracy and the political community. On one hand, campaign spending is treated as political speech in law and action. The more speech entering our democratic marketplace of ideas, the more informed and active discussions will be (Brubaker 1998; Palda 1994; Smith 1996; Smith 1999). On the other hand, it is argued that increased campaign finance leads to a disengaged legislature that spends the majority of their energy fundraising rather than creating effective policy. This dependency on money increases public distrust and legislative corruption, thereby limiting informed and honest debate (Dworkin 1996; Ferguson 1995). Using data taken from the National Election Studies and Federal Elections Commission for the 1994 and 1996 House elections, Coleman and Manna study the relationship between campaign spending and voters' knowledge, attention, and involvement to evaluate the democratic effects of campaign finance. Coleman and Manna discover that campaign spending furthers certain democratic ideals. While campaign spending neither increases nor decreases political trust, efficacy, or interest and attention, it greatly elevates voter knowledge and affect. This means that voters are aware of the incumbent and challengers' ideological stance and can recall their names, demonstrating that spending enables candidates to contact voters and enhance knowledge (Jacobson 1992, 114-32; Kenny and McBurnett 1997). Therefore, Coleman and Manna conclude that because spending is good for democracy, increased spending is better.

The amount a candidate spends throughout their campaign is directly related to how successful they are on election day (Palda 1973, 1975; Welch, 1974, 1976; Dawson

and Zinser, 1976). Based on this understanding, Jacobson (1978) analyzes the relationship between campaign finance and election outcome to test whether large spending favors the incumbent or challenger. Using data from the 1972 and 1974 House and Senate elections, Jacobson finds that challenger spending has a significant impact on electoral outcomes, whereas incumbent spending has very little impact.

Money matters because it allows candidates to purchase voter knowledge (Coleman and Manna 2007). Because incumbents have an already established political following and a high level of name recognition, voters have strong opinions concerning their abilities and performance. Challengers, on the other hand, enter the political arena with little recognition. Therefore, the net gain in positive evaluation for challengers greatly exceeds that of incumbents. And, because voters' evaluations of candidates strongly influence the how their ballots are cast; challengers have the most to gain from campaign spending.

Green and Krasno (1988) challenge Jacobson's (1978) argument claiming that incumbent spending has a substantial impact on electoral outcomes. Using data from the 1978 House election, Green and Kranso correct for Jacobson's partiality and find that the marginal effect of incumbent spending is significant (Mayhew 1974; Alford and Hibbing 1981).

Green and Krasno offer challenger quality as an important determinant of the vote in relation to campaign spending. Challenger quality is defined as individual characteristics of a non-incumbent that contribute to his or her candidacy. By including only specific attributes, they are able to separate certain variables from other aspects of the campaign. Green and Krasno find that high quality challengers raise more money then

low quality challengers. Without financial support challengers do as well as their party's previous candidate. As challengers spend more, the importance of the previous candidate's performance decreases and specific attributes of challenger quality become very important. The electoral focus switches from finance to candidate quality, creating a political arena in which the incumbent and challenger is significantly less influenced by financial advantages. This relationship illustrates four important aspects of campaign finance. First, challenger quality impacts voter preference. Second, incumbent spending has a substantial effect on electoral outcomes. Third, contrary to Jacobson's (1978) findings, the direct effect of non-incumbent spending is lower than estimated and is vulnerable to marginal returns. Lastly, the increasing importance of challenger quality and decreasing significance of the challenging parties' previous electoral outcome changes the composition of the House vote.

Jacobson (1990) supports his initial claim that electoral spending benefits challengers most significantly (1978) through a second study using data taken from FEC reports and the ABC News/*Washington Post* Congressional District poll conducted during the 1986 elections. Jacobson analyzes changes in voting intention throughout the final six weeks of candidate campaigns. He argues that the amount spent by a challenger is significantly more influential than the amount spent by an incumbent when accounting for voter decisions. Once again, Jacobson finds that the challengers' level of spending is directly related to the vote and to the probability of victory (Glantz, Abramowitz, and Burkhart 1976; Jacobson 1976, 1978, 1980, 1985, 1987a). He concludes that the probably of switching sides to support the challenger increases with the challenger's level of

spending. This money- votes' relationship illustrates the power of non-incumbent spending.

Donation and investment patterns of corporate entities in regulated and unregulated settings have also been investigated. Fleischmann and Stein (1998) question the affect of regulated campaign contributions in local elections. Using data taken from candidates' campaign finance reports, Fleischmann and Stein analyze the corporate donation patterns of municipal elections in Atlanta and St. Louis.

Money from outside constituencies has been a great source of revenue for U.S. Senate and House campaigns (Alexander and Corrado 1995; Makinson and Goldstein 1994). The campaigns studied in Atlanta and St. Louis raised over 3.5 million dollars with main contributors stemming from suburban and out-of-state businesses. Fleischmann and Stein conclude that contributors act through an "investment" strategy (Chamley and Gale 1994). This means that contributors allocate resources among recipients they believe will achieve their goals. Donors use these donation patterns to target incumbents. Fleischmann and Stein also assert that a reciprocal power relationship exists between contributors and candidates. Not only do contributors exert power over electoral candidates, but also interests may be afraid to withhold donations from powerful officials (Banfield and Wilson 1963).

Box-Steffensmeier and Dow (1992) study the effect of unregulated campaign contributions in the 1984 and 1986 California Assembly elections. Using data collected from the General Election Report issued by the California Fair Political Practices Commission (CFPPC), this study allows Box-Steffensmeier and Dow to discuss possible tradeoffs facing interest groups in terms of corporate expenditures. The study also

questions the extent to which investors place contributions with candidates whose values are most alike to their ideology.

Box-Steffensmeier and Dow use the Chicago Model of Economic Regulation (Stigler 1971; Peltzman 1976; Becker 1983) and the investment theory (Chamley and Gale 1994) to interpret their findings. The Chicago Model of Economic Regulation views campaign contributions as a way to enter into the 'market of policy'. This model is used to explain that interest groups equate dollar value, defined in term of a legislator's ability to produce desired policy, across candidates (Denzau and Munger 1986; Austen-Smith 1987). Box-Steffensmeier and Dow discover that interest groups who allocate wealth to private and public sectors in an unregulated market are less focused in their contributions. This means that contributors distribute their wealth to maximize return among a few candidates rather than a thin, widespread donation pattern. This finding supports the investment theory of campaign finance (Chamley and Gale 1994). Steffensmeier and Dow also claim that while it is likely that investments fall into ideologically similar hands, it is not a strict pattern because values change over time and across institutions.

Bebchuk and Jackson (2010) question who should be responsible for making corporate free speech investment decisions. Currently, a corporation's choice to engage in political speech is governed by the same rules as regular business decisions. Directors and executives make decisions without shareholder input or disclosure requirements. Eliminating shareholder involvement allows directors and executives to make independent corporate decisions. Often, these decisions stray from shareholder interests and have costly financial implications. Bebchuk and Jackson argue that existing rules are

inappropriate for corporate speech decisions. As long as corporations engage in political speech, regulations dictating they do so must be enacted.

They suggest that lawmakers create rules that differ from those used in standard businesses to determine who speaks within corporations. These rules would provide shareholders a role in determining political investments and the opportunity to opt out of such activity. They would also require independent directors to oversee political speech decisions and create disclosure requirements. The implementation of these laws would not limit corporate speech but create a system to determine whether and how the entire corporation, shareholders included, want to engage in such speech. These changes would have a direct effect on the degree of influence corporations have in United States elections.

Hypotheses and Methodology

The main research question examines the impact campaign spending has on the 2010 Congressional election. This research tests the validity of major conclusions in the literature, that spending has a substantial impact on Congressional elections. In this study I will examine whether (1) corporate spending in Congressional elections has substantially increased since Citizens United v. Federal Elections Commission (2010), (2) corporate spending favored Republican candidates over Democratic Candidates, (3) incumbents benefited most from corporate independent expenditures, (4) negative corporate independent expenditures (those spent against candidates) were more effective then positive spending.

All 435 Congressional seats will be individually and aggregately analyzed through

precise determinants to assess the effect of corporate free speech on the 2010 Congressional elections. Data will be taken from the Center for Responsive Politics and the New York Times poll results. To evaluate the rise of corporate spending in the 2010 Congressional election, this study will examine and compare total financial expenditures in presidential and midterm elections between 1990 and 2010. Data used to analyze this relationship can be found in Tables and Figures 1 and 2. To further understand this rise, aggregate corporate independent expenditures made on behalf of all candidates' in Congressional elections between 1990 and 2010 will be analyzed. This data is presented in Tables and Figures 3 and 4.

The number of seats won by Democrats, Republicans, and Independents in the 2010 election will illustrate whether corporate spending favored one party over the other. This information is displayed in Table 5.

To test whether incumbents benefited most from corporate independent expenditures my research will look at the success rate of incumbents and challengers in both competitive and open seat races in the 2010 Congressional election. These figures are illustrated in Table 6. Table 7 analyzes the relationship between party, incumbency status, and total corporate independent expenditure.

In order to examine whether negative corporate independent expenditures, those spent against candidates, were more effective than positive spending, independent expenditures spent in support and opposition of a candidate will be analyzed. Data informing this relationship is presented in Table 8 and 9.

Analysis

Table 1 presents aggregate data describing total expenditures in US House races

from 1990 to 2010. The data tracks increases in total expenditures at a percent change rate of two and four years.

Table 1: Total Expenditures in US House Races (All Races) 1990-2010

Cycle	Total Expenditures	Percent Change 2 Years Earlier	Percent Change 4 Years Earlier
1990	$7,221,205		
1992	$19,637,179	+171.9%	
1994	$9,583,844	-51.4%	+32.1%
1996	$17,884,034	+87.5%	-8.9%
1998	$15,191,107	-15.1%	+59.3%
2000	$50,796,592	+234.4%	+184.0%
2002	$27,289,285	-46.3%	+79.6%
2004	$200,132,170	+633.4%	+294.0%
2006	$68,852,502	-65.6%	+152.3%
2008	$301,677,370	+338.2%	+50.7%
2010	$297,165,250	-1.5%	+331.6%

*Data Obtained from Open Secrets.Org

Total expenditures substantially increased in the 2010 Congressional election. In the 2008 presidential election total expenditures reached $301 million. In the 2010 midterm election total expenditures amounted to $297.1 million. While pervious years have shown between -15.1% and -65.6% decrease in total expenditures following a presidential election, between 2008 and 2010 expenditures were reduced by only -1.5%.

Total corporate expenditures in U.S. House races between 1990 and 2008 are significantly higher during presidential elections than midterm elections. The average financial expenditure in all presidential elections examined (1992, 1996, 2000, 2004, and

2008) is $118 million. Midterm elections (1990, 1994, 1998, 2002, 2006, 2010) have a significantly lower average amounting to $24.1 million. A difference of $93.8 million, presidential elections receive 55.4% more total expenditures. This suggests that total expenditures will further increase in the 2012 presidential election.

Figure 1 displays this growth in graphic form. Whereas before the 2010 race, total presidential expenditures greatly outweighed those contributed during midterm House elections, afterwards the gap closed. This suggests that corporations, armed with increased financial freedom following Citizens United (2010), flooded the election with money.

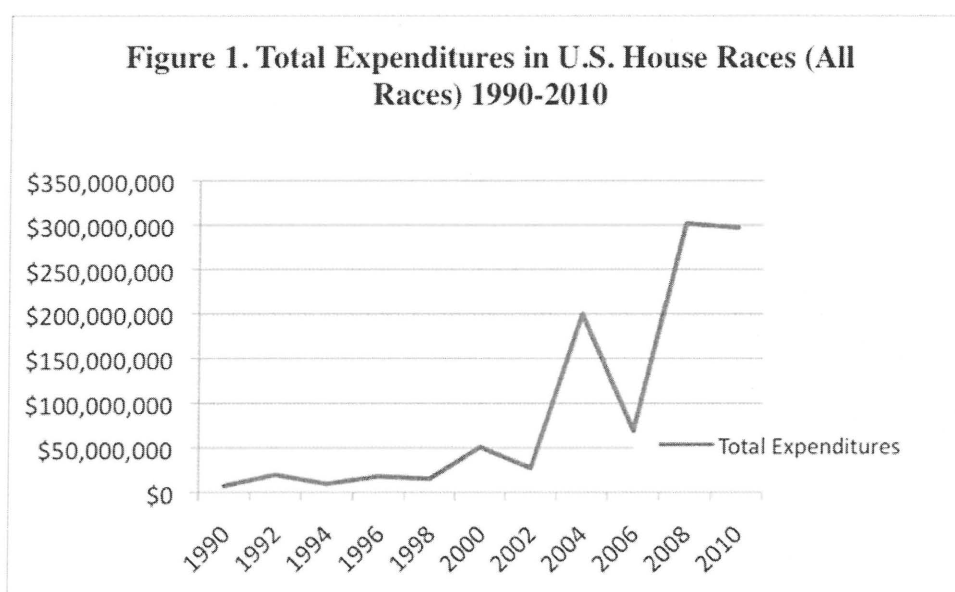


Table 2 presents data detailing total expenditures and percent financial increase every four years for midterm races between 1994 and 2010. Because the 2010 Congressional election took place midterm, evaluating financial patterns from previous midterm races helps us to better understand the impact of Citizens United v. FEC (2010).

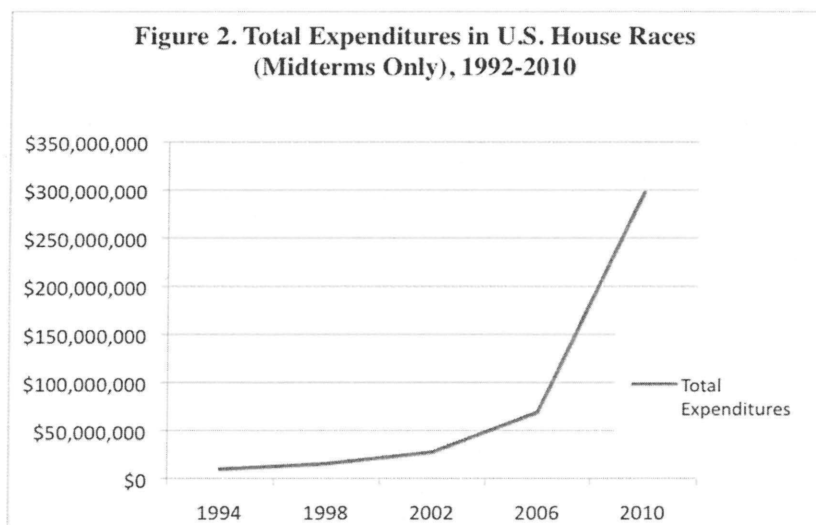
Table 2: Growth In Total Midterm Expenditures (Midterm Races Only) 1994-2010

Cycle	Total Expenditures	Percent Change 4 Years
1994	$9,538,844	+32.1%
1998	$15,191,107	+59.3%
2002	$27,289,285	+79.6%
2006	$68,852,502	+152.3%
2010	$297,165,250	+331.6%

*Data Obtained from Open Secrets.Org

Table 2 illustrates the growth of total expenditures in midterm House races. Total midterm expenditures grow steadily between 1994 and 2006 with a total average increase of 80.8%. In 2010 total expenditures increased by 331.6%, four times the average rate of all previous elections.

Figure 2 illustrates this increase in graphic form. The positive slope increases dramatically between 2006 and 2008 compared to previous elections examined.



While total expenditures include all contributing parties, not just corporate entities, the abrupt and steep increase in total financial expenditures in midterm elections between 2006 and 2010 suggests that Citizens United v. FEC (2010) significantly effected the 2010 Congressional election.

Citizens United v. FEC (2010) established a corporations' freedom to spend independently in support or opposition of a candidate. Data presented in Table 3, a subset of the total expenditures, looks at total growth of independant expenditures in all federal elections between 1990 and 2010.

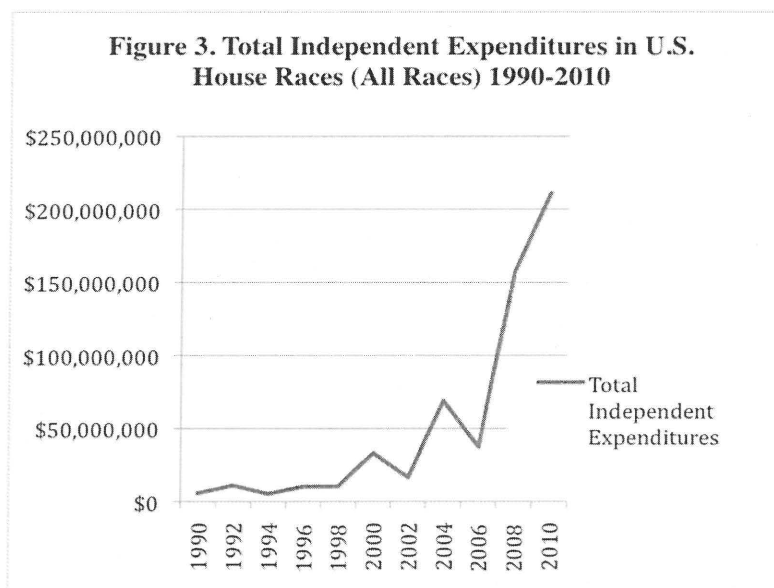
Table 3: Total Independent Expenditures in US House Races (All Races) 1990-2010

Cycle	Total Independent Expenditures	Percent Change 2 Years	Percent Change 4 Years
1990	$5,685,510		
1992	$10,947,345	+93.5%	
1994	$5,219,215	-52.3%	-7.8%
1996	$10,167,742	+94.8%	-7.1%
1998	$10,266,937	+1.0%	96.7%
2000	$33,034,631	+221.8%	+224.9%
2002	$16,588,844	-49.8%	+61.6%
2004	$68,716,443	+314.2%	+108.0%
2006	$37,394,589	-45.6%	+125.4%
2008	$156,839,335	+319.4%	+128.2%
2010	$210,923,017	+34.5%	+464%

*Data Obtained from Open Secrets.Org

In 2010 independent expenditures reached $211 million resulting in a 464% increase from the 2006 midterm election and a +34% increase from the 2008 presidential race. This stands in stark contrast to financial patterns established between 1990 and 2006 where total independent expenditures dropped nearly 50% between each presidential and midterm election.

Figure 3 depicts the substantial increase in independent expenditures graphically. The steep increase in independent expenditures is likely, at least a partial result of Supreme Court's 2010 ruling.



Abolishing all but disclosure requirements set forth by the McCain-Feingold Act, corporations had a limitless ability support candidates through financial free speech. Using the Chicago Model of Economic Regulation (Stigler 1971; Peltzman 1976; Becker 1983) to understand why corporate action increased, this unprecedented monetary surge occurred because corporations had greater freedom to influence the political market of

policy and, therefore, further corporate goals.

Table 4 presents data demonstrating total independent expenditures in US midterm House races between 1990 and 2010. Changes in independent expenditures between midterm elections further illustrate that corporate money increased following Citizens United v. FEC (2010).

Table 4: Growth In Total Midterm Independent Expenditures (Midterm Races Only) 1994-2010

Cycle	Total Independent Expenditure	Percent Change 4 Years
1994	$5,219,215	-7.8%
1998	$10,266,937	+96.7%
2002	$16,588,844	+61.6%
2006	$37,394,589	+125.4%
2010	$210,923,017	+464%

*Data Obtained from Open Secrets.Org

Between 1994 and 2002 total independent expenditures increased at a rate of about $5 million every four years. This rate increased substantially in 2006.

In 2006 independent expenditures increased by $20.8 million amounting to a total of $37.3 million. While this is a substantial increase in comparison to the previous years examined, it can be explained circumstantially and does upset long-term financial patterning as Citizens United (2010) does. Paul R. Abramson, author of "Change and Continuity in the 2008 Elections," argues that voter opposition and support flows retrospectively. This theory suggests that presidential or Congressional voting decisions are based on past political evaluations. Burdened with an unsuccessful war in Iraq, the

beginning phases of an economic recession, and unpopular domestic policy such as Social Security Reform, George W. Bush and the Republican party faced diminished public support in the 2006 midterm election. Strategic corporations with ideological goals similar to those held by the Democratic party saw an opportunity to regain control of the House by financing quality Republican challengers.

Between 2006 and 2010 independent expenditures increased by $173.5 million, a 464% increase from the 2006 midterm election. While Abramson's claims apply to Obama's 2010-midterm election, the amount by which independent expenditures increased far exceeds a rational amount based only on retrospective theory. To the contrary, this increase was likely to have occurred, at least in part because of Citizen United v. FEC (2010).

Figure 4 displays the increase in midterm independent expenditures between 1992 and 2010. The significant rise in total independent expenditures between 2006 and 2010 exceeds that of any election in the period examined.

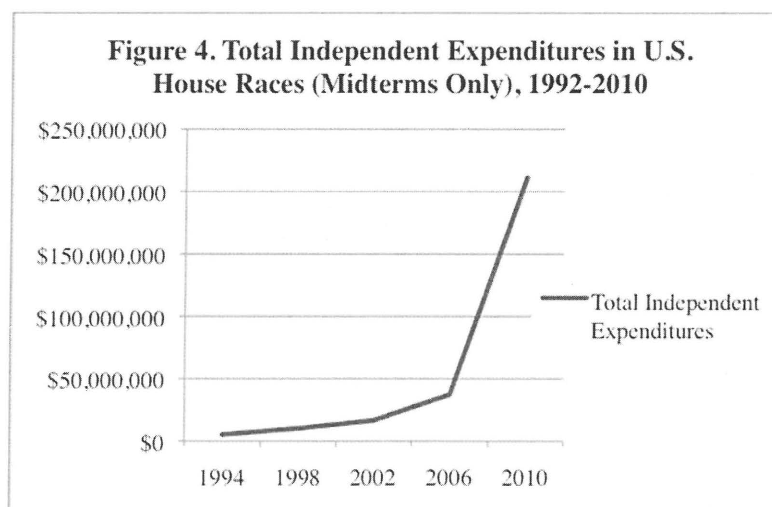


Table 5 exhibits data testing the relationship between corporate independent expenditures and candidates' party. Contrary to the expectation, Democrats received a majority of corporate independent expenditures made in 2010.

Table 5. Corporate Independent Expenditures by Party (2010 Congressional Election)

Party	Mean Independent Expenditure	Number of Candidates
Democrat	$351,920.68	421
Republican	$264,026.29	428
Independent	$.00	6
Total	$350,425.47	885

*Data Obtained from Open Secrets.Org

Democratic candidates received an overall average of $352 thousand in corporate independent expenditures. Republican candidates attracted $88 thousand less corporate independent expenditures. Their average amounted to $264 thousand. The six independent candidates received no corporate money.

This trend seems to be supported by both investment theory (Chamley and Gale 1994) and the Chicago Model of Economic Regulation (Stigler 1971; Peltzman 1976; Becker 1983). Corporations behave as strategic players in the political game. Aware of constituents' partisan tendencies, they focus their monetary support on majority parties. Because independent candidates have a limited voter base, investing in their candidacy will not further corporate goals. Thus Democratic candidates, representing the incumbent party, proved the most popular investment.

Table 6 features data describing corporate independent expenditures by

incumbency status in the 2010 Congressional election. Candidates' competing in open seat races attracted the highest amount of corporate finance followed by incumbents then challengers.

On average, Congressional incumbents received $337 thousand in corporate independent expenditures. Challengers' averaged $234 thousand in corporate independent expenditures, $104 thousand less than their competition. In races where an incumbent was not present, open seat elections, average corporate spending equaled $476 thousand.

Table 6. Corporate Independent Expenditures by Incumbency Status (2010 Congressional Election)

Incumbency Status	Mean Independent Expenditure	Number of Candidates
Incumbent	$337,811.20	389
Challenger	$233,577.38	376
Open Seat	$476,289.73	88
Total	$306,151.40	853

*Data Obtained from Open Secrets.Org

The data presented fits expected electoral patterns. Incumbents, well known and financed, almost consistently outspend challengers. Open seat elections received the highest average of corporate finance because candidate's potential success rates were relatively even.

Table 7 uses statistical analysis to identify the relationship between total corporate independent expenditures, party, and incumbency status.

Democratic and Republican candidates competing in open seat elections were

almost equally financed. 44 Democrat candidates entered open seat elections with average corporate expenditures reaching $487 thousand. These candidates were opposed by a total of 43 Republican candidates. Their average corporate independent expenditure amounted to $475 thousand. Democratic and Republican candidates maintained even averages because incumbency advantage was nonexistent. Both candidates spent enough money to inform the general public but then relied on strong platforms, candidate quality, and national mood to persuade public opinion.

Table 7. Total Corporate Independent Expenditures by Party and Incumbency Status (2010 Congressional Election)

Party	Incumbency Status	Mean Corporate Independent Expenditures	Number of Candidates
Democrat	Incumbent	$520,435.24	236
	Challenger	$274,97.53	140
	Open Seat	$487,989.18	44
	Total	$352,723.56	420
Republican	Incumbent	$56,116.60	153
	Challenger	$363,530.05	231
	Open Seat	$475,394.70	43
	Total	$264,644.62	427
Total	Incumbent	$337,811.20	389
	Challenger	$233,577.38	376
	Open Seat	$476,289.73	88
	Total	$306,151.40	853

*Data Obtained from Open Secrets.Org

Candidate Party: Democrat 1; Republican 2; Independent 3

Candidate Status: Incumbent 1; Challenger 2; Open Seat 3

In the 2010 Congressional election, 236 Democratic incumbents, averaging $520

thousand in corporate independent expenditures, lost a total of 63 seats in the House of Representatives. 231 Republican challengers, averaging $363 in corporate independent expenditures, gained control of these seats to hold majority in congress.

This suggests the significance of challenger spending in the 2010 Congressional election. What proved important was that Republican challengers raised enough money to compete with Democratic incumbents, not that Democratic candidates outspent their opponents.

This affirms and combines theories presented by Jacobson, Green, and Kranso. Challenger spending is important (Jacobson 1990) because it increases public awareness, therefore, boosting vote share but at a certain point, but when both candidates are equally visible, money becomes secondary. Candidate quality (Green and Kranso 1988) and national mood then become the influential factors.

This pattern continues when looking at Republican incumbent and Democratic challenger finance. Republican incumbents, a total of 153, received an average of $56 thousand in corporate independent expenditures while Democratic challengers, a total of 140, maintained an average of only $27 thousand. Advantaged by incumbency and national mood, Republican incumbents did not need large levels of corporate support to obtain public visibility and secure their future seat. Democratic challengers, already heavily disadvantaged, proved increasingly unfavorable candidates because of the United States economic and political condition. Corporations, therefore, did not invest in their candidacy and candidates were unable to reach that baseline amount which enables visibility.

The next section of analysis examines the relative impact of negative versus

positive spending in the 2010 Congressional election. Previous research suggests negative corporate independent expenditures, those spent against candidates, are more effective then positive spending. Supportive money is defined as a corporate independent expenditure that positively endorses a candidate where as negative spending demotes a candidates' public image.

Table 8 displays total corporate money spent in support of a candidate by party and incumbency status. The average Democratic incumbent spent over $103 thousand in positive advertisements compared to the $29 thousand spent by Republican incumbents. Yet the results of the 2010 Congressional election favored the Republican party. This suggests that positive money was not the most effect type of spending.

Table 8. Total Corporate Independent Expenditures in Support of A Candidate by Party and Incumbency Status (2010 Congressional Election)

Party	Incumbency Status	Mean Corporate Independent Expenditure	Number of Candidates
Democrat	Incumbent	$103,318.44	237
	Challenger	$7,354.41	138
	Open Seat	$64,980.86	44
	Total	$67,686.24	419
Independent	Challenger	$1.80	5
	Open Seat	$.00	1
	Total	$1.50	6
Republican	Incumbent	$29,529.66	154
	Challenger	$61,077.19	230
	Open Seat	$73,730.33	43
	Total	$50,973.59	427

Total	Incumbent	$74,255.85	391
	Challenger	$40,382.49	373
	Open Seat	$68,517.75	88
	Total	$58,833.65	852

*Data Obtained from Open Secrets.Org

Candidate Party: Democrat 1; Republican 2; Independent 3

Candidate Status: Incumbent 1; Challenger 2; Open Seat 3

Table 9 presents total corporate independent expenditures made in opposition of a candidate by party and incumbency status. Republican challengers averaged $294 thousand in opposition of Democratic incumbents compared to Democratic challengers averaging just $16 thousand in opposition to Republican incumbents. Although Democratic incumbents outspent Republican incumbents, it did not predict outcome like the negative spending advantage that Republican challengers had over Democratic challengers. This suggests two things. First, negative spending was relatively effective in the 2010 Congressional election. Second, party is a primary factor is determining the relative effects of spending type.

Table 9. Total Corporate Independent Expenditures in Opposition of A Candidate by Party and Incumbency Status (2010 Congressional Election)

Party	Incumbency Status	Mean Corporate Independent Expenditure	Number of Candidates
Democrat	Incumbent	$293,838.88	237
	Challenger	$16,377.04	138
	Open Seat	$314,890.05	44
	Total	$207,501.21	419
Independent	Challenger	$.00	5
	Open Seat	$.00	1

	Total	$.00	6
Republican	Incumbent	$26,118.05	154
	Challenger	$293,799.68	230
	Open Seat	$402,799.37	43
	Total	$208,235.31	427
Total	Incumbent	$188,393.85	391
	Challenger	$187,222.14	373
	Open Seat	$367,767.44	88
	Total	$206,407.85	852

*Data Obtained from Open Secrets.Org
Candidate Party: Democrat 1; Republican 2; Independent 3
Candidate Status: Incumbent 1; Challenger 2; Open Seat 3

The regression featured in Table 10 evaluates the relative importance party, incumbency, and net money advantage on voting outcomes in the 2010 Congressional election. Net money advantage is defined as total corporate independent expenditures adjusted for transaction costs, taxes, and other indirect expenses incurred (Cambell, 2011).

Table 10. The Effects of Candidate Party, Status, and Net Money on Vote Percent in the 2010 Congressional Election

* $R^2 = .069^a$

Model	Unstandardized Coefficients		Standardized Coefficients	T	Sig.
	B	Std. Error	Beta		
Constant	12.484	10.060		1.241	.215
What Party is the Candidate?	12.621	3.883	.111	3.250	.001
Is the Candidate an Incumbent?	58.177	7.774	.256	7.483	.000

Net Money Advantage	-2.338E-5	.000	-.059	-1.742	.082

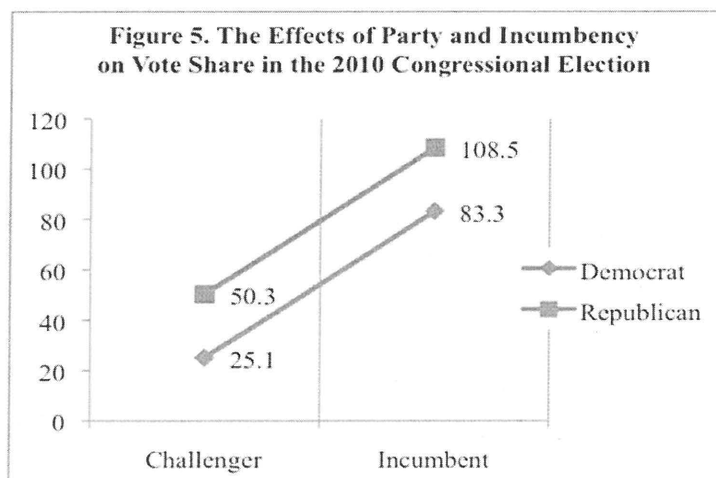
a. Dependant Variable: Vote Percent *.05 and under is statistically significant *Data Obtained from Open Secrets.Org and New York Times Poll Results

Candidate Party: Democrat 1; Independent 2; Republican 3
Candidate Status: Incumbent 1; Challenger 3; Open Seat 3

Using vote percent as the dependant variable, it is evident that candidate party and incumbency status are both statistically significant. Republicans on average had an approximately a 12.6% vote advantage over Democrats in the 2010 Congressional election. Incumbency advantage was still very formidable at 58.2%. In fact, its standardized beta was more than twice as large as that of party.

The net money advantage neared significance but failed to meet the .05 Sig. level, receiving a value of .082. These results affirm the previous claim that while money is important in first establishing a candidates' public identity, after a certain point, it is no longer the strongest electoral predictor. According to the regression above, candidate party and status are the most influential variables.

Figure 5 demonstrates the relative strength of candidate party and incumbency status on vote share. It assumes no net money advantage.



The relationship between candidate party, status and vote share highlight the significance of incumbency advantage in the 2010 Congressional election. Democratic challengers had a baseline vote share of 25.1%, 25.2 points lower than their Republican counterparts. This suggests that national electoral conditions favored the Republican party. Democratic incumbents had a projected vote share of 83.3% with Republican incumbents obtaining a 25.2-point higher vote share of 108.5%. This demonstrates that as a candidates' electoral status matures, vote percent increases.

According to the investment theory (Chamley and Gale 1994) and the Chicago Model of Economic Regulation (Stigler 1971; Peltzman 1976; Becker 1983), as a candidate increases their probability of a large vote share corporations' allocate more funds to support their candidacy. Corporations, strategic political actors, were aware of party and incumbency effects, and therefore, financed Republican candidates so that they could effectively compete against established Democratic candidates.

Conclusion

What does this research reveal about the effects of independent expenditures on the 2010 Congressional elections following Citizens United v. Federal Elections Commission (2010)?

This study tested four hypotheses and produced several noteworthy findings concerning the effect of corporate independent expenditures on the 2010 Congressional elections following Citizens United v. Federal Elections Commission (2010). The first relationship questioned whether corporate independent expenditures increased following the 2010 Supreme Court case. Analyzing aggregate total expenditure and total

independent expenditure data from all presidential and midterm elections between 1990 and 2010, it can be suggested that the flow of corporate money did increase. Implicit in this rise is the understanding that corporations become increasingly active in politics when permitted constitutional rights. Using First Amendment liberties to express political preference, future research studying corporate financial investments in the 2012 and 2014 Congressional elections will allow an understanding of newly forming campaign finance patterns.

Having established that corporate money substantially increased in the 2010 midterm election, the following relationships questioned how this monetary surge affected race outcomes. The first relationship tested whether corporate independent expenditures favored Republican over Democratic candidates. The second relationship tested whether incumbent candidates benefited most from corporate money. The final relationship examined the relative effects of money spent in support or opposition of a candidate.

Democratic incumbents received the highest amount of corporate independent expenditures. These statistics support conventional understandings of the relationship between money spent and electoral outcome and incumbency advantage (Palda 1973, 1975; Welch 1974, 1976; Dawson and Zinser, 1976). Yet a disparity exists between electoral theory and the actuality of the 2010 midterm election.

In the 2010 Congressional race Democratic candidates lost a total of 63 seats to Republican challengers who had significantly less corporate backing. This defeat eliminated Democratic House majority and resulted in a 242-seat victory for Republican party while Democrats' retained only 193. If incumbency theory and the positive

relationship between money and electoral outcome predict success, why did Democratic incumbents, averaging the highest amount of corporate backing, lose their majority in the House of Representatives?

The Democratic party lost the 2010 Congressional election for three reasons. First, money matters only to a limited degree. Corporate independent expenditures allow public visibility, candidate knowledge, and widespread constituent education.
Republican candidates were able to successfully challenge Democratic incumbents because they had incurred enough money to purchase a competitive amount of public awareness. Equally visible to voters, incumbency advantage was significantly weakened, and electoral success was no longer dependant on financial advantage. Second, the race was fought on electoral factors outside of campaign spending. After Republican candidates had obtained equal public visibility, the race was decided on national mood, retrospective voting habits, party preference, and electoral status. Third, Republican challengers were advantaged by negative spending. Although money matters to only a limited degree, Republican challengers were strategic in their spending. Using the present administration's failures as political ammunition, the Republican party purchased negative media to further exploit national conditions and, therefore, was able to successfully compete and secure a Congressional victory.

While this research does not deny that money is related to a candidate's success, it argues that at a certain point financial backing no longer predicts electoral outcome. Republican candidates in the 2010 election, for example, did not need to financially meet or surpass Democratic incumbents, they just need to reach a baseline amount that equalized and facilitated public awareness. Once achieved, external factors such as

national mood, retrospective voting habits, party preference, and electoral status, proved most influential.

President Obama claimed in his State of the Union address that Citizens United v. Federal Elections Commission (2010) opened the floodgates for special interest groups to spend limitlessly in United States elections. While it is true that independent expenditures increased in the 2010 Congressional elections, corporate voice did not solely determine election outcome. Multivariate analysis revealed that party and incumbency were much stronger predictors of election outcome than monetary advantage. Never the less, we saw a strong correlation between spending and a challengers' ability to compete against an incumbent candidate.

Future research studying the role of corporate independent expenditures in primary and general elections and well as studies determining the minimum monetary amount needed to actively compete in federal elections will greatly contribute to our understanding of campaign finance reform and its political effects.

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