

Disclosing Money in Elections

The Supreme Court, in its *Citizens United* decision, opened the door to an unfettered, unregulated influx of money into elections from corporations and labor unions. A first step in addressing the multitude of problems the decision created is disclosure. It is incumbent upon Congress to immediately create a robust, rapid transparency regime that takes full advantage of technology. This requires real-time, online transparency on every level of influence, from independent expenditures to lobbying to bundled campaign contributions.

The DISCLOSE Act of 2012

House Democrats unveiled The DISCLOSE 2012 Act ([HR 4010](#)) on February 9, 2012, a [crucial step](#) toward transparency to address the corrupting influence unlimited, secret corporate and union money is having on our elections and our elected officials.

The bill will create robust reporting requirements for Super PACs, corporations, unions and nonprofit organizations that decide to make campaign expenditures. It will also require reporting of transfers by those groups to others making such expenditures, to prevent the money laundering that makes it easy to hide huge campaign contributions.

DISCLOSE 2012 will also require ads to contain disclaimers by the top officials of such groups, similar to the stand by your ad mandates required of candidates. In addition, shareholders and members of outside groups will be informed of campaign spending, and lobbyists will be required to report their spending on independent expenditures and electioneering communications.

The SUPERPAC Act

- Ensure disclosure of donors who fund independent expenditures and electioneering communications made by Super PACs or other 501(c) organizations. Donors giving to an organization for other purposes may remain anonymous if the organization establishes separate accounts for non-election related spending.
- Require real-time, online disclosure of all reports. Data must be in searchable, sortable, machine-readable formats and reports must include unique IDs for all filers.
- Require disclaimers (stand-by-your-ad statements) and identification of top funders in the ad.
- Require registered lobbyists to report their spending on independent expenditures and electioneering communications.
- Require all candidates and committees to file electronically with the Federal Election Commission.

The DISCLOSE Act 2010

The *Citizens United* decision paved the way for an influx of influential corporate dollars into elections, but the Court also upheld disclaimer and disclosure requirements, noting they “impose

no ceiling on campaign-related activities” and that “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”

Using this strong endorsement of transparency, Democratic leaders in Congress attempted to enact legislation to blunt the impact of the *Citizens United* decision. The DISCLOSE Act had, at its core, transparency provisions designed to shine a light on the largest, most distorting corporate and union independent expenditures and electioneering communications. The bill passed the House with only two Republican supporters but was blocked twice by Republican filibusters in the Senate.

While the DISCLOSE Act ultimately was not enacted, undisclosed money in politics still presents a serious concern. We thoroughly believe that a legislative solution to promote transparency and accountability in elections regardless of the amount of money spent is the best option.

Other Proposals

While Sunlight believes that addressing transparency concerns raised by the Citizens United decision through legislation is the best option, others have suggested a number of alternative methods. These have included:

- **A Constitutional Amendment:** A slew of constitutional amendments have been proposed to counteract the Citizens United decision. The first was [one introduced](#) in January 2010, and many more have been introduced since. Public Citizen is one group that has been a [major proponent](#) of this recourse.
- **FCC Political Ad Database:** [Another suggestion](#) has been for the FCC to create a centralized, publicly accessible database of information about political ad buys. We [submitted comments](#) encouraging these efforts in December 2011.
- **An Overhaul of the Public Financing System:** Another option that has been suggested is to enact new public financing plans. [According to](#) Politico’s Richard Hansen, “If we worry about corporate dominance of money in the political process, how about trying to subsidize some campaigns through public financing. Today’s opinion does not take public financing plans off the table, but an earlier Supreme Court opinion, *FEC v. Davis*, likely takes the most attractive portion of public financing plans out.”
- **An Increase in Shareholder Involvement.** Requiring shareholder approval for corporate funds to be used for campaign expenditures has been suggested as a deterrent for corporate donations. The [Shareholder Protection Act of 2011](#) aimed to implement measures to this effect, but has not been passed into law. We [are in support](#) of this act.
- **The Development of SEC Rules.** There have been a number of petitions asking the Securities and Exchange Commission to develop rules that would require public companies to disclose to shareholders the use of corporate resources for political activities. [One petition](#) was submitted by ten law professors in August 2011. Another [came from](#) the Brennan Center for Justice in December 2011.