



Three Myths About... *Citizens United v. Federal Election Commission*

On January 21, 2010, the Supreme Court decided the landmark First Amendment case, *Citizens United v. Federal Election Commission*.¹ The Court ruled that the government could not restrict corporations, labor unions, and associations from making independent expenditures in support of or opposition to candidates. Here's the reality behind three common myths often asserted about the *Citizens United* decision:

Myth #1: *The Supreme Court's decision in Citizens United allowed unlimited corporate spending in elections.*

FALSE. *Citizens United* only allows corporations, labor unions, and trade associations to spend unlimited sums out of their general treasury funds in elections **independently** of candidates. This is a crucial distinction, as these entities are still prohibited from contributing directly to candidates under federal law.²

Myth #2: *The Citizens United ruling allowed foreigners to influence our elections.*

FALSE. The Supreme Court's ruling in *Citizens United* did not broach the issue of political activity of foreign corporations. Specifically, according to 52 U.S.C. § 30121 and 22 U.S.C. § 611(b), any "partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country" is **prohibited** from contributing in elections. Additionally, in *Bluman v. FEC*, a special three-judge court expressly rejected the argument that *Citizens United* altered the law governing foreign nationals.³

Myth #3: *The Citizens United decision overwhelmingly endorsed disclosure.*

FALSE. While the Justices voted 8-1 to uphold requirements for public disclosure in *Citizens United*, what the Justices actually reaffirmed was the existing disclosure regime, according to the precedents of *Buckley v. Valeo* and other cases. Indeed, the Supreme Court has continued to demonstrate concern over the deterrent effect disclosure may have on First Amendment rights.

THE VERDICT: Writing for the Court's majority in *Citizens United*, Justice Kennedy quoted the Court in an earlier decision, reiterating that "the worth of speech 'does not depend upon the identity of its source, whether corporation, association, union, or individual.'"⁴ Indeed, the Court's decision was a victory for the First Amendment's guarantee of free political speech for all speakers.

Further Reading

1 *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). Available at: <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>.

2 “Coordinated Communications and Independent Expenditures,” Federal Election Commission. Available at: <https://transition.fec.gov/pages/brochures/indexp.shtml> (January 2015).

3 800 F. Supp. 2d 281, 289 (D.D.C. 2011) (three-judge court) *summ. aff’d* 565 U.S. 1104 (2012).

4 *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 777 (1978), as quoted in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).



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