



## Citizens United decision weathers 10 years of controversy

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January 21, 2020

A decade after the Supreme Court's landmark Citizens United decision, which ushered in the era of super PACs and unlimited donations, the fight over the contentious ruling shows no signs of easing.

The case upended the campaign finance system, after the justices in a 5-4 ruling authored by Justice Anthony Kennedy on Jan. 21, 2010 found that restrictions on corporate campaign spending violated free speech.

Democrats blasted the decision, warning of the impact of corporate money flooding into elections. But the ruling also opened the door for labor unions and nonprofits to ramp up their campaign spending, altering the landscape.

On the anniversary of the decision, critics see their fight to overturn the ruling entering a new phase, as a number of Democratic candidates are pledging not to accept money from corporate political action committees, known as PACs.

A group with the sole focus of overturning this ruling was formed five years ago. End Citizens United (ECU) works to elect raise the issue of money in politics, and elect candidates and promote ballot measures on the issue.

“What we saw was that Americans across the country were really fed up with the amount of money in elections. They saw it getting worse and worse. They understood how bad Citizens United was and there really was this passion for overturning it,” president Tiffany Muller told The Hill. “It was such a terrible, terrible decision and it had disastrous consequences.”

Since the ruling, \$4.4 billion has been spent in federal elections, according to a report from the group.

ECU's main focus is for the Supreme Court to revisit the case, but legal experts say it is unlikely that the court which has shifted to the right under President Trump will roll back the decision.

Muller has teamed up with members of Congress this week to use the 10-year anniversary as an opportunity to highlight their work on state ballot measures and in Congress.

“Members have been really excited to have another opportunity to talk about the work that they're doing to clean up corruption, to get money out of politics,” she said.

End Citizens United has been advocating for House Resolution 1, the Democrats wide-ranging bill that passed the House in March but was not taken up by the GOP Senate. The bill includes proposals for electoral reforms and more campaign finance transparency.

“What we want to do is continue to show that there are champions on the Hill who are working to try to get this done. In the Senate, what you have right now is Sen. [Mitch] McConnell [R-Ky.] and Republicans who are standing in the way,” Muller said.

Critics have seized on the anniversary to highlight their efforts to overturn the ruling.

“Ten years after Citizens United, our democracy has reached a crisis point,” said Sen. Tom Udall (D-N.M.), on a call hosted by progressive group Public Citizen. “Just look at the ever-increasing amount of secret money flooding our elections.”

Rep. John Sarbanes (D-Md.), chairman of the Democracy Reform Task Force which is behind H.R. 1, called 10 years of Citizens United a “very sober” anniversary at a press conference last Tuesday.

“It’s where this arrogance began on the part of Super PACs and the super wealthy armed with this idea somehow that corporations are people, money is speech. They decided that they were going to take over American politics,” he said.

Sarbanes also pointed to the many Democratic candidates who have had to drop out of the 2020 race, while billionaire candidates have stayed in.

If H.R. 1 passed, Sarbanes said, that would change.

“The Michael Bloomborgs, anybody who’s running whose got a lot of money, it comes out in the wash. It will be balanced,” he said.

Reps. Katie Porter (D-Calif.) and Max Rose (D-N.Y.) with fellow freshman House Democrats launched the End Corruption Caucus on Thursday to spotlight efforts to fight special interests in elections.

Citizens United “opened the flood gates for unlimited amounts of dark money to pour into our political system. And since then, we’ve seen what happens when special interest money is allowed to drown out the voices of everyday Americans,” Porter said at a press conference.

“It means that big Pharma can handcuff providers and handcuff patients with higher drug prices. Wall Street can tear down the guardrails preventing another financial crisis and the NRA can block gun violence prevention legislation even as Americans die every day from preventable gun tragedies.”

But supporters of the ruling have also marked the anniversary, defending the decision.

“Ten years ago the U.S. Supreme Court vindicated the free speech rights of individuals and associations spending independently on elections,” John Samples, vice president of the libertarian Cato Institute, told The Hill.

"Disaster was predicted. It was said businesses and the wealthy would dominate politics and policy. But corporations have stayed out of politics, and liberals have shown and are showing that they can remain competitive or even raise more funds than their opponents."

“While Citizens United hasn’t resulted in a flood of corporate cash ‘drowning out’ ordinary voices, it has allowed new, often very important, voices to be heard,” Scott Blackburn, research director at the Institute for Free Speech, wrote in a report for the anniversary. “The decision not only protects the right to speak, but it protects the right of Americans to hear those voices.”

Supporters of Citizens United note that while Democrats are vowing to reject money from corporate interests they are still accepting donations from labor unions and other nonprofits.

In the years since Citizens United, supporters of the ruling have seen other victories at the high court.

In 2012 in another 5-4 ruling, the Supreme Court struck down a limit on how much an individual can contribute to candidates and political committees in a two-year period. In its decision in *McCutcheon v. FEC*, the court cited the importance of protecting free speech as expressed through political donations.

In 2016, the court issued another decision that critics believe gives donors even more influence in overturning the 2014 bribery conviction of former Va. Gov. Robert McDonnell. The Supreme Court unanimously ruled that government officials can only be convicted of corruption if they make narrowly-defined “official acts” on behalf of their donors, making it harder for federal prosecutors to bring such cases.

In November, Sen. Sheldon Whitehouse (D-R.I.) wrote a Supreme Court brief arguing that Citizens United has opened the door to giving special interests extraordinary influence over politics.

“The Citizens United majority’s assurances that independence and transparency would protect the public from corrupting interests have proven calamitously wrong,” he wrote.

The 2018 election included the first big wave of Democratic congressional candidates vowing to not take corporate PAC money, an effort spearheaded by End Citizens United. Since then, more incumbents and some Republicans have joined.

With a presidential election ahead, the fight is certain to again heat up.

“We’re going to not stop until we change this place. We’re not going to stop until elected officials on both sides of the aisle are no longer in the pockets of lobbyists and corporate PACs but are boldly committed to the interests of the American people,” Rose said.