



Communications Lawyer

Publication of the Forum
on Communications Law
American Bar Association
Volume 27, Number 1, April 2010

THE JOURNAL OF MEDIA, INFORMATION, AND COMMUNICATIONS LAW



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Citizens United: Coming Soon to a Cable Broadcast and Satellite Channel near You!

DEVEREUX CHATILLON

It all started with a bad movie, a non-profit with an agenda, and a court with a critical shift in personnel.

Hillary: The Movie reportedly is a poorly shot, lumpishly edited documentary on now-Secretary of State Hillary Clinton, then an aspirant for the Democratic presidential nomination. Citizens United, a nonprofit political advocacy group, distributed the movie in theaters and on DVD and planned to release it via video on demand. When the Federal Election Commission (FEC) took the position that showing the documentary via video on demand would violate the federal campaign finance laws, Citizens United filed suit in the U.S. District Court for the District of Columbia, seeking a preliminary injunction and a declaratory judgment that FEC could not prohibit the group from distributing the movie via video on demand because that would violate the First Amendment to the U.S. Constitution. The case, *Citizens United v. FEC*, was decided on January 21, 2010, by the Supreme Court.¹

As this brief description suggests, the case is significant for media corporations on several levels. First, because media corporations are corporations like any other, the Court's elimination of the previously existing ban on the use of any corporate money to buy ads (or spend money in any way other than direct contributions) to urge the election or defeat of a candidate for federal office frees media corporations to do exactly that. The previous need to use political action committees and the complete ban on all such ads within thirty days of a primary or convention and sixty days of

an election have vanished as the Court declared that the federal statutes prohibiting them violated the First Amendment to the U.S. Constitution.

Second, although most news reporting and traditional media commentary was exempted from federal campaign regulation, any possible remaining constraints on media activity in connection with those activities by corporations are gone. And because of the elimination of the constraints on advertising and other kinds of spending by corporations, both for-profit and not-for-profit, there could be significant changes in the general media landscape in connection with federal elections. Although the long-standing exemption for traditional media corporations when engaged in news reporting and regular programming or publishing likely remains, with the elimination of several major statutes, the interplay of FEC regulations concerning coordination with campaigns and similar restrictions on corporate spending in relation to campaigns may now be altered.

Finally, the contents of the majority

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