

Who Speaks and How? Rethinking *Citizens United* After Donald Trump's Election

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Abstract

*Media corporations enjoy broad free speech rights in the United States, but Congress has sometimes limited the speech rights of other corporations. The Supreme Court's ruling in *Citizens United v. Federal Election Commission* was controversial because it gave non-media corporations more freedom to spend money to influence elections. Some worry this ruling makes corporate speech too powerful. However, Donald Trump's campaign for president benefitted far more from free publicity provided by media corporations than it did from corporate donations. Trump's campaign spent far less than Hillary Clinton's but received much more media coverage. This article explores the role of different types of speech—paid, earned, owned, and shared media—in the 2016 election. We argue that public relations tactics can be more powerful than paid advertising, and media corporations' speech can influence an election more than other corporations' speech. We conclude there is a need for greater education and ethics among media practitioners and the general public, but not a need for more government regulation of corporate speech.*

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During his campaign for president, and since his election, Donald Trump has made numerous public statements undermining the First Amendment (Johnson, 2017). Determining which statements are empty rhetoric and which are genuine threats to free expression is complicated. However, one aspect of the Trump presidency that has clear implications for free speech is his election, itself.

Many political observers have worried about the influence of corporate money on U.S. elections, especially since the Supreme Court struck down limits on corporate electioneering spending in *Citizens United v. Federal Election Commission* (2010) (Hasen, 2014; Levinson, 2011). The fear is that corporate money, usually funneled through political action committees (PACs), drowns out other voices in society. For this reason, many scholars and policy makers have supported restrictions on corporate election spending and, thus (indirectly), restrictions on corporations' right to free speech. However, these same leaders tend to be staunch protectors of the news media's right to free speech, even though many media outlets are controlled by large corporations with diverse business portfolios and have economic imperatives that may put profits ahead of high-quality news.

The Trump election suggests media corporations can have more influence on elections than other corporations. In 2016, Trump was heavily outspent by other Republicans in the primaries (Confessore & Yourish, 2016) and by Hillary Clinton in the general election (Allison, Rojanasakul, Harris, & Sam, 2016). Trump, however, received far more free publicity than anyone else in the race (Harris, 2016).

Earning free media attention is, historically, a core function of public relations. As public relations scholars, we view Trump's election as an indication of the power of public relations to leverage the resources of the news media (for better or worse). We think many of the concerns about corporate money buying elections are misplaced, and we offer Trump's election as a case study to illustrate why ethical public relations and journalism are more important to American democracy than is restricting corporate free speech.

We begin with a brief summary of recent Supreme Court jurisprudence regarding corporate political speech. Next, we examine how the Bipartisan Campaign

Reform Act sought to limit corporate speech, and how the Supreme Court responded in the *Citizens United* case. From there, we review basic principles of public relations and show how Trump’s campaign used (and abused) many of them. Finally, we consider how ethical public relations and journalism are just as important as ever, and how education—not government speech restrictions—may help Americans make sense of electioneering communication.

Corporate Political Speech Rights since the 1970s

Political speech by corporations has sparked controversy for decades, but since the 1970s, the Supreme Court has generally found that corporations, not just individuals, do have a First Amendment right to speak about public issues. In *Buckley v. Valeo* (1976), the Court declared that the right to speak includes the right to spend money. The Court struck down portions of the Federal Elections Campaign Act of 1971 (FECA), ruling that the government could limit the size of political contributions (i.e., donations to a candidate) but not the size of expenditures (i.e. money spent directly on political speech). In other words, money equals speech. Some scholars object to this analogy (e.g., Kerr, 2009), but as the Court in *Buckley* observed, “virtually every means of communicating ideas in today's mass society requires the expenditure of money” (p. 19).

Two years after *Buckley*, the Court struck down a Massachusetts law that banned corporations from making contributions or expenditures to influence state referenda (unless a referendum were directly related to the corporation’s business). In overturning the law by a 5-4 vote, the Court reasoned as follows:

If a legislature may direct business corporations to “stick to business,” it also may limit other corporations—religious, charitable, or civic—to their respective “business” when addressing the public. Such power in government to channel the expression of views is unacceptable under the First Amendment. (*First National Bank v. Bellotti*, 1978, p. 785)

The Court noted that political speech was precisely what the First Amendment was written to protect, and citizens were free to evaluate the source credibility of a corporation’s political speech. The State of Massachusetts tried to argue that

corporate speech would overwhelm individual speech, but the Court rejected this argument for lack of evidence.

Following this ruling, the Court also struck down a New York regulation that prevented public utility companies from including “inserts discussing controversial issues of public policy” in customers’ monthly bills (*Consolidated Edison v. Public Service Commission*, 1980, p. 532). The Consolidated Edison Company had placed inserts into billing envelopes advocating the use of nuclear power, and the Court ruled the electric company had a right to participate in this public debate.

The Court’s corporate speech jurisprudence changed direction with *Austin v. Michigan Chamber of Commerce* (1990). Here, the Court upheld a Michigan law prohibiting corporations from using their general funds to support candidates for state office. The Michigan State Chamber of Commerce, a nonprofit corporation, was not allowed to buy a newspaper advertisement to support a particular candidate. The Court acknowledged that this law placed a burden on the Chamber’s political speech, but decided there was a compelling government interest in avoiding corruption or the appearance of corruption. Specifically, the Court said the state was justified in trying to avoid, “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s political ideas” (*Austin v. Michigan Chamber of Commerce*, 1990, p. 660).

This line of reasoning, that (a) corporations have an unfair advantage in political discourse because of their financial resources, and that (b) the risk of corruption will undermine public trust in the political system, led to the passage of the Bipartisan Campaign Reform Act (BCRA) in 2002. BCRA’s implications for the First Amendment and its court challenges are considered next.

Campaign Finance Reform and *Citizens United*

Popularly known as the McCain-Feingold Act, BCRA prohibited the raising of “soft-money” donations (i.e., unlimited donations used for political party activities), added new disclosure requirements, and prohibited so-called *issue ads* as well as

electioneering communication funded with corporate money. Electioneering communication was defined as “any broadcast referring to a candidate for federal office that is aired within thirty days of a federal primary election or sixty days of a federal general election” and funded by corporations or unions (Kerr, 2009, p. 135). Importantly, BCRA contained specific exemptions for television news stories and editorials.

BCRA’s restrictions on corporate speech were largely upheld in *McConnell v. Federal Election Commission* (2003). The Court ruled that soft money donations did not constitute the same level of political speech as expenditures, and therefore, restricting soft money was not a serious burden on free speech. Furthermore, the government’s interest in avoiding corruption or the appearance of corruption (which would result from large, unregulated corporate spending) was so strong that some limits on First Amendment rights were permissible.

The *McConnell* ruling was narrowed a bit in *Federal Election Commission v. Wisconsin Right to Life* (2007), but the debate over government regulation of corporate political speech truly came to a head in *Citizens United v. Federal Election Commission* (2010). Citizens United is a conservative 501(c)(4) nonprofit organization. Prior to the 2008 presidential election, Citizens United created a documentary, *Hillary: The Movie*, criticizing Senator Hillary Clinton, who was seeking the Democratic Party’s nomination for president. Citizens United planned to release the film in theaters and on DVD. It was also prepared to pay \$1.2 million to make the film available for free via video-on-demand and to spend additional money on television ads promoting the film. However, because it wanted the film and the ads to air within 30 days of the primary elections, and because it had received corporate donations, it feared prosecution under BCRA.

In December 2007, Citizens United took the Federal Election Commission to court, seeking a declaratory judgment that parts of BCRA were unconstitutional as applied to *Hillary: The Movie* and the accompanying ads. When the lower court ruled against it, Citizens United appealed to the Supreme Court, which heard the case in 2009.

The final ruling in the case was 5-4 in favor of Citizens United. Although the organization did not get everything it wanted (it had asked the Court to overturn certain disclosure requirements that the Court upheld), the portions of BCRA banning electioneering communication funded by corporations were struck down. The *Austin* and *McConnell* precedents were overturned as well. Justice Anthony Kennedy wrote the opinion of the court (three other justices wrote concurring opinions), and Justice John Paul Stevens wrote the dissent. Kennedy's opinion saw BCRA as a paternalistic and unconstitutional attempt to limit which voices could be heard in public debate. He wrote:

When Government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves. (p. 40)

Kennedy also found it significant that BCRA exempted the news media from its restrictions. He wrote, "There is no precedent supporting laws that attempt to distinguish between corporations which are deemed to be exempt as media corporations and those which are not" (p. 36). Kennedy argued that the Internet had blurred the line between journalists and non-journalists. Furthermore, he saw it as a clear violation of the First Amendment to allow some conglomerates (i.e., those that own media companies) to engage in political speech while prohibiting others.

In his dissent, Justice Stevens called the majority opinion "a rejection of the common sense of the American people" (p. 90). He argued:

[W]hen corporations grab up the prime broadcasting slots on the eve of an election they can flood the market with advocacy that bears "little or no correlation" to the ideas of natural persons or to any broader notion of the public good... The opinions of real people may be marginalized. (p. 80)

In the aftermath of this ruling, many observers (especially on the political left) predicted runaway corporate spending that would drown out the voices of average citizens (e.g., Khimm, 2010; Raskin, 2012). It is true that spending on U.S. congressional races increased substantially from 2010 to 2014 (Levy, 2015), although

some research suggests this spending had little influence on electoral outcomes (Abramowitz, 2015).

Readers may be surprised to know that the authors of this article have differing personal views on whether *Citizens United* was decided correctly. What we agree on is that the presidential election of 2016 raises serious questions about the relative importance of corporate spending when compared to the power of modern media (both traditional journalism and social media), as influenced by public relations. In other words, whether *Citizens United* was decided correctly *may not matter* much in today's media environment. Instead of focusing on corporate money, people who are worried about the future of American democracy should consider the importance of other types of communication.

Public Relations and the Modern Forms of Communication

As Kenneth Burke and others have noted, society is a marketplace of ideas, facts, values, and policies. Every day, but especially during elections, we can see “the Scramble, the Wrangle of the Marketplace, the flurries and flare-ups of the Human Barnyard, Give and Take” (Burke, 1969, p. 23). In modern public relations theory, as in First Amendment jurisprudence, freedom of expression is considered the foundation of civil society. Individual citizens, groups, activist organizations, and businesses of all sizes deserve a chance to participate in the debates that shape our society. Honest discourse, amplified through public relations tactics, provides the arguments and the counterarguments that create a fully functioning society (Heath, 2006).

Public relations has not always been concerned with its effect on society, of course. The earliest PR practitioners focused mostly on publicity stunts and generating free media attention. Grunig and Hunt (1984) called this the press agent/publicity model of public relations. Modern PR theories put more emphasis on concepts like dialogue and corporate social responsibility, but media relations continues to be an important PR function. Nevertheless, scholars and practitioners

now view publicity as just one of many ways PR fosters communication between organizations and publics.

Until a few decades ago, organizational communication to external publics was categorized simply in terms of *paid* media and *earned* media. More recently, the importance of *owned* media and *shared* media has been recognized. Online communication tools have led to the development of the *PESO* model of organizational communication—paid, earned, shared, and owned media (e.g., Luttrell, 2016; Macnamara, Lwin, Adi, & Zerfass, 2016).

Paid media refers primarily to advertising. Organizations pay for exposure in mass media through commercial contracts (Stephen & Galak, 2012). Advertising and marketing professionals have long used paid media to disseminate information about products or companies (Reynar, Phillips, & Heumann, 2010). Paid media allow organizations (of all kinds) to control the timing, channel, and content of a message. In political campaigns, corporate donations to PACs are often used to fund paid media.

Owned media refers to company-generated content such as organizational websites, company Facebook pages, brand communities, and company apps. Compared to paid media, owned media allow publics to spend more time engaging with companies (Lovett & Staelin, 2016). Company websites, for example, not only serve a *brochure* function, enabling consumers to search for specific information before they make a purchase, but also act as *hubs* where corporate information is collected and shared (Burcher, 2012). Both paid and owned media messages lack the credibility afforded to earned media.

Earned media refers to communication that is not directly generated by a company itself. Rather, it is content about the organization generated by traditional media (e.g., publicity), interpersonal communication (e.g., word of mouth), and online communities (e.g., social media posts) (Stephen & Galak, 2012). Most media relations tactics (e.g., speeches, interviews, news releases, events) fall under the category of earned media. Although earned media do not provide organizations as much control over content as paid media or owned media do, they offer the advantage of higher credibility (DiStaso & Brown, 2015). Earned media also provide an information

subsidy to journalists, helping to fill the news hole in an era of shrinking newsroom staffs and budgets (Sallot & Johnson, 2006).

Finally, *shared media* include social media like Twitter and Instagram, which enable publics to generate and pass along content related to organizations. This category overlaps with the earned and owned media categories. Sometimes individuals and organizations use social media to make public statements that become the subject of earned media coverage. Often, organizations use Facebook or Twitter to post messages (owned media), but then other users share, like, or respond to these posts (shared media). Shared media's immediacy can stimulate individuals' engagement and participation in different issues, moving publics from awareness to engagement (Hanna, Rohm, & Crittenden, 2011).

Like many attempts to limit corporate speech, BCRA focused on restricting paid media (advertising). Perhaps Congress believed that complete control of message channel, timing, and content was the most powerful way to influence people. However, even before the Supreme Court struck down most of it, BCRA left media corporations and journalists alone and, thus, left public relations practitioners free to use a range of tactics to earn free publicity. The Trump election illustrates just how powerful these PESO tactics can be.

The PESO Model in the Trump Campaign

The election of President Trump has been called "the biggest upset in modern political history" (Tani, 2016, para. 2). Virtually all opinion polls and big-data models were wrong, predicting a win for Hillary Clinton instead (Donatelli & Curto, 2016).

One reason so many observers assumed Trump would lose was because he raised and spent far less money than Clinton. Trump's campaign spent \$531 million and Super PACs spent \$85 million on his behalf (Allison et al., 2016). By contrast, the Clinton campaign spent \$969 million and received \$215 million in support from Super PACs. In short, Clinton outspent Trump by approximately half a billion dollars.

Despite losing the money race, Trump carried 30 of the 50 states and defeated Clinton in the Electoral College 306-232. No doubt, there are many factors that led to

this outcome, but some of the most important were directly related to public relations tactics that garnered non-stop media coverage. Trump capitalized on his celebrity status as well as earned, shared, and owned media to build his brand and dominate news coverage of the election.

Trump's "Apprenticeship" in Earned Media

Trump was a celebrity long before he ran for president. For at least two decades prior, he had appeared in movies (*Home Alone 2*), commercials (McDonald's) and created a global brand around luxury products. Most important, Trump's NBC television program *The Apprentice* broadcast his name, face, and brand image as a successful businessman into millions of homes each week from 2004-2015. *The Apprentice* used all of the typical earned media relations tactics to build its brand. Trump appeared on entertainment programs and morning talk shows. He gave interviews and set tours. His team produced news releases and held publicity events. For paid media, *The Apprentice* took out advertisements to tout its host, episodes, and awards. When social media emerged in the latter part of the 2000s, *The Apprentice* established its own Twitter feed and Facebook page. Over time, shared user-generated content helped to extend the reach of the show and make Trump a household name. The series gave Trump a platform (both on air and online) to be brash and outrageous. That brashness created a social media persona that traditional media amplified.

Earned Media in the Election

During the Republican primary, Trump spent less on political ads than most of his rivals but earned far more free media coverage (Confessore & Yourish, 2016). In the 12 months leading up to Election Day, Trump received 53% more media coverage than Clinton. According to MediaQuant, Trump's earned media, across online, broadcast, and print channels, was worth \$4.96 billion (Harris, 2016). Clinton's earned media was worth \$3.24 billion—or \$1.72 billion less.

Much of the media attention was generated by Trump's willingness to be controversial (Francia, 2017). Even in 2015, Trump was grabbing headlines by calling Mexican immigrants "rapists," arguing that Senator John McCain (a former prisoner

of war) was not a war hero, and claiming that Fox News reporter Megyn Kelly had “blood coming out of her, wherever” (Henderson & Lawler, 2016). He drew attention by calling his Republican primary opponents demeaning nicknames like “low-energy Jeb” (Bush), “little Marco” (Rubio), and “lyin’ Ted” (Cruz). The news media often criticized Trump’s antics but could not ignore them. Cable news organizations devoted hours to carrying his campaign speeches as if waiting for something newsworthy to happen.

The Trump campaign resembled the old press agent/publicity model of public relations. According to Grunig and Hunt (1984), this model was exemplified by P.T Barnum in the 1800s. “Barnum said he didn’t care if the newspapers attacked him as long as they spelled his name right. ‘There’s no such thing as bad publicity,’ was the credo of the press agent” (p. 28). This appeared to be Trump’s philosophy about dealing with the news media.

Maximizing Shared Media

In addition to earning more news coverage than Clinton, Trump used shared media more effectively. Laeeq Khan, director of the Social Media Analytics Lab at Ohio University, reported that Trump had 4 million more Twitter followers than Clinton and generated three times more interest online than she did (Khan, 2016). Trump’s tweets were retweeted far more often than Clinton’s (Magdy & Darwish, 2016), and retweets were a significant predictor of news coverage (Wells et al., 2016). In other words, interest in Trump’s shared media led to more earned media.

Khan (2016) credits Trump with engaging voters through the immediacy of his tweets, as well as his willingness to be transparent and take risks. Enli (2017) observed that Trump’s approach to Twitter was less professional, but more authentic than Clinton’s. Wells et al. (2016) suggested that Trump’s lack of professionalism, including his willingness to court controversy and be politically incorrect, was appealing to many voters.

At the same time, Trump may have benefitted from foreign-led social media campaigns.² Pamela In 2016 the FBI began an investigation into Russian interference in the election. In early 2018 the Justice Department indicted 13 Russians and three Russian companies on multiple charges, including conspiracy to defraud the United States (Mueller, 2018). According to the indictment, Russian agents, working through an entity called the Internet Research Agency, had created numerous fake social media profiles in the U.S. and purchased social media advertising to support various candidates, including Trump. Beginning as early as 2015, these agents spent “thousands of U.S. dollars every month” (Mueller, 2018, p. 14) on social media ads. By September 2016, the monthly budget for the Internet Research Agency was \$1.25 million. The goal of this effort was to sow dissent and harm Clinton’s candidacy. However, the indictment did not say whether these social media efforts changed the outcome of the election, and officials have said there is no reliable way to calculate the effects of this interference (Apuzzo & LaFraniere, 2018).

Circumventing Journalists Through Owned Media

Trump also used owned media effectively at a pivotal moment in the campaign. In October 2016, one month before the election, *The Washington Post* obtained an 11-year-old video of Trump bragging about his sexual advances toward women (Finnegan, 2016). On the tape, Trump could be heard saying that because he was a celebrity he could just walk up to women and start kissing or grabbing them. The Trump campaign team created its own video and posted it directly to Trump’s Facebook page (Finnegan, 2016). In this video, Trump apologized directly for his words. He said, “I said it. I was wrong, and I apologize.” However, he carefully avoided any apology for the *actions* he had described, and he used the video to attack the Clintons at the same time.

Trump’s remarks were hardly a full apology, but Bentley (2015) has argued that sometimes *pseudo*-apologies are more strategic than full apologies. This is

² At the time of this writing, the Justice Department’s investigation into Russian interference in the 2016 election is ongoing. A detailed analysis of this interference is likely premature and is beyond the scope of this article.

particularly true in political situations when a candidate has a built-in network of supporters who want to continue supporting him without condoning his misdeeds. Had Trump given his apology in an interview, as other candidates might have done, he could have been asked uncomfortable follow-up questions. By using owned media, he gave supporters his version of the story directly and controlled the message.

Of the four elements in the PESO model, Trump's campaign put the least emphasis on paid media and probably benefitted the most from earned media. Understanding *why* the news media gave Trump so much free coverage is important to understanding how different types of free speech can influence elections.

Freedom of the Press: Rights and Responsibilities

Although there is still plenty of debate over the free speech rights of ordinary corporations, there is general agreement that media corporations are protected under the First Amendment's freedom of the press clause. Federal laws like FECA and BCRA, as well as campaign regulations in many states, include media exemptions in order to avoid violating the First Amendment (Riches, 2017). In the aftermath of the *Citizens United* case, New Mexico Senator Tom Udall proposed an unsuccessful constitutional amendment that would have given specific power to Congress to regulate campaign spending (Murphy & Rottman, 2014). However, the proposed amendment exempted the news media, stating, "Nothing in this article shall be construed to grant Congress the power to abridge the freedom of the press" (Murphy & Rottman, 2014, para. 7).

The point is, there is general agreement that the government may not (and should not) restrict news media coverage of elections, even when media outlets are operated by corporations. Indeed, most media outlets are corporately owned—often by corporations whose primary business is not journalism. As Molla and Kafka (2018) have reported, the Walt Disney Company owns ABC and ESPN. Comcast controls channels such as NBC, CNBC, and MSNBC. AT&T/Time Warner owns CNN and other Turner Broadcasting channels like TBS and TNT.

For decades, journalism scholars have raised concerns about how profit motives affect the news industry (e.g., Jackson, 2009; McManus, 1994). The desire to maximize ratings and keep costs down likely affected how much coverage the media gave Trump. Thompson (2016) noted that media organizations such as CNN, MSNBC, and FOX were struggling in the year leading up to the Trump campaign announcement. However, Trump's candidacy was a major boon to them:

Total primetime viewership for the three channels grew by 8 percent in 2015, and profits soared by about a fifth at both CNN and Fox News. Trump may be destroying U.S. democratic norms, but he appears, for the moment, to be one big beautiful orange life raft for the flagging cable news business. (para 3)

Former cable news anchor Campbell Brown lamented the free, and often uncritical coverage Trump received during the Republican primary. She wrote, "I believe Trump's candidacy is largely a creation of a TV media that wants him, or needs him, to be the central character in this year's political drama" (Brown, 2016, para. 11). Brown argued that because Trump was good for ratings, television news covered him far more than he initially deserved, sometimes even broadcasting his campaign rallies live from start to finish.

Trump's celebrity status gave him an advantage that most traditional candidates do not have. In the handful of House and Senate races since 2016, no candidate has enjoyed the kind of fame Trump had before his campaign, and no candidate has been able to replicate his earned media success. However, since 2016 there have been rumors of other celebrities, including Oprah Winfrey and Dwayne "The Rock" Johnson, running for president (Zaru, 2018). Only time will tell if this becomes a trend. If political parties perceive that celebrity candidates automatically generate extensive earned media coverage, they may start to prioritize celebrity status over experience or other qualifications for office.

To be clear, we are not arguing for additional regulation of the news media. The First Amendment protects the free press, and rightly so. Journalists provide an important check on the government's power. However, we *are* suggesting that the content produced by media corporations is not inherently purer or better for the country than other corporations' speech, and we oppose giving media corporations a

monopoly on corporate free speech. As Justice Kennedy wrote in *Citizens United*, the arguments used to restrict corporate speech can be made against large media companies, too. Borrowing language from the Court's opinion in *Austin*, Kennedy argued, "media corporations accumulate wealth with the help of the corporate form... and the views expressed by media corporations often 'have little or no correlation to the public's support' for those views" (2010, p. 35). The 2016 election is a reminder that journalists (and the corporations for which they work) cannot afford to forget their traditional values of balance, accuracy, and objectivity, especially because their reporting is usually afforded more credibility than paid advertising.

Implications

Trump's election has several implications for the way scholars think about *Citizens United* and the many types of free speech.

Does *Citizens United* Even Matter?

Many pundits have expressed concern over the influence of corporate money in politics, and the *Citizens United* decision remains unpopular in certain circles—perhaps especially among academics. Nevertheless, Donald Trump's election suggests that neither corporate speech nor *Citizens United* poses a unique threat to free speech or American democracy. Clinton lost to Trump even though she outspent him by half a billion dollars. Although the 2016 election was, admittedly, quite unusual, it illustrates that money alone does not determine the outcome of an election.³ Furthermore, even if the Supreme Court had allowed Congress to limit the speech of non-media corporations (as BCRA sought to do), the Court never would have allowed such restrictions on media corporations. The First Amendment is crystal clear on that

³ Trump is not the only presidential candidate to win despite being outspent; however, he is the one who illustrates the power of media corporations most clearly. For example, according to OpenSecrets.org, more money was spent on behalf of Mitt Romney's 2012 presidential campaign than on behalf of Barack Obama's campaign (<https://www.opensecrets.org/pres12/#out>). There are many factors that influence electoral outcomes, including incumbency, economic trends, and global events. However, in this article we focus on what the Trump election tells us about money in politics—that is, that money cannot buy elections the way some pundits have feared.

issue. Thus, Trump's campaign would almost certainly have received the same overwhelming earned media coverage, no matter how *Citizens United* was decided.

If anything, *Citizens United* leaves the door open for non-celebrity candidates to use money to mitigate the advantages of their celebrity opponents. Candidates who are not media darlings can still raise money to spend on paid media, and corporations that support such candidates are free to speak with their pocketbooks. Perhaps in some cases, non-media corporations, though their financial support of non-celebrity candidates, can act as a counterbalance to media corporations giving overwhelming coverage to celebrity candidates.

Furthermore, had BCRA's limits on corporate speech been left in place, there might have been a somewhat perverse incentive for more corporations to purchase media outlets. Amazon CEO Jeff Bezos purchased *The Washington Post* for \$250 million in 2013 (Farhi, 2013). Other wealthy individuals or corporations might be motivated to act similarly if owning a media outlet was the only way to fully participate in public debate. Whether such a trend would be healthy for American journalism is a complex question, but we suggest the ideal situation is for the news media to be controlled by people who are primarily interested in promoting excellent journalism, not pushing a particular political agenda or simply maximizing profits.

Is the Press Agent/Publicity Model Back?

The press agent/publicity model of public relations, synonymous with Ringmaster P.T. Barnum, was supposed to be replaced by a professionalism built on strong ethics and values. Yet, the press agent model endures. Earned media matters, and there are many ways to garner attention across platforms. In a world of advertising clutter (Ha & McCann, 2008), only certain messages stand out. Trump's ability to cut through clutter was a key part of his success. His deliberately provocative statements enticed journalists to cover him more than they covered anyone else in the race (Francia, 2017).

At the same time, neither candidates nor public relations practitioners can *force* journalists to cover their campaigns. Although the need to chase ratings and keep down costs in newsrooms certainly puts pressure on journalists to cover spectacles like

the Trump campaign, the choice still belongs to the journalists. If publicity stunts did not work, public relations practitioners would eventually stop resorting to them.

It is also worth considering the possibility that Trump's campaign was *more* than mere publicity stunts. Trump's ability to identify and address the interests of key publics was important, too. Exit polls after the election reported that most voters thought the country was on the wrong track, and 69% of these voters chose Trump over Clinton (Page & Heath, 2016). Trump attacked the Washington establishment and the media. He emphasized his status as a businessman, not a politician. In this way, he was appealing to deep-seated concerns held by many Americans. Connecting with genuine public concerns—when done honestly—is perfectly consistent with the values of public relations and journalism.

Where Do We Go From Here?

When people perceive that American democracy or free speech is under threat, as many critics of *Citizens United* and the Trump administration do, they have a natural desire to take action. As noted already, Democrats in the U.S. Senate attempted (unsuccessfully) to pass a constitutional amendment that would have overturned the *Citizens United* ruling (Murphy & Rottman, 2014). Jackson (2009) and others have suggested a “news tax” to provide more funding for newsrooms. In 2016, New York State's Joint Commission on Public Ethics proposed new rules that would treat public relations professionals like lobbyists (McKinley, 2016).

We believe proposals like these, which focus on increased government regulation, are likely to have unintended negative consequences and to run afoul of the First Amendment by restricting free speech in various ways. A better, long-term solution—although not a simple one—is based in education and ethics. For media professionals, ongoing education in journalistic ethics is vital. As an example, the SPJ Code of Ethics warns journalists, “Avoid pandering to lurid curiosity, even if others do” (Society of Professional Journalists, 2014, para. 29). Although it is easy to claim that anything a presidential candidate does is newsworthy, we suspect some of Trump's coverage was based on the spectacle, not the news value, of his candidacy. Similarly, public relations professionals must be taught (and reminded) that the PRSA

Code of Ethics requires them not only to “Be honest and accurate in all communications,” but also to “Investigate the truthfulness and accuracy of information released on behalf of those represented” (Public Relations Society of America, n.d., para. 23). Not only should university students receive professional ethics training in their classes, but employees should receive it from their employers just like they receive diversity or sexual harassment training.

There is also a need to educate the general public better in two key areas: the First Amendment and media literacy. A 2016 survey found that 40% of Americans could not name *any* of the freedoms guaranteed by the First Amendment, and only 11% could name freedom of the press (Newseum Institute, 2016). High school civics classes ought to emphasize not just the wording of the First Amendment, but its historical meaning. Students should be introduced to concepts like the marketplace of ideas, made famous by Justice Oliver Wendell Holmes, Jr. (*Abrams v. United States*, 1919), and Justice Louis Brandeis’s argument that the remedy for evil speech is more speech, not silence (*Whitney v. California*, 1927).

Furthermore, Americans need to learn media literacy. Research shows that media literacy programs can improve high school students’ ability to analyze both news and advertising content (Martens & Hobbs, 2015). Understanding which content is based on actual reporting and which content is thinly veiled advertising may help the next generation filter what it sees on TV or reads online.

Conclusion

We have argued that Donald Trump’s election is an indication that *Citizens United* was not quite the blow to free speech or democracy that some political observers feared. Money is not everything in elections, and the speech of media corporations can easily outweigh the effects of other corporate speech. We recognize that many people remain concerned about these issues, but as the ACLU has argued, “the response to those concerns must be consistent with our constitutional commitment to freedom of speech and association” (ACLU, n.d., para 3). We believe that response should be based on a renewed commitment to professional ethics on the

part of journalists and public relations practitioners, who are held accountable by an educated and engaged public.

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