



June 22, 2010

Dear Representative,

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing to express our strong opposition to H.R. 5175, the Democracy Is Strengthened by Casting Light on Spending in Elections Act, or "DISCLOSE Act." **A vote against final passage of H.R. 5175 may be considered an NFIB KEY VOTE for the 111th Congress.**

NFIB opposes the legislation for two primary reasons. First, it threatens the First Amendment rights of small business owners across the country. Secondly, narrow, unfair exemptions for a few politically-favored special interest groups were added to the legislation. This undermines the intent of the Supreme Court's ruling in *Citizens United v. Federal Election Commission*, which upheld the right to engage in free speech, particularly political speech.

On January 21, 2010, the Supreme Court ruled in *Citizens United v. Federal Election Commission* that corporations and unions may now directly and expressly advocate for the election or defeat of candidates for federal office, as long as they do not coordinate their efforts with campaigns or political parties. The decision specifies that the First Amendment protects corporations and unions the same as individuals with regard to the ability to spend money to influence elections. The decision keeps in place disclosure and disclaimer requirements. These requirements involve reports that have to be filed with the FEC on electioneering communications, and the ads themselves must carry a disclaimer stating who is responsible for the content. It also leaves in place the prohibition on direct corporate or union contributions to candidates. NFIB supports the Supreme Court's ruling as it ensures that small business owners are heard throughout the electoral process.

By specifically targeting for-profit corporations and the associations that represent them, the legislation stands in stark contrast to past campaign-finance legislation, which sought to treat unions and corporations equally. Sponsors of this legislation have conveniently set disclosure limits at \$600, effectively exempting unions yet including virtually all associations and corporations. The same provision of the bill also exempts unions from having to disclose transfers of up to \$50,000 from affiliated unions, while allowing for no comparable exemption for businesses.

Additionally, in an effort to find the votes to pass a flawed, unconstitutional bill, narrow exemptions for a handful of special interest groups were added to the bill. This discriminatory treatment is impossible to reconcile with Supreme Court precedent proscribing "differential treatment" of speakers¹. Providing such a blatant political carve-out only further exacerbates small businesses owner's alarm about the policies being pushed by Congress. H.R. 5175 is a back-room attempt to silence the voices of America's small business owners, at a time when our country desperately needs them to lead an economic recovery. The political intent of the legislation is made clear by providing preferential favor to labor unions and special interests in the form of an exemption from the bill's free speech limits.

Sincerely,

A handwritten signature in black ink, which appears to read "Susan Eckerly". The signature is fluid and cursive, written over a light gray background.

Susan Eckerly
Senior Vice President
Public Policy

¹ *Citizens United*, 130 S. Ct. at 906.