



PROFOUND IMPLICATIONS FOR ONLINE ADVERTISING:

Corporations, Unions and Trade Associations can now use online advertising to support or attack candidates for federal office.

THE SUPREME COURT DECISION

The Supreme Court on Thursday handed down a landmark ruling in the *Citizens United v. FEC* case and significantly transformed Federal campaigns and elections. The purpose of this document is to discuss the implications of the decision as it relates to online campaigning and the new opportunities now available to corporations, associations and unions online.

IMPLICATIONS OF THE RULING

The 5-4 ruling struck down the decades-old prohibition on corporate expenditures in connection with federal elections as unconstitutional under the First Amendment. The Court also invalidated the McCain-Feingold Law's restrictions on corporate and union-funded advertising depicting federal candidates in the last 60 days before a general election and the last 30 days before a primary that is targeted to the relevant electorate.

In the aftermath of the *Citizens United* ruling, corporations, incorporated trade associations, and labor unions will have a much greater ability to use their general treasury funds (i.e., non-PAC funds) to finance advertisements, including online advertisements, promoting and opposing federal candidates and officeholders--including advertisements expressly advocating the election or defeat of federal candidates.

There are no longer any content restrictions on corporate, trade association, and/or union federal election-related advertising, nor are there any time restrictions on when the advertisements may be disseminated. Advertising may be run in the final days and weeks before a federal election.

However, several important legal restrictions *do* remain in place following *Citizens United*, including the requirement that corporate, trade association, and union advertising be done independently of federal candidates and political parties. In addition, the law's disclaimer and disclosure requirements were not struck down by the Court in *Citizens United* and remain in effect.



THE ONLINE POLITICAL ENVIRONMENT

For the first time, Americans spent more time online in 2009 than they did watching television. 2009 was also the year the web surpassed newspapers as a news source. A study entitled "PEW Internet and American Life Project: The Internet's Role in Campaign 2008" revealed the growing impact of the Internet on the American political process.

Just as the televised 1960 Nixon-Kennedy debate ushered in the importance of TV to American politics, in 2008, the Internet became a significant component of the campaign of Barack Obama. The two most significant results from the election of 2008 were these: America elected its first black President and America became an online democracy.

In the 2008 election, the web transformed millions of Americans from passive consumers of political information to actively engaged supporters and donors. They blogged, emailed, twittered and texted their way through the election, and 26% of Americans reported that their primary source of campaign and election news came from the Internet.

In spite of the growing importance of the web in campaign activity, most campaigns under-invest in online advertising expenditures. Nationally, political campaigns spend an average of less than 3% of their campaign budget online. Based on media consumption patterns, the typical campaign should be investing 10% of their budgets online. The most recent example of this amount of spending contributing to a win was Scott Brown in the recent Massachusetts U.S. Senate special election.

Further, just as the web has fundamentally changed newspaper, magazine, travel and retailing, it will soon transform television. TV advertising of the future will use Internet protocols for audience targeting, response and engagement-- allowing advertisers to know exactly who is watching their ads. Television set top boxes are already Internet addressable and with the convergence of these two media, soon the consumer experience of surfing the web and watching television will be indistinguishable.



POLITICS ONLINE: STATE OF THE ART

The march of technology is relentless and the pace is accelerating. Consider the following:

Time it Took to Reach an Audience of 50 million



It should come as no surprise, then, that the Barack Obama campaign of 2008 is no longer considered state of the art. In just the past twelve months, advances in social networking, audience targeting, mobile communications and online advertising have rendered the 2008 Obama campaign efforts a historic relic to be studied by technology and cultural anthropologists.

In the following pages, we detail the five most important developments for online advertising and their implications for political and public affairs professionals wishing to exploit the new online opportunities.

5 IMPORTANT ONLINE OPPORTUNITIES

1. Precision Audience Targeting

Using commercially available consumer databases, cross-referenced with voter registration data, a political advertiser can go far beyond micro-targeting. Today, online advertisers can have the precision targeting of direct mail at a fraction of the cost. Whereas a direct mail campaign can cost \$750 to \$1,000 for every thousand pieces mailed, online display advertising can reach the same audience with ten highly-targeted impressions for less than 10% the comparable cost of direct mail.

Example: *A financial services company (e.g., FSC Bank) concerned with abusive regulatory issues could target the entire population of the Congressional district of the incumbent who sits on the House Banking Committee (e.g., Congressman Goodfellow). FSC Bank's investment of under \$65,000 could deliver six million impressions (some ten impressions per resident) geo-targeted entirely within Congressman Goodfellow's district. Alternatively, the same investment could be targeted only to those residents who are known to vote, effectively doubling the number of impressions to twenty per voter. Further, the targeting could focus on voters by party registration and likely Republican voters, for example, could be targeted with forty impressions each.*

2. Driving Political Support and Donations Online

While the recent Supreme Court decision in Citizens United overturns earlier prohibitions, the ruling does not permit coordinated advertising efforts between a campaign and the private entity making the independent expenditure. The decision *does* permit corporations, trade associations and unions to buy online advertising supporting a specific party or candidate.

Example: *Using a combination of display and search advertising, FSC Bank could advertise online and link to Congressman Goodfellow's campaign website to drive volunteers and donations—however the Goodfellow campaign could not report back the results of these efforts to the FSC Bank.*



3. Election Day Online “Smart Bomb” to Get out the Vote

Many recent political campaigns including the 2009 Virginia’s governor’s race, the 2009 New York City mayor’s race, and the 2010 Massachusetts special U.S. Senate election featured online advertising roadblocks or “bombs”. An online advertising bomb is similar to what was once known as a “roadblock” on broadcast television. In the days before cable TV, an advertiser could purchase the same time slot on all three TV broadcasting networks- thereby ensuring that the entire viewing audience would be subjected to the commercial. The online advertising bomb, or roadblock, involves purchasing the entire available online advertising inventory in a targeted area so that voters cannot escape the candidate’s online presence.

While the roadblocks used in the above examples created great awareness online for these campaigns, they did not take advantage of the precision targeting available to customize messages for specific groups of independent voters who are critical on Election Day. Using a military analogy, CampaignGrid can help advertisers execute a “smart bomb,” analogous to the sophisticated targeting now available and regularly used by military drones. Rather than blanket an entire area, the smart bomb can identify highly valuable swing voters or can energize a party’s base voters if turnout is expected to be low.

***Example:** Congressman Goodfellow is a key vote on the banking committee against the proposed tax on large banks, while his opponent has consistently fought for this new tax in support of the current administration. Knowing this, the FSC Bank, rather than purchase an online ad bomb, could target **only** voters registered as Republican and all small business employees. On Election Day, an online advertisement featuring how bank lending to small businesses would be negatively affected would be presented to this targeted group to generate voter turnout of this passionate base, while a different message could be delivered to other targeted swing voters who also think government should be smaller and understand lower taxes are key to economic growth. If the ad buy is made early enough, Goodfellow’s opposition would be effectively “locked out” and denied access to online advertising.*

This technique can be used very powerfully in battleground races. Every election cycle features some races and/or districts that are more competitive than others. Using the same technique, FSC Bank could create online smart bombs in multiple high-value races.



4. Online Advocacy

While the election cycle drives politics, legislative activities are ongoing and are, in many ways, even more impactful to corporations, unions and trade associations. Using available tools for online political advertising, a corporation can help generate grassroots support for or against specific legislative initiatives. A targeted online campaign can have, as its objective, the goal of driving constituent phone calls and e-mails to a targeted office holder.

Example: *the Chamber of Commerce opposes the healthcare bill and wants to generate grassroots opposition to the bill. The Chamber of Commerce could buy online advertising that targets those Congressmen known to be undecided on the bill. The advertising would allow constituents to enter their telephone number online and instantly be connected to the Congressional office. The ads would only be displayed during hours when the office is known to take constituent calls and a database of those constituents participating can be created for later outbound telemarketing efforts.*

5. Web Video Advertising

Internet video continues its rapid growth. Campaigns and corporations alike can publish video content inexpensively with short production times and distribute it widely. Sites like YouTube & Hulu have millions of viewers every day, who watch everything from network television shows to user generated content. Unlike television, Campaign Grid's audience targeting allows advertisers to know exactly who is watching their video messages and what actions the viewer takes as a result of the message.

Example: *the Chamber of Commerce hosts an event with a gubernatorial candidate they are endorsing in one of the major cities of the state. At the event, they record the candidate's speech. They quickly edit the speech and create a web commercial, announcing the endorsement with a call to action to donate to the campaign on the candidate's website. The next morning the commercial is played on hundreds of sites in the state and also contextually targeted to run on all the web pages with the news coverage of the event from the major news services such as the Wall Street Journal, Philadelphia Inquirer, MSNBC and ABC.com.*



CONCLUSION

The importance of the web on the political process is incalculable. When the data-driven processes of web advertising are coupled with the rejuvenated freedom of speech resulting from *Citizens United v. FEC*, a new form of political expression empowers campaign consultants, lobbyists, and public affairs professionals to make an enormous impact on both elections and the legislative process.

Corporations, trade associations and unions that embrace new media capabilities will have unprecedented opportunities to support candidates and causes as well as unique opportunities to affect change.

Improved audience targeting and a significant drop in the cost of online media have combined to make online advertising extremely affordable for almost any budget.

From a technology perspective, the 2008 election was dominated by the Democratic Party, but advances in technology, coupled with shrewd investment on the part of the Republican Party, has narrowed the digital divide. Just as Google has become the new *Encyclopedia Britannica* and Facebook has replaced the office water cooler for gossip, the web is fast replacing the conventional tools of campaigns and public affairs.

CampaignGrid can help Corporations, Unions and Trade Associations execute new media and online advertising campaigns on a turn-key basis. Our database of voter information, prior campaign experience of how people search for candidates/issues and what messages work online are available to all Grid advertisers.

To learn more about how CampaignGrid can help your organization take advantage of the new rules, please call us at (215) 283-1005 or email us info@campaigngrid.com or visit us at www.campaigngrid.com.

CampaignGrid is not a law firm and we recommend that advertisers get the opinion of counsel with respect to the each organizations planned ad campaign as it relates to the supreme court decision.

