

Campaigns & Elections

Strengthening the political party system

by Jeff Brindle / Oct 01 2012

Opinion: Real reform means repealing BCRA and strengthening parties



Nasty campaign attack ads like a recent super PAC commercial that cynically implied Republican presidential candidate Mitt Romney bears responsibility for a woman's cancer death make three things clear.

First, most remaining parts of the Bipartisan Campaign Reform Act (BCRA), or McCain-Feingold, should be repealed. Second, the political party system nationally should be strengthened. Third, independent groups that are running many of the most noxious ads should fully disclose their donors and expenditures.

Enacted in 2002, BCRA represented a good faith effort to ban unlimited contributions to the national political parties long described as "soft money." Among other provisions, BCRA imposed a pre-election "blackout" period which prevented corporate and union independent spending within 30 days of a primary and 60 days of the general election. The unintended consequence—BCRA instead was a catalyst for the rapid growth of independent spending and increasingly vicious political commercials.

In 2002, when the bill became law, independent groups spent just \$27.3 million, according to the Center for Responsive Politics. During the period following BCRA and preceding Citizens United, 2002 – 2008, independent spending grew by over 1,000 percent to \$302 million. While independent spending was growing exponentially, activity by the national parties declined and then remained flat for most of the decade after a major run-up in the 1990s.

During the first 18 months of the 1991-1992 election cycle, the six national party committees of the two major parties raised a combined total of \$263 million, according to Federal Election Commission figures. Soaring soft money receipts pushed that total up 174 percent to \$720 million by 2001-2002.

After McCain-Feingold banned soft money to national parties in 2002, party receipts fell and then fluctuated around \$600 million through 2010. This year, the “big six” national party committees have raised a record amount—\$792 million. But that represents just a 10 percent increase over the 2002 total at the 18-month point. Had national party receipts kept rising at the 1990s growth rate, they now would total nearly \$2 billion.

Independent super PACs, which didn’t even exist four years ago, alone raised \$318 million through June 30, according to the Center for Responsive Politics (CRP). Along with 501 (c) groups that disclose neither their donors nor expenses, these “outside groups” are likely to set new records. “...[S]pending by outside groups will make up a far larger proportion of the total spent in the 2012 election than in previous cycles and will add up to, at a minimum, \$750 million,” CRP predicts.

“Over the last three elections, the amount of outside spending has grown dramatically,” said a **recent analysis** by Lee Drutman of the Sunlight Foundation. The spending has soared because these groups usually run the more scathing attack ads so candidates can concentrate on looking good to voters. “Presumably, candidates would prefer to let others do the dirty work of attacking their opponents and remain above the fray themselves. That’s why these independent expenditures are becoming more popular,” said Drutman.

Perhaps the most controversial commercial of the campaign so far was produced by Priorities USA Action, a Democratic Super PAC. The commercial featured ex-steel worker Joe Soptic lamenting the loss of his wife due to the closure of his former plant. Mitt Romney’s former company, Bain Capital, owned the plant at the time of its closing. FactCheck.org **concluded** it was “misleading on several counts” and “...strains the facts to the breaking point to imply that this tragic death is Romney’s doing.”

Of course, given the current “take no prisoners” campaign atmosphere, other outside groups also have sponsored ads making damaging insinuations.

For instance, a group of former U.S. military and intelligence officers, including retired Navy SEALs, recently unveiled a 22-minute video accusing Obama of reckless, politically motivated leaks about the raid that killed Osama bin Laden and other security matters. Politifact.org **dismissed the ad** as “mostly false,” as did Peter Bergen, a CNN national security expert who has written a book about the bin Laden manhunt.

So, one of the main effects of BCRA was to weaken the political parties while empowering less accountable independent groups that often operate in secret and serve as campaign hitmen.

At least in the years before McCain-Feingold, the national parties were required to disclose their soft money donors as well as their hard money contributors and their expenditures. Many of today’s groups disclose virtually nothing. They have been left free to fill the electoral landscape with a minefield of attack ads that often distort the truth, adding to the cynicism of the public toward politics and government.

One solution is simply for Congress to repeal most of what remains of BCRA except for a few worthwhile provisions, like its prohibition on fundraising on federal property. By repealing most remaining provisions of BCRA, Congress would eliminate the soft money ban on political parties as well as the coordinated expenditure restrictions that apply to political parties and candidates.

The benefit will be to strengthen the political parties, returning them to their rightful place in the electoral system, while also increasing disclosure.

These simple changes would redirect the flow of money to the parties and away from the more narrow interests associated with independent groups. They would strengthen a party system that represents a broad coalition of people, thereby making it more responsible than anonymous, independent groups.

There remains one more step to take to deflate the influence of independent groups. Congress should enact legislation that would require so-called social welfare 501(c) groups and 527's to register with the Federal Election Commission and disclose their donors and expenditures.

Citizens United and subsequent rulings by the Supreme Court and the lower courts have reaffirmed the right of government agencies to require disclosure by these groups. If influence can be shifted from independent groups back to parties, campaigns hopefully will be more accountable and less vicious.

In Federalist Paper Number Ten, James Madison speaks of the need to control the effect of factions. Right now in America, factions, represented by these outside groups, seem out of control. Through some common sense reforms, we can bring back some sanity and civility to the political process.

Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission. The opinions presented here are his own and not necessarily those of the Commission.