

Rep. Scott Garrett Statement for the Record -- Citizens United Corporate Governance CM Hearing 3-11-10

I thank the Chairman and appreciate the witnesses appearing before us today.

I know there has been a lot of discussion about the recent *Citizens United* court decision, but let's just take a moment to review the actual impact of the case.

The actual impact of the case on corporate involvement in campaign advertising is not nearly as far-reaching as some in the majority might lead you to believe.

Prior to the decision, corporations and unions could already spend unlimited amounts on issue advocacy ads. These ads rarely leave doubt as to which candidate they support, but fall short of explicitly asking the viewer to vote for a particular candidate.

With the *Citizens United* decision, this line can now be crossed, but I would argue it is a fairly minor change in practical terms, and remember, it applies to labor unions too, the single-biggest monolithic contributor to political campaigns in this country.

And when talking about what the decision changes, it's important to keep in mind what it doesn't change, as well. The decision does not alter in any way the ability of corporations to give to a candidate's campaign account. Current limits remain in place.

The decision also does not alter the prohibition on corporations coordinating their outside activities with a candidate's campaign. Outside expenditures must remain completely independent.

The decision also does not alter the prohibition on campaign expenditures or giving by foreign corporations.

Keep in mind, also, that in many states, corporate advocacy is allowed in governors' races and other state-level contests, yet I am unaware of any reports of this leading to significant corruption.

Corporate Governance Proposals

In response to the *Citizens United* decision, Chairman Frank has said, "I am determined to do the maximum that is constitutionally permissible in our power to regulate public corporations." Well, I'm pleased to hear that, at least on this issue, our Chairman recognizes that the Constitution determines our approach, as it does, or at least should, direct all of the work we do here in Congress.

I know that the decision has spawned several legislative proposals in the area of corporate governance. But I am always mindful of the proper role of the federal government -- vis-à-vis the states and under the constitution -- which Chairman Frank says he wants to follow in setting policy in the aftermath of this court decision.

But the fact remains that corporate governance has always been properly handled at the state, not federal level. And that is how things should remain in the wake of this decision.

For those who are so upset about the decision, which again speaking constitutionally, is simply protecting free speech, arguably the most important protection offered by the constitution -- for those upset about the decision who want to empower shareholders to block a corporation's activities, I ask, shouldn't you be at least as concerned about the activities of labor unions in this regard, and union members' ability to have input in a similar way?

Many unions impose what amounts to a per capita tax on all of their members for the express purpose of funding the union's political activities. Can you imagine if a corporation similarly devoted so much of its resources in a similar fashion?

The fact is, many corporations are hesitant to participate so directly in political advocacy, while that is arguably the reason for being for many labor unions.

When I hear silence on the other side of the aisle in regards to empowering members of labor unions to dispute their union's political activities, while being so upset about the potential activities of corporations, I must admit, I am tempted to think that there may be some political calculation going into the targeted outrage.

This issue is about free speech and the proper constitutional role of the federal government. Let's not let politics cloud the committee's judgment.