

**RETHINK YOUR  
COMPANY'S POLITICAL  
SPENDING—BEFORE THE  
NEXT ELECTION CYCLE.**

---

BY BRUCE F. FREED &  
KARL J. SANDSTROM



# NAVIGATING

**THE ELECTIONS ARE OVER, BUT THE AFTEREFFECTS OF ALL THOSE NEGATIVE ADS LINGER, BOTH FOR SHELL-SHOCKED TV VIEWERS AND FOR CORPORATE DONORS THAT GAVE MILLIONS TO PUT THE THIRTY-SECOND SPOTS ON THE AIR. IN BOARDROOMS ACROSS THE COUNTRY, EXECUTIVES AND DIRECTORS ARE TAKING ON UNCOMFORTABLE QUESTIONS ABOUT THE MONEY GIVEN TO SUPER PACS, TRADE ASSOCIATIONS AND 501(C)(4) "SOCIAL WELFARE" GROUPS RATHER THAN TOWARD OPENING NEW MARKETS OR RESTORING EMPLOYEES' 401(K) MATCHING FUNDS.**

- Are executives pleased with the increased prominence of business in electoral politics? Notwithstanding the *Citizens United* decision that made it easier for companies to give money secretly, the issue of corporate involvement in politics has never been more public.
- Will companies feel a need to explain to their shareholders why certain candidates were supported and others opposed? Will directors and senior managers even be aware of the legal, policy, and regulatory agendas of the candidates that corporate funds were used, directly and indirectly, to advance?
- Will those that devoted substantial resources to politics have buyer's remorse when they discover that a number of their preferred candidates share neither the company's values nor its public policy agenda?
- And maybe most importantly, will companies be pleased with a campaign financing system that is cloaked in darkness? Or will they find that secret funding exposes them to shakedowns by powerful political figures?

Many companies have already begun to grapple with these questions. Leading corporations are recognizing the legal, business, and reputational risks involved in political spending and are choosing transparency and accountability over secrecy and presumption. Voluntary disclosure and board oversight of political spending is increasingly a mainstream corporate practice. Companies recognize that an increased role in campaigns must be accompanied by greater responsibility for how that role is exercised. Today, more than one hundred large public companies, including more than half of the influential S&P 100, have adopted political disclosure and accountability policies. They include Merck, Microsoft, Aflac, Exelon, Time Warner, Gilead Sciences, and Wells Fargo.

Elections have consequences, and management and directors need to look more broadly at their role and responsibility as significant actors in our nation's political life. Corporations can no longer narrow their understanding of political spending to the signing of a check—they must realize the effects of their contributions down the long roads and intersections of politics, business, and society.

# POLITICS

Real consequences flow from a company's decision to devote resources to campaign activity. Whether as a result of unawareness, miscommunication, or what businesses may have come to think of as part of the "price" of having a seat at the table, company funding of campaigns can be contrary to the company's interest in both the short run and the long run.

For example, the Pharmaceutical Research and Manufacturers of America (PhRMA), the drug industry's principal trade group, gave \$4.8 million in 2010 to two GOP-leaning 501(c)(4) organizations that used the money to support twenty-three successful congressional candidates. More than a few major drug companies manufacture and market contraceptives, but *every one* of those twenty-three representatives later voted to limit access to birth control, cut federal funding for it, and cut medical research funds on which pharmaceutical companies depend for their long-term health.

PhRMA was in the news again this past summer, when after a Bloomberg report about those contributions, angry investors wrote to Merck, Pfizer, Johnson & Johnson, and Bayer AG—all leading producers of contraceptives—to complain about the companies' membership in the trade association, which had taken "actions that are contrary to their members' interests," in a "case of a trade association using its members' payments against those same members' best interests."

Political spending should not be a casual decision, a choice defaulted to companies' government-relations managers—or to trade associations or c4s. The spending, whether done directly or through third-party groups, needs to reflect the deliberate choices of senior managers and the board. When it comes to political engagement, a company must adhere to its values, keep its broader interests in mind, and understand that

giving money to candidates or entities whose behavior is uncertain or at odds with those values and long-term business interests ultimately harms the company and its shareholders. To understand political spending fully is to understand its full consequences.

---

**MANAGEMENT TEAMS  
NEED TO DEFINE THEIR  
COMPANIES' POLITICAL  
AND POLICY GOALS  
AND HOW THEY CAN  
BEST BE ACCOMPLISHED  
WITHOUT SACRIFICING  
THE COMPANY'S VALUES,  
INTERESTS, OR  
INDEPENDENCE.**

---

### **LIVING BY PRINCIPLES**

The three years since *Citizens United v. Federal Election Commission* have seen the campaign-finance landscape transformed, with hundreds of millions of dollars of secret money contributed and spent. Super PACs, trade associations, and 501(c)(4) groups all promise donors anonymity while offering access to major political figures; those asked for contributions find it increasingly difficult to distinguish between these organizations and candidates and officeholders themselves. While publicly disavowing that they are operating at officeholders' behest, these entities privately reassure the donors that their contributions will not go unnoticed. The public is kept in the dark, but the beneficiaries are not.

As political operations become more sophisticated and less transparent, companies must be smarter about their investments—and more wary about where those investments go. Management teams need to define their companies' political and policy goals and how they can best be accomplished without sacrificing the company's values, interests, or independence. That requires companies to retain greater control over and have knowledge of the use of their funds.

Whether spending directly or through a third-party advocacy group, a company must broadly deliberate and consciously decide which candidates it chooses to support and what outcomes are in its broader interest and align with its values. Some companies, such as Intel and Time Warner, exercise board oversight and often involve outside counsel. Whatever the particulars, senior executives should make political accountability an integral part of the way they manage, make decisions on, and oversee their company's political spending and participation in the political and legislative process. Boards also should make political accountability a matter of company policy.

### **TRADE THIS, TRADE THAT**

Although most trade associations do not engage in political spending, there is no way to discuss political spending without discussing these organizations, considering the important role that some leading associations have come to play in the political arena. As noted in *The Conference Board's Handbook on Corporate Political Activity* (which we co-wrote), it is critical that trade associations inform corporations when spending their contributions or dues on political activity. It's all too easy for a corporation to unwittingly end up supporting politicians or political causes with which the company may not want to be associated or whose positions and

votes may be contrary to the company's values and interests.

In this magazine a year ago, we examined the risks of outsourcing political-spending decisions to third parties and explained how a company effectively cedes control of its money when it contributes to an outside group. When it cannot control the message or recipient, a company opens itself up to potential scandal or conflict—while remaining accountable to shareholders, customers, and employees on how the money is spent.

We also argued that there is an elevated risk of misalignment between a trade association and a company when the company and its investors are kept in the dark about or may ignore the association's political expenditures. This misalignment goes to the heart of our discussion here: *understanding a company's broader interests and ensuring that its trade associations and other groups do*

*not engage in activities or use its funds in ways that are at odds with its stated values, public-policy needs, business objectives, and broader societal interests.*

Trade associations' incongruous political activity can go beyond supporting candidates who espouse contrary positions. Consider the issue of climate change. In 2009, a number of high-profile companies quit the U.S. Chamber of Commerce over its opposition to—and the campaign it mounted against—federal greenhouse-gas legislation. Even some energy utilities, including Exelon, Pacific Gas & Electric, and PNM Resources, publicly resigned and endorsed the Obama administration's cap-and-trade legislation. Exelon CEO John Rowe declared: "Because of their stridency against carbon legislation, Exelon has decided not to renew its membership in the U.S. Chamber this year." PG&E denounced the association's "extreme rhetoric and obstructionist tactics." But other

companies, such as Dow Chemical and Duke Energy, remained members despite their reservations—and saw their Chamber dues used to oppose the legislation they supported. The association's lobbying helped to ultimately kill the cap-and-trade bill.

Then there is the seemingly simple case of America's Health Insurance Plans (AHIP), the national trade association representing the health-insurance industry. In 2009, it publicly supported the Affordable Health Care Act, at least partly since the act promised to significantly expand the market for member companies. Nevertheless, in both elections since, the AHIP has spent substantial sums supporting candidates who vocally oppose the law. In fact, *National Journal* recently reported that in 2009 and 2010 the nation's biggest health insurers quietly gave more than \$100 million to the Chamber, with the goal of killing or significantly modifying the legislation.



**SOMETIMES EXACTLY  
WHOSE INTERESTS ARE  
BEING LOOKED OUT FOR CAN  
TAKE TWISTS AND TURNS.**

Sometimes exactly whose interests are being looked out for can take twists and turns. In 2010, the Chamber spent about \$30 million helping to elect new “pro-business” congressional candidates, but a year later it found itself asking those representatives to support an issue they had campaigned on but then did not support. The Chamber, echoed by prominent CEOs and the Republican leadership, argued that the debt ceiling needed to be raised; the freshman members firmly resisted. Ultimately, legislators reluctantly agreed to raise the ceiling, but the crisis led to Standard & Poor’s downgrading its U.S. debt rating and created a period of serious economic uncertainty.

Another twist has occurred over the “fiscal cliff,” the spending cuts and tax hikes Congress mandated to address the deficit. In this case, it highlights the dilemmas facing companies when there’s a conflict between the position of the company and its association. In this instance, leading trade associations, including the National Association of Manufacturers and the Chamber, formed the Tax Relief Coalition, which opposes raising new tax revenue to deal with the deficit problem. However, major companies that are members of the associations—and underwrite the associations’ activities—such as JP Morgan Chase, Dow Chemical, AT&T, UPS, Caterpillar, Microsoft, and Deere have publicly supported a mix of increased taxes and spending cuts. This raises a serious question: who sets an association’s position and what a company should do when the association takes a position opposing what the company considers to be in its interest.

## CHANGES ON THE HORIZON

Of course, companies are far from helpless, and in the face of increased scrutiny and discussion, boards and management teams are beginning to assert themselves and take a broader



view of their interests. PepsiCo representatives on the boards and committees of trade associations say they make clear what the company’s positions are about policies or related activities; they state that there may be times when they will not fund certain initiatives sponsored by such organizations when there are differences.

Target Corp. remains understandably gun-shy after a 2010 dispute in which a company-funded political group ran ads supporting an anti-gay-rights candidate—very much contrary to Target’s stated policies. The company responded to the ensuing customer and shareholder backlash by issuing a new policy to tighten oversight of company funds used for political purposes. Target still does not disclose its payments to trade associations, but it has created a committee to oversee corporate political giving.

These controversies and difficult issues could have been avoided by corporate leadership striving to think more long-term, incorporate company values into political spending decisions, and move beyond traditional business-government antagonism. Companies

must begin to look beyond the immediate and give serious consideration to what policies they should support for the good of their business and the society in which they operate.

Supporting candidates who profess to be pro-business but consistently vote to dramatically reduce educational and research funding may not be in the interest of a company dependent on the United States maintaining its lead in cutting-edge industries. As Texas Instruments CEO Richard Templeton said in 2009, “Research conducted at universities and national labs underpins the new innovations that drive economic growth.” And as economist Joseph Stiglitz recently noted, “Many, if not most, of the crucial innovations in recent decades, from medicine to the Internet, have been based in large measure on government-financed research and development.”

It may seem like a no-brainer to support candidates who proclaim a commitment to free enterprise and deregulation, but the ramifications run deep. Even though companies’ HR policies increasingly promote ethnic

## THE REAL COST OF A TAX BREAK

Maybe this used to be the case: Pro-business candidates, be they Republican or Democrat, ask a company for help; the company writes a check and hopes for a corporate tax break or help on an issue. End of story. Simple but flawed, and those days are gone now.

Companies have many questions to ask before even considering putting their money into the political pot:

- What are the short-term and long-term gains for my company?
- Exactly *how* is this candidate “pro-business”?
- Does “pro-business” encompass my company’s long-term interests and values?
- Does all—or even much—of this candidate’s agenda align with my company’s interests and values?
- If I get a short-term gain, am I giving up a long-term goal or undermining the company’s values?
- What are the risks involved in contributing to or helping this candidate directly or through a trade association, Super PAC or 501(c)(4) group?

—B.F.F. and K.J.S.

diversity and gender equality, with attention paid to details such as contraceptive coverage in health-insurance plans, political engagement often aims to push policies in the opposite direction. Former cable-industry CEO Leo Hindery Jr. recently noted that “it is indisputable that big business contributions to federal candidates are *directly* enabling insensitive immigration policies, regressive tax policies, continuing attacks on reproductive rights for women and equal rights for gays and lesbians.”

If a company can get beyond the slogans and the pressure to give—more super PACs and nonprofits mean more pleading phone calls and visits—it can ensure that its spending advances its long-term interests and takes into account the broader consequences of its political giving. If a company is in the food industry, then one might reasonably expect it to take a deeper interest in a candidate’s position on poverty, as that influences food-stamp policy and bolsters the market for its products. However, political spending by associations of which leading food companies such as Cargill, Con Agra,

and Smithfield Foods are members—including the National Association of Manufacturers and the U.S. Chamber—has helped elect members of Congress who voted for a budget slashing the food-stamps program by billions over the next decade.

If proper job training is intrinsically important to a successful workforce and ultimately to a company’s bottom line, then attention should be paid to a candidate’s position on Pell Grants and funding for community colleges. A company might not be able to engage in civic protest if things don’t go its way, like hundreds of Ohio State University students did in 2011 to voice their displeasure with commencement speaker Rep. John Boehner, due to his support for a budget plan that contained cuts to the Pell program. But you may consider your decision to support an organization that backs candidates or elected officials taking this position in a different light. If a company can make a direct link for itself, and establish that its support of a candidate would be detrimental because of that person’s views and policies, then that ought to

be a significant factor in its decision whether or not to support a candidate, directly or through third-party groups.

One of PepsiCo’s guiding principles is, “Balance short term and long term.” The company states that in every decision it weighs both short-term and long-term risks and benefits and that “maintaining this balance helps sustain our growth and ensures our ideas and solutions are relevant both now and in the future.” This is the approach to take with political spending: Evaluate whether spending is truly in your interest, long-term as well as short-term, narrowly and broadly, and then spend mindfully. This should apply to spending your company engages in directly or through trade associations and other third-party groups.

The new political-spending vision is one that will change corporate political involvement from short-term obligations to long-term investments and goals that create the type of economy and society in which the company can thrive. In the end, companies, the political process, and the broader society will be the better. ■