Outside Groups, Inside Access:
The Effects of *Citizens United v. FEC*
on Interest Group Strategy and Influence

by

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CHAPTER 1
INTRODUCTION & THEORY

THE DECISION

On January 21, 2010, Justice Anthony Kennedy of the Supreme Court delivered an opinion that would stir up significant controversy in the coming months and drastically alter the influence of money in federal elections. In the landmark decision in *Citizens United v. FEC* (2010), the Court overturned key measures of existing regulation that had prohibited corporations and unions from engaging in or supporting political campaigns. Two months later, the related US Court of Appeals decision in *SpeechNow v. FEC* (2010) struck down contribution limits on donations to interest groups engaging in electioneering activities exclusively independent of candidates’ campaign committees. As a result of these two decisions, corporations, unions, and individuals were suddenly able to pour unlimited sums of money into electioneering activities by way of these independent expenditure-only political action committees—quickly dubbed “super PACs” for their ability to campaign like political action committees while accepting contributions without statutory limits.

Pundits across the country were quick to condemn the decision, and many did so in hyperbole: “Court Decision Opens Floodgates for Corporate Cash,” wrote Politico (Vogel 2010), and “Supreme Court Rips Up Campaign Finance Laws,” was the headline on NPR.org (Tetford 2010). In one of the more aggressive reactions in the media, The New York Times published an editorial entitled, “The Court’s Blow
to Democracy” (New York Times Editorial Board 2010), which opened with a scathing rebuke of the Court:

With a single, disastrous 5-to-4 ruling, the Supreme Court has thrust politics back to the robber-baron era of the 19th century. Disingenuously waving the flag of the First Amendment, the court’s conservative majority has paved the way for corporations to use their vast treasuries to overwhelm elections and intimidate elected officials into doing their bidding.

President Obama, too, was quick to condemn the decision, and chose to do so in one of the most widely televised political events of the year: the 2010 State of the Union address. While most Presidents refrain from publically criticizing the Supreme Court during the State of the Union (Dowling and Miller 2014), Obama (2010) pulled no punches in his very public denouncement of the Court’s decision:

With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests—including foreign corporations—to spend without limit in our elections. I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities. They should be decided by the American people.

The Court’s decision in the Citizens United case indeed reversed some key components of campaign finance law and regulation that had developed over the previous decades. Normative political views on the subjects of free speech and the influence of money in politics aside, the decisions had a drastic effect upon how campaigns are financed, both in scale and in source.

The central tension of the controversy surrounding Citizens United is between the protection of free political speech and the prevention of political corruption and undue influence on members of Congress. The Court’s majority asserted that money
used to sponsor election advertisements and other mass political communications
was, with respect to the First Amendment, equivalent to political speech, and should
therefore be protected as such (*Citizens United v. FEC* 2010, 558:56):

> Speech would be suppressed in the realm where its necessity is most
evident: in the public dialogue preceding a real election. Governments
are often hostile to speech, but under our law and our tradition it seems
stranger than fiction for our Government to make this political speech
a crime.

Herein lies the crux of the Court’s opinion. The majority moved to defend free speech
by prohibiting the government from limiting money spent on express advocacy
independent of political campaigns. Key to this decision is the assumption that
independent expenditures by a corporation do not amount to *quid pro quo*
corruption—in this case, the direct exchange of electoral support in return for
legislative access. The dissenting justices strongly contested this point. Later in the
majority opinion, the Court asserts, “independent expenditures do not lead to, or
create the appearance of, *quid pro quo* corruption. In fact there is only scant evidence
that independent expenditures even ingratiate” (*Citizens United v. FEC* 2010,
558:45). The evidence is indeed scant. It is exceedingly difficult to prove that a
member of Congress changed a vote based on some outside factor, short of a
confession. Thus, producing clear, convincing, and consistent evidence of *quid pro
quo* corruption to the Court is near impossible.

Opponents of the decision argued that, by upholding the doctrine that money
and speech are constitutionally equivalent under the First Amendment, the decision
threatened the speech of the vast majority of Americans who lack the disposable
income to spend large sums of money to buy influence with members of Congress.
Free speech, from this perspective, is akin to access—that is, access to members of Congress, who are ostensibly elected to represent their constituencies. Whether this access rises to the level of corruption and bribery was another point of disagreement amongst the Court and amongst the public. Justice Stevens, in his dissenting opinion *(Citizens United v. FEC 2010, 558:57)*, did not shy away from drawing a parallel between financial support of legislators and bribery:

> Corruption can take many forms. Bribery may be the paradigm case. But the difference between selling a vote and selling access is a matter of degree, not kind. And selling access is not qualitatively different from giving special preference to those who spent money on one’s behalf.

The central question here is whether special preference is, in fact, given to outside interests that support legislators in elections—in other words, does campaign support buy “access” in a way that influences the legislative behavior of members of Congress? This is not an easy question to tackle. There is no conceivable experimental design that would allow the testing of legislative decisions based on campaign support while providing any degree of external validity. Thus, observational data is all that is available to researchers, making causal links difficult to even suggest. On the other hand, the prevalence of lobbyists in Washington and the sums of money that interest groups spend on lobbying and supporting Congressional candidates provide strong circumstantial evidence that independent expenditure money buys legislative influence. It is with this important assumption—that financial support for campaigns does have *some* effect upon the ability of outside interests to access and influence legislators—that the research and analysis in this thesis can
move forward into exploring changes in this influence and uncovering other factors that might moderate or exacerbate it.

*Citizens United v. FEC* was not decided on whether the Court believed that money could influence legislative behavior. Rather, it was decided on whether the regulation of political spending constituted a violation of the First Amendment protection of political speech, and the balancing of the First Amendment with the government’s interest in preventing *quid pro quo* corruption (or the appearance of such). The Court ruled that independently sponsored campaign advertising, even that which contains express advocacy for a candidate, does not in fact constitute corruption or create the appearance of such. While the majority opinion acknowledged that independent expenditure might influence politicians, it held that this influence does not rise to the level of “corruption” (*Citizens United v. FEC* 2010, 558:5). In this thesis, I examine the nature and degree of this influence as a means of evaluating the validity of the majority’s claim.

**LITERATURE REVIEW**

While the literature on interest groups, campaign finance regulation, and campaign finance reform is extensive, significant gaps exist in the literature assessing the influence of interest groups on legislative behavior. Legislative influence is a particularly difficult phenomenon to assess empirically. The legislative process is long and complex. Before a bill is delivered to the President’s desk, it must obtain sponsorship, pass through committee, and survive roll call votes in both chambers. There is opportunity for outside groups to influence policy outcomes at each step of
this process, and with each individual legislator involved along the way. As such, the literature is comprised of a range of studies attempting to assess influence in different ways and with varying success.

Studies attempting to assess the degree of interest group influence on legislators vary widely in their results (Baumgartner and Leech 1998). Richard A. Smith (1995), a scholar who reviewed the literature in 1995, estimated that over 35 studies on the subject had been published since the 1980s that reported a range of inconsistent results. These results varied from the discovery of high levels of influence to the lack of any evidence of influence at all (Smith 1995, 92). There were no major changes to campaign finance regulation during this time, and no other events that would cause a significant change in interest group or legislator behavior as relevant to campaign finance. Different methods may return different results because they actually measure distinct elements of influence (Potters and Sloof 1996), or simply because they fail to accurately capture the processes that are occurring.

Grimmer and Powell (Forthcoming, 2) write, “Moneyed interests are strategic when donating, often making observational data consistent with contrasting explanations.” In other words, interest groups looking to influence policy will act on a case-by-case basis, choosing the influence strategy they believe will most efficiently achieve the desired outcome. As a result, the mode of influence may vary widely across situations. Because each individual situation is based on many different variables, some quantifiable and others abstract, empirical models can support a variety of theories of interest group behavior without providing consistent and definitive results.
The empirical analysis contained in this thesis hinges on election advertising, which is ostensibly aired for the purpose of convincing the public to vote for (or against) a candidate. However, while much of the literature is primarily concerned with the persuasive potential of election advertising (Franz and Ridout 2007; Clinton and Lapinski 2004; Kaid and Postelnicu 2005; Tinkham and Weaver-Lariscy 1991), this is not the only way in which advertising is influential. And while there is some published work on legislative outcomes of campaigns in general (Sulkin 2011) and a significant literature on the legislative influence of pre-Citizens interest groups (Wilhite and Theilmann 1987; Stratmann 2002; Neustadtl 1990; Givel and Glantz 2001; Gerber 2011) there is little work on how campaign advertising by outside groups might influence legislative outcomes in the post-Citizens environment. The advent of Citizens United created the potential for the legislative influence of outside interests to increase substantially due to the deregulation of their efforts to support candidates’ elections and re-elections. This increased potential for influence leaves a gap in the interest group literature. This thesis seeks to help fill this gap by comparing the effect of post-Citizens United outside group advertising on legislator behavior to levels of influence present before the decision. I also take the novel approach of using a convergence calculation to quantify the similarity in issues addressed by advertisements supporting a legislator and the bills cosponsored by that legislator. By using this novel measure of influence, I contribute a key innovation and additional evidence to a growing body of literature on the subject.
INTEREST GROUP THEORY

In order to examine how interest group behavior might influence legislation, I will first establish a working theory of interest group motivation and behavior. In this section, I will draw from the vast literature on interest group theory to synthesize a theory for the interest group strategy, particularly in the post-

Citizens United

environment.

In the post-

Citizens rhetoric, interest groups are often equated with super PACs. These are, in turn, associated with corporate lobbies and power elites working to influence elections and legislation for profit and personal gain. However, political theorists disagree on the effects of interest groups (in a broader sense of the term) and some actually consider them a counterbalance to the influence of these powerful entities. Robert A. Dahl (1961) argues that interest groups are, in essence, coalitions of politically weak citizens who join forces to influence the policy process. He theorizes that individuals with less power could overcome the elites by uniting their voices in the form of interest groups. Dahl’s pluralist theory paints a rosy picture of a system in which interest groups help to strengthen the voice of the individual—a picture that, with today’s popular understanding of interest groups, seems like a utopian delusion. In his seminal work, “The Semisovereign People,” political theorist E.E. Schattschneider (1960, 34–35) famously critiques the pluralists with the line, “The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent.” Schattschneider rejects the pluralist ideal that all individuals are represented equally by a variety of interest groups, and asserts instead that it is the powerful elite whose interests dominate the “chorus”. For this reason, allowing
interest groups to have influence on elections and policymaking puts these processes at risk of capture by the elites (Schattschneider 1960; Rasmussen, Carroll, and Lowery 2014; McFarland 2010).

A corollary to Schattschneider’s critique is based in the collective action problem (Olson 1965), which suggests that rational individuals have little incentive to spend time and money on promoting policies that produce public goods whose benefits are shared by the public (McFarland 2010). Without collective action towards these policies, the groups backed by profit-driven interests who receive private benefits from a policy will far outweigh the individuals who might suffer from the policy. The concern here is that vote-maximizing politicians (Downs 1957) will be more swayed by powerful profit-maximizing interests with the potential to swing votes than by the voters themselves. Both corporations and individual citizens form groups that reflect their interests. The positive question is whether corporate-backed groups carry more sway with legislators than citizen-backed groups. The normative question is whether they should carry more sway when they have more money. The answer to the former is addressed in chapter 4, where I attempt to examine the degree and circumstances of interest groups’ legislative influence. The second question is considered in my conclusion, where I address a number of normative questions arising from my analyses.

INTEREST GROUP STRATEGY

The literature on interest group influence in Congress focuses on two main modes of influence: campaign contributions and lobbying (Smith 1995). Both of these
strategies point to the ultimate goal of interest groups: getting policies that advance their cause passed into law. In other words, interest groups are “policy-maximizers” (Brunell 2005, 683) that may have other proximate goals—for example, achieving a friendly legislator’s re-election—but whose ultimate goal is always the production of policy favorable to their interests.

Parallel to these two main modes of influence, I argue that interest group behavior can be divided into two main camps: victory-seeking behavior and access-seeking behavior. Franz, Fowler, and Ridout (2015) provide a related framework and useful metaphor for distinguishing these two patterns of behavior, particularly as related to campaign advertising strategy. “Loose cannons” are interest groups that advertise mostly on their own issues to promote their brand, while “loyal foot soldiers” are groups that follow party and candidate messaging topics, acting essentially as an extension of the coordinated campaign (while remaining technically independent for regulatory purposes). My framework for understanding this behavior extends this idea by identifying “loyal foot soldier” groups as engaging primarily in “victory-seeking” behavior. I define victory-seeking as when interest groups spend their money with the primary goal of influencing the outcome of an election. Victory-seekers act strategically to promote the election of candidates they believe will be favorable to their interests, and make strategic decisions on where to spend their money based on where it is most likely to favorably alter the outcome of an election. The other side of the dichotomy, the “loose cannons,” I identify as “access-seekers”—groups that primarily seek to promote their own causes while buying influence by supporting a candidate’s re-election campaign. These groups may
advertise in campaigns where their support is not needed to secure a victory. I expect that these groups will primarily support candidates who they see as already having a high probability of election, but whose favor may be gained via campaign support. In other words, access-seekers will tend to support incumbents or candidates in less competitive races, while victory-seekers will tend to support high-quality candidates in competitive races, where their money has the potential to influence a positive outcome for an interest-friendly candidate.

**ELECTORAL INCENTIVES**

I have discussed the interest group side of influence, but how does this framework interact with the theory on legislator behavior? Mayhew (2005) emphasizes that members of Congress’ primary decision-making incentive is the pursuit of re-election. However, in the age of well-funded interest groups, securing an election is not as simple for a candidate as pleasing the constituency. Interest groups with the funding and regulatory approval to wage massive advertising campaigns—both of which were achieved in 2010—have the potential to influence vote-maximizing politicians more than the voters themselves, creating a significant imbalance in the political “pressure system” (Schattschneider 1960). In this way, if Mayhew’s theory of re-election-minded legislators is correct, interest groups may have more power than the voters in influencing policy outcomes.

Legislators can also receive contributions from competing interests that may have the effect of “cancelling out” the groups’ influence over legislation. If the legislator cannot please interests on both sides of an issue, they may turn to other
factors (such as their constituency) to make a legislative decision. Understanding these opposing and compounding forces in the political pressure system is crucial to a comprehensive analysis of interest groups’ potential to influence legislative decisions. On the other hand, there is evidence that interest groups tend to lobby legislators whose constituencies are indifferent about their topic of interest (Denzau and Munger 1986). If this is the case, interest groups might not cancel out or overshadow the interests of the constituents. Instead, they may augment constituent preferences with interest group preferences in the decision-making process of a legislator. While this is a more optimistic view of interest group influence, it still poses a conceptual problem for democratic ideals, as it means that legislators are representing non-constituent interests in addition to those of their constituents.

High levels of interest group activity in elections can also make candidates more dependent on group support when their opponents receive interest group support. In this way, there may be a “race-to-the-top” for interest group support that works to exacerbate influence in a pressure system with many active groups.

*CITIZENS UNITED AND INTEREST GROUP STRATEGY*

The primary goal of this thesis is to examine whether *Citizens United* had a significant and measurable effect on the ability of interest groups to influence legislator behavior. However, before tackling this question directly (as I will in chapter 4), it is important to develop a theory for how the decision may have affected interest group strategy and behavior, regardless of its actual effect on legislators. This is crucial not only to understanding the effects of the decision from multiple angles,
but also because interest group influence on legislators is only one piece of a complex pressure system that drives political decision-making. For instance, if post-

*Citizens*

interest groups focus on different kinds of issues or use different advertising strategies than pre-

*Citizens*

groups, the changes in interest group influence will function differently than if the focus of their influence had stayed the same.

*Citizens United* had a few key effects that significantly altered the way in which interest groups behave and, potentially, the degree to which they are able to influence members of Congress. First, by allowing corporations and unions to spend unlimited sums of money on express advocacy—directly or indirectly—the decision allowed these two major players to become highly relevant to re-election-minded members of Congress. Whereas corporations and unions had previously relied heavily on lobbies and issue advocacy campaigns to promote their interests, they now had a new and extremely powerful means by which to gain influence: the promise of supporting legislators’ re-elections by bankrolling independent advocacy campaigns on their behalf. With large coffers of money from wealthy interests at their disposal, interest groups could begin the work of waging campaigns to favorably shift the outcome of an election and thereby receive preferential treatment in policy decisions.

Public opinion on relevant issues in a campaign remains important to an interest group’s ability to influence legislation. While constituent preferences are by no means the only factor in policymaking decisions, there is evidence that they do play a role in many cases (Page and Shapiro 1983; Weber and Shaffer 1972). After all, while interest groups can provide campaign support and convince voters to support a candidate, in the end, it is still the voters who must go to the polls and cast
their votes. In other words, members of Congress remain vote-maximizers (Mayhew 2005), and will answer to the voters as well as to the interests who influence voters. As such, interest groups would be wise to attempt to influence public opinion on their own pertinent issues while still gaining favor with a candidate via campaign advertisements. *Citizens United* conceivably also increased levels of competition between groups such that groups needed to focus more on their candidates’ victories (and particularly in offsetting the efforts of their opponents’ groups) and less on their own issues in election advertising.

**DO THE DATA SUPPORT THE THEORY?**

Burnstein and Linton (2002, 381), in their meta-analysis of literature exploring the legislative influence of interest groups, begin their introduction with the claim, “Everyone who studies democratic politics agrees that political parties, interest groups, and social movement organizations strongly influence public policy.” It is true that, until recently, there was a general sense in the literature that interest groups must affect the formation of public policy in some way. This is a logical hypothesis rooted in the simple theory that, because interest groups spend large sums of money (and because individuals, corporations, and other entities contribute these large sums of money) on electioneering and lobbying, these contributions must have significant favorable influence upon policy outcomes that favor the contributing groups’ interests. The interest groups must at least believe that this is true; whether they are access-seekers or victory-seekers, their ultimate goal is the production of favorable policy. Indeed, it is this idea upon which I base the central analysis of this thesis,
described in detail in chapter 4. But in the existing literature, it appears that the assumption of high levels of interest group influence may be based more in theory and popular perception than in consistent empirical results (Lowery 2013; Gerber 2011).

OVERVIEW

This thesis uses the arguments espoused in the Supreme Court opinions and in the media, along with findings in the existing literature, to develop and test hypotheses about the effects of *Citizens United* and *SpeechNow* on interest group strategy and legislative influence. Chapter 1 has introduced the relevant theory and history of campaign finance and interest groups, offering the reader sufficient background to grasp the complexity of the decision’s ramifications. I have also drawn from the literature to explore theories of interest group behavior and synthesize a new theory for their behavior in modern elections, particularly with respect to how the changes in 2010 may have affected their strategy and influence.

Chapter 2 begins with a review of campaign finance law and regulation as it relates to the *Citizens United* and *SpeechNow* decisions. I then describe the sources and methods used to create my datasets and use the data to provide descriptive analyses of the changes that occurred to campaign finance and legislative behavior over the period of interest. I show significant increases in campaign spending and advertising levels in the post-*Citizens* period, as well as increases in overall similarity between interest group- and candidate-sponsored advertising topics. I also show the increasing similarity between interest group advertising topics and legislative
agendas. These descriptive statistics serve as an introduction to the models I present in the following chapters.

Chapter 3 focuses on modeling interest group strategy in electioneering decisions, both overall and how their strategy changed in 2010. I use a GLS regression model to test my hypotheses for interest group strategy and explain the results. I find that similarity in advertising topics did increase after *Citizens United*, and that this effect is particularly strong in more competitive races.

Chapter 4 focuses on the next step in an interest group’s policy influence: their ability to influence legislators’ policy agendas. I calculate the similarity between interest group advertising topics and topics of cosponsored legislation as the dependent variable. I use a GLS model to suggest conclusions about interest groups’ legislative influence and how *Citizens United* affected the observed relationships. I find evidence that similarity between legislative topics and interest group advertising topics did increase in 2010, after controlling for key factors. I argue that this finding provides evidence of increased interest group influence on legislative agendas as a result of *Citizens United*.

Chapter 5 concludes the thesis by discussing the normative implications of my findings. I explain the limitations of my analyses and offer suggestions for future work to extend the results I present. I also return to the key questions raised by the Supreme Court opinions and explain how my findings might point to an answer. Finally, I discuss whether the public outcry and dramatic media coverage of *Citizens United* were truly warranted.
CHAPTER 2
HISTORY & DATA

Citizens United and SpeechNow dramatically changed the regulatory environment in which candidates, parties, and outside interests operate during a campaign. By opening the floodgates for corporate and union money to engage in electioneering via super PACs, the decisions dramatically increased the scale of campaigns for federal office. This chapter introduces the analyses that follow by reviewing the changing landscape of recent campaign finance regulation. I then introduce my datasets and describe the changes shown in the data over the period in question. I analyze these changes descriptively as a way of introducing the data used in the multivariate models described in chapters 3 and 4.

A RECENT HISTORY OF CAMPAIGN FINANCE REGULATION

To understand the significance of the Citizens United and SpeechNow decisions, they must be viewed in the context of the history of campaign finance regulation in the United States. As such, I provide a brief overview of modern regulations, outline their key provisions, and explain their pertinence to the 2010 Supreme Court decisions.

Federal Election Campaign Act of 1971 and 1974 Amendments

While efforts to regulate campaigns and political contributions began early in the 20th Century, The Federal Election Campaign Act of 1971 (“FECA”) was the first
major bill passed by the United States Congress to set forth a comprehensive framework for regulation of campaign finance (Federal Election Commission 2005). FECA, along with its 1974 amendments, authorized the creation of the Federal Election Commission (“FEC”) as an executive body that would make and enforce rules based on FECA and existing campaign finance laws. FECA also notably established contribution limits for individual and group donations to candidates, party committees, and Political Action Committees (“PACs”). The provisions under FECA regulated certain kinds of contributions and spending (“hard money”) but, in varying degrees over the course of its amendments and legal decisions, left other activities largely unregulated and free of reporting requirements, sponsor-type restrictions, and dollar-amount limits. Under FECA, as a result, PACs could collect this “soft money” from individuals, corporations, and labor unions and in turn spend the money as unrestricted soft money. In many cases, this manifested itself as “issue advocacy” advertising. These advertisements were prohibited from engaging in “express advocacy” for a candidate, but were otherwise free to make political and campaign-related statements. For instance, as enforced by the FEC, a soft money advertisement could present a candidate’s record of success (or failure), so long as it did not use “magic words” like “vote for”, “support”, “defeat”, or similar statements (Conway, Greene, and Currinder 2002; Buckley v. Valeo 1976).

The Bipartisan Campaign Reform Act of 2002

The first major overhaul of FECA was signed into law by President George W. Bush on March 27, 2002, as the Bipartisan Campaign Reform Act of 2002
(“BCRA”). The bill was sponsored by Russ Feingold, a Democratic senator from Wisconsin, and John McCain, a Republican senator from Arizona, and is therefore also known colloquially as “McCain-Feingold”. While a number of small changes to FECA and its resulting regulations had occurred since 1971 via amendments and legal challenges, BCRA was designed as a major overhaul to a system of federal campaign finance regulation that had changed very little in thirty-one years. The first major effect of BCRA was to ban political parties and candidates from raising and using soft money. The other related provision was to define as “electioneering communications” any “political advertisements that ‘refer’ to a clearly identified federal candidate and [are] broadcast within 30 days of a primary or 60 days of a general election” (Cantor and Whitaker 2004, CRS–10). This effectively cracked down on soft money advertising and caused a marked decrease in overall advertising activity. BCRA also continued FECA’s ban on the use of union and corporate treasury funds to sponsor electioneering communications. The first elections to occur under BCRA’s reforms were the 2004 federal elections.

Federal Election Commission v. Wisconsin Right to Life

In 2007, Wisconsin Right to Life, a corporate-funded pro-life political advocacy group, ran ads that encouraged viewers to contact their senators and urge them to oppose the filibuster of judicial nominees. The group sued the FEC for the right to continue running the advertisements within the 60-day general election period in which such ads—which mentioned senators by name, and thus fell under the BCRA definition of “electioneering communications”—would have been prohibited
due to the group’s corporate donor base. The Supreme Court ruled that the candidate mention criterion was too broadly restrictive and had the potential to chill non-electioneering speech. Therefore, the Court replaced this with the broader “reasonable person” test, whereby the advertisement would be permitted if a “reasonable person” would conclude that it was advocating a policy or an issue rather than for or against a candidate (Franz 2010; *FEC v. Wisconsin Right to Life, Inc.* 2007). The ambiguity introduced in this decision allowed for more “issue advocacy” ads to be aired, though advertisers were still limited in their ability to expressly advocate for or against candidates themselves.

*Citizens United v. Federal Election Commission*

Perhaps the most famous event in recent campaign finance history, the *Citizens United* decision reversed a number of key elements in the existing regulation. The interest group Citizens United sued the FEC for the right to advertise a documentary film, “Hillary: The Movie,” which covered the various scandals in which then-senator Hillary Clinton had been involved, within the restricted election advertising period under BCRA. After lower courts ruled that the film was an “electioneering communication” under the decision in *FEC v. Wisconsin Right to Life*, and thus fell under the jurisdiction of FEC regulations, the group’s appeal made its way up to the Supreme Court. In the decision, the Court set broad precedents that overturned many of BCRA’s provisions. The Court upheld limits on direct contributions to candidates by unions and corporations, but struck down limits on independent electioneering activity by these groups. Following the decision,
corporations and unions were free to spend unlimited sums of money from their treasuries on electioneering activities and communications, provided that these expenditures were entirely independent from candidate campaigns (Federal Election Commission 2010). After the decision, corporations and unions were free to bankroll independent express advocacy campaigns with their treasury funds. In this thesis, I will refer to the period and elections prior to this decision as “pre-Citizens” and the period following the decision as “post-Citizens”.

SpeechNow v. Federal Election Commission

Two months after Citizens was decided by the Supreme Court, the US Court of Appeals for the District of Columbia released a decision in the case SpeechNow v. FEC. While often overlooked or conflated with Citizens United, the SpeechNow decision was also crucial to changing the tide of campaign finance in 2010. In this case, SpeechNow, a pro-First Amendment advocacy group, sought exemption from contribution limits and reporting requirements of political action committees because they campaigned independently of any candidate or party committee. Applying the precedents set by the Supreme Court in the Citizens decision, the Court of Appeals struck down limits on contributions by individuals to independent expenditure-only groups, although it upheld the registration and disclosure requirements for these groups. The striking down of limits on contributions to independent-expenditure groups, combined with the ruling in the Citizens decision that corporations had the same rights to engage in political advocacy as individuals, implicitly paved the way for unions and corporations to make unlimited contributions to independent-
expenditure groups as well. As a result, the “super PAC”—an independent-expenditure-only group that can receive unlimited contributions from individual, corporate, and union donors—was born (Dowling and Miller 2014, 41–44). Note that while the decision in *SpeechNow* was distinct from *Citizens United* and key to the changes that occurred, in this thesis I will often follow popular convention by referring to these related decisions and their combined effects simply as *Citizens United* or *Citizens*. When the distinction between the two is important, I will note that accordingly.

### ADVERTISING DATA

The 1952 presidential election was the first to use television advertising to appeal to voters (West 2013). As such, one might expect 70-plus-years’ worth of data to be available for analysis of the subject. However, it was not until recently—within the past two decades—that election advertising began to be tracked and recorded in a consistent manner viable for academic research. Prior to that, once an advertisement was broadcast over the air, if nobody specifically recorded the advertisement, it was essentially lost. Furthermore, it is one thing to record the airing of television advertisements—the “metadata” of when and where the ad was aired—and quite another to produce datasets detailing the actual content of the advertising. Two academic research projects—the Wisconsin Advertising Project¹ (University of Wisconsin—Madison) and the Wesleyan Media Project² (Wesleyan University) have

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¹ More information is available at wiscadproject.wisc.edu.
² More information is available at mediaproject.wesleyan.edu.
undertaken this task in order to produce detailed, analyzable datasets to help scholars better understand the strategies and effects of election advertising. These projects acquire data from Kantar Media/Campaign Media Analysis Group (CMAG), a commercial operation that tracks and records television broadcasts across the United States. CMAG provides the projects with both the metadata of aid airings and video files that contain each unique advertisement aired in an election. Using these two datasets, the Projects’ human coders watch each unique advertisement and code them for a variety of variables related to content, sponsor, and the candidates mentioned. The projects then produce datasets which contain both the metadata and coded content data for every airing of every election advertisement broadcast during an election cycle. In this thesis, I use the Wisconsin Advertising Project’s datasets for the 2002, 2004, and 2008 elections, and the Wesleyan Media Project’s datasets for the 2006, 2010, and 2012 elections. Across this time period, these two projects worked alternately, such that only one project produced data for a given election cycle.

CANDIDATE SPENDING

Candidate spending is an indicator of both the competitiveness of a race and of the amount of money a candidate committee is receiving in contributions. Under FEC regulations, there are strict limits on the dollar amount that any individual can contribute to a candidate committee. As such, large amounts of money must come from large numbers of donors, and so candidate disbursements are a better measure of popular support for a candidate than interest group spending figures. Figure 2.1 shows total candidate committee disbursements across election cycles from 2002 to 2012, as
reported by the Federal Election Commission. The chart shows a clear increase over time, with major jumps in spending in 2006 and again in 2010. Although the chart shows an increase across all election years (except for a slight decrease from 2006 to 2008), the jump from 2008 to 2010 is particularly large—the figure goes from 1.4 to 1.9 billion dollars, an increase of around 36%. This may be due to increased advertising activity as a result of *Citizens United*, which could inspire more individuals to donate to campaign committees. Note that the figure includes all candidates for House and Senate elections for the entire election cycle, including primaries.

**Figure 2.1: Total Candidate Committee Disbursements by Election Cycle**

![Total Candidate Committee Disbursements by Election Cycle](image)

Data source: Federal Election Commission.
ADVERTISING VOLUME

One unsurprising change after *Citizens United* allowed for corporate expenditure on electioneering communications is the marked increase in interest group advertising activity. Figure 2.2 shows the increase in total congressional election advertising activity from 2002 to 2012 and the differences in trends between interest group and candidate/party-sponsored advertisements. From 2002 to 2006, we see relatively steady rates of total advertising, with a small decrease in activity after BCRA banned soft money “issue” advertising in 2002. The significant increase in total advertising in 2008 can be attributed in part to an increase in race competitiveness; in 2008, 25.4% of races were rated “lean” or “tossup” by Congressional Quarterly (the two highest competitiveness ratings, out of four), while the average for the preceding three election cycles was 18.5%. For obvious reasons, more advertising activity occurs in more competitive elections. The other contributing factor to the advertising increase in 2008 came from the *Wisconsin Right to Life* case, which loosened restrictions on “issue advocacy” advertisements. In 2010 we see a sharp increase in both interest group and candidate advertising, but interest group advertising takes over an increasing proportion of the total. 2012, a presidential election year, shows a decrease in total advertising from 2010 but an increase in interest group advertising both in absolute volume and in percentage of total advertisements. The decrease in candidate-sponsored ads in 2012 can likely be attributed to the presidential election drawing away contributions to congressional candidate campaigns, while interest groups may be less susceptible to the hype of a
presidential campaign and more interested in putting interest-friendly legislators in office.

**Figure 2.2: Mean Ads Aired per Candidate, by Sponsor Type and Election Cycle**

![Bar chart showing mean ads aired per candidate by type of sponsor and election cycle (2002-2012). The chart is color-coded with dark gray for interest group ads and light gray for candidate/party ads.]

Data source: Kantar/CMAG, Wesleyan Media Project & Wisconsin Advertising Project.

**REPLACING THE PARTIES?**

In modern congressional elections in the United States, there are three major actors: candidates, parties, and interest groups. While this thesis focuses on the role of interest groups, and often combines candidate- with party-sponsored advertising, it is important to recognize the unique and changing role of the political party, and particularly the ways in which interest group activity may have changed that role.
The rise of “soft money” that occurred in the decades following FECA benefited the political parties’ ability to influence campaigns. The parties took advantage of unregulated “issue advocacy” to launch massive advertising campaigns in key states during presidential and congressional elections (Mann 2003, 35). As such, BCRA’s crackdown on soft money delivered a particularly crippling blow to the ability of party committees to influence elections. When Citizens United and SpeechNow permitted corporate-funded independent expenditure campaigns in 2010, party committees remained highly regulated by the FEC. As a result, it took only until 2012 for outside group spending to exceed party committee spending (Weiner and Vandewalker 2015, 6). One hypothesis amongst pundits following the 2010 decisions was that interest groups, with their newfound funding from corporations and other wealthy parties, would effectively begin to replace parties both in political campaign and legislative contexts (La Raja 2013).

As I discuss the potential decline of political parties with the rise of the outside group, it is important to discuss the role that parties have played in U.S. politics. Scholars have raised a number of reasons why political parties are beneficial to democracy (La Raja 2013), despite the popular belief that they serve to polarize voters and twist politicians’ arms. Some pundits argue that parties actually help to depolarize politics by pushing candidates towards the ideological center in order to receive more contributions from an electorate that is more moderate than the candidates. Parties are also highly accountable to the public due to their high visibility and their concern for their long-term reputation. Finally, parties receive support from a broad donor base and use grassroots strategies (Weiner and Vandewalker 2015, 4–
5). These distinctions are particularly important when comparing parties to interest groups funded by small numbers of wealthy individuals, unions, or corporations. In these ways, the potential for party decline as a result of interest group rise may have negative implications for democracy. However, these party-specific arguments are not the focus of this work and deserve further examination and empirical testing in other research.

Following the *Citizens* decision, interest group advertising entered the limelight, and it seemed like much of the nation’s attention was focused on the issue of super PACs and corporate influence. While interest group advertising might seem like a major element of campaigns in the post-*Citizens* environment, the reality is that it occupies a relatively small share of the advertising market. While the interest group market share did increase in 2010, the vast majority of the market still belonged to candidate and party advertisements. For this reason, any study of election advertising must analyze candidate and party ads along with interest group ads to get the full picture. Figure 2.3 shows the relative volume of interest group advertising across six elections (three midterm and three in presidential election years). Over this period, interest groups did increase their share of the advertising market, and this probably drove the significant increase in the size of the market as a whole. Nevertheless, even in 2010 and 2012 these advertisements still made up for only about 15% of all election advertising in the eights weeks preceding the 2010 general election and about 21% in for the same period in 2012. However, advertising numbers do not directly measure the degree of influence. Thus, the rise of the interest group in 2010—in terms of political power—may be much larger than it appears in Figure 2.3.
RACE COMPETITIVENESS

As discussed in chapter 1’s section on interest group theory, an interest group is a strategic actor whose goal is to gain the greatest possible influence over policy for its money. I discussed the dichotomous framework of victory-seeking and access-seeking groups, hypothesizing that interest groups in the post-\textit{Citizens} environment will be more likely to engage in victory-seeking behavior once they have the potential resources to actually swing an election. As such, understanding the competitiveness of congressional races is key to our understanding of interest group strategy. I utilize
individually calculated race competitiveness ratings produced by Congressional Quarterly\(^3\) to measure the competitiveness of a race. Congressional Quarterly categorizes each race in one of four ways. The first is “safe,” which suggests that there is very little chance of an off-party victory. The ratings then go from “favors” to “leans” to “tossup.” Tossups are the most competitive races, where there can be little confidence as to which candidate will win. Figure 2.4 shows the total number of interest group advertisements aired in congressional races within eight weeks of a general election, broken down by race competitiveness ratings. Clearly, interest groups focus their efforts on races where they have the potential to make a difference in the more competitive elections. A second explanation for this pattern is that, if interest groups are seeking to promote their own brand, they will advertise in more competitive elections to gain the most visibility. These explanations—which reflect victory-seeking and access-seeking behavior types, respectively—are not mutually exclusive.

MEASURING LEGISLATIVE BEHAVIOR

One of the difficulties in measuring outside influence on legislative behavior arises from the complexity of the process involved in bringing a bill from an idea to the President’s desk to be signed into law. Because there are numerous steps and actors in this process—including sponsorship, committees, and roll call votes in both chambers of Congress—accounting for each one is nearly impossible. As such, the

\(^3\) http://www.cq.com
best that can be done is to carefully choose legislative variables and recognize the limitations of those choices.

**Figure 2.4: Interest Group Ads Aired by Race Competitiveness Rating, 2002-2012** (House and Senate, within 8 weeks of general election)

Cosponsorship of bills—official support of a bill by a member of Congress prior to a roll call vote—began as a practice in the Senate in the early 1910s and spread to the House of Representatives in the 1960s as a way of demonstrating support for a bill prior to a vote on the floor. The practice has since increased to the point where over half of bills introduced in Congress are cosponsored (Wilson and Young 1997). In this analysis, I intend to use cosponsorship as a measure of a legislator’s attention to a topic. Because my advertising data is limited to issue mentions—and not detailed enough to capture specific support or disapproval of an
issue or bill—my legislative data must likewise measure attention to, rather than support for, each issue. While nearly every member of Congress votes on a bill, a much smaller number actually cosponsor it. In this way, cosponsorship captures specific attention to a bill—and to the topic of the bill—in a way that roll call votes cannot. By focusing on cosponsorship as an indicator for legislative interest in a topic, I hope to draw out the members of Congress who are more heavily invested in producing legislation on a particular topic from those who support a bill only during roll call voting. But before using cosponsorship as a proxy for a member of Congress’s attention to an issue, I must first consider the factors besides interest group influence that might affect this decision. In an analysis of cosponsorship on major bills in the US Senate, Haward and Moffett (2010, 117) find that senators were more likely to cosponsor “when their constituents increase demand for legislation within particular policy areas.” In this way, cosponsorship was, at least prior to the turn of the century, responsive to constituent demand after controlling for ideology and electoral incentives, seniority, institutional factors like party and leadership, and identity characteristics like gender and race. Kroger (2003) finds that cosponsorship increases as media coverage of a member decreases, which he argues may be due to members with low coverage attempting to do “legislative casework” by supporting specific policies that appeal to specific factions of their constituency. Because the member has low levels of coverage, the cosponsorship helps him or her gain favor with specific groups without alienating other constituencies who may not have supported the legislation had they known about it.
Figure 2.5 shows average per-member cosponsorship rates across the six election cycles in our period of interest, by chamber of congress. While cosponsorship rates were generally higher in 2006 and 2008, there is no clear trend across this time period. Generally, rates are higher in the House than in the Senate.

**Figure 2.5: Mean Number of Bills Cosponsored, by Chamber and Election Cycle**

[Bar chart showing cosponsorship rates by chamber and election cycle.]

*Data source: GovTrack & Library of Congress.*

**CALCULATING CONVERGENCE**

The goal of the next two chapters is to explore similarities in issue agendas between interest groups, candidate campaigns, and legislators. Because it is both statistically and practically challenging to analyze 60-plus distinct topics across various elections and legislators, I employ a convergence calculation to estimate similarity in topics across every topic coded in each election cycle. This also allows
for the slight variance in topics coded across the different cycles. While the majority of topics are consistent across all six elections, some topics are added or removed from the coding set over time. Convergence analysis essentially allows for attention every coded topic to be compared within an election by producing an aggregate similarity score. This score can then be compared across elections. To demonstrate, I use an advertising convergence example relevant to chapter 3, where convergence is calculated as:

\[
1 - \sum \left\{ \frac{|I_{ic} - I_{ig}|}{(I_{ic} + I_{ig})} \right\}
\]

where \(I_{ic}\) is a candidate’s proportionate attention to a topic and \(I_{ig}\) is the proportionate attention to a topic by interest groups who support that candidate. Values are summed across the entire list of topics available in the dataset. Note that convergence scores are calculated at the level of the candidate-year; in other words, each candidate receives a separate convergence score for each election in which they participated from 2002 to 2012. In chapter 4, I use the same equation to calculate convergence between interest group advertising and topics of legislation. An example of topic convergence is shown in Table 2.1, adapted from Franz, Fowler, and Ridout (2015, 5), who use convergence analysis to study topic similarity across different types of interest groups. In this table, we see that the candidates overlap on three of the five issues. On Issue 1 they overlap by .10, on Issue 3 by .25, and on Issue 4 by .15. There is no overlap on the other issues. Therefore, the total convergence score across all issues—the sum of the overlap—comes out to 0.5. Convergence scores can range from 0 (no overlap on any issue) to 1 (complete proportional matching on all issues).
Table 2.1: Issue Convergence Example

<table>
<thead>
<tr>
<th>Sponsor</th>
<th>Issue 1</th>
<th>Issue 2</th>
<th>Issue 3</th>
<th>Issue 4</th>
<th>Issue 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Candidates (C)</td>
<td>.10</td>
<td>.30</td>
<td>.25</td>
<td>.20</td>
<td>.15</td>
</tr>
<tr>
<td>Interest Groups (IG)</td>
<td>.50</td>
<td>.00</td>
<td>.35</td>
<td>.15</td>
<td>.00</td>
</tr>
<tr>
<td></td>
<td>I_{IC} - I_{IG}</td>
<td>.40</td>
<td>.30</td>
<td>.10</td>
<td>.05</td>
</tr>
<tr>
<td>(I_{IC} + I_{IG})</td>
<td>.60</td>
<td>.30</td>
<td>.60</td>
<td>.35</td>
<td>.15</td>
</tr>
</tbody>
</table>

Convergence analysis is established in the literature and has been utilized by multiple authors in peer-reviewed studies (Sigelman and Buell 2004; Franz, Fowler, and Ridout 2015). However, there are a few shortcomings of the method which should be discussed. First, any aggregation of variables will necessarily result in a loss of detail and specificity. In this case, we lose the nuance between different kinds of topics. For example, there could be high levels of convergence on social issues but low levels on economic issues, but the aggregate convergence of the topics might average out and erase that nuance. The method also requires topics from the two topic lists being analyzed to match, which poses problems when comparing topic attention from different data sources. This issue is particularly relevant in chapter 4, where I compare topic attention between legislative and advertising datasets.

This chapter has served as an introduction to the history, literature, and issues at play in the controversy over *Citizens United*. I have introduced my datasets and provided descriptive analyses and visualizations of the changes that took place in advertising and legislation between 2002 and 2012. However, these descriptions raise

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4 Adapted from Franz, Fowler, and Ridout (2015, 5)
more questions than they answer, and the relatedness of many of the variables
demonstrates the need for multivariate analyses with the ability to control for
confounding factors and examine interactions between explanatory variables. The
following two chapters will introduce multivariate models to test changes in interest
group strategy (chapter 3) and in interest group legislative influence (chapter 4) that
may have occurred as a result of *Citizens United*. These models will help to clarify
some of the convergence measures and relationships I have introduced in this chapter,
and will bring me closer to answering the positive and normative questions raised by
the Supreme Court opinions.
CHAPTER 3
THE EFFECT OF CITIZENS UNITED ON INTEREST GROUP STRATEGY

I have introduced two key areas of interest group activity that are relevant to the impact of the Citizens United decision: interest group strategy in terms of which candidates they choose to support, and the effect that this support might have on those candidates’ decisions as legislators. In this chapter, I address the former.

One of the key provisions of super PAC spending in the post-Citizens environment is that they must operate completely independently from party and candidate committees. This includes the planning of any kind of issue agenda for advertising or other purposes. However, this does not preclude “follow-the-leader” behavior, by which an independent group identifies which topics a candidate’s campaign is advertising on and simply augments those advertisements with topically similar advertisements of their own. The other possibility is that interest groups can raise issues first and campaigns might then feel obligated to discuss those issues as well. Franz, Fowler, and Ridout (2015) find evidence that both of these processes exist, though different types of groups may be more or less likely to be followers or leaders.

As discussed in chapter 2, prior to the passage of BCRA in 2002, the majority of interest group election activity took place in the form of soft money advertisements that fell outside the purview of federal regulators. BCRA had a significant impact upon campaign behavior by prohibiting soft money campaigns and thereby squelching the ability of corporations and unions to spend their money on what were technically “issue advocacy” campaigns, but which often functioned as electioneering
campaigns (Mann 2003). With the advent of corporate-funded express advocacy as a result of *Citizens* and *SpeechNow*, corporations were free to openly advocate their preferences for an interest-friendly candidate. Most of this advocacy occurred via super PACs. But similarity between the topics discussed in candidate-sponsored versus interest group-sponsored advertising varies (Franz, Fowler, and Ridout 2015). This variance may be due to interest groups’ desire to promote their own agenda to the public, which would help to pressure the supported candidate into addressing the issue legislatively. In this way, an interest group’s level of similarity or divergence from candidate’s own messaging may be related to striking a balance between support for the candidate’s election and promoting the group’s own brand. As such, I propose the following hypothesis:

*I expect to see more evidence of interest groups following the candidate’s own message in more competitive races, and more evidence of groups promoting their own issues in less competitive races.*

In other words, interest groups will act more like “victory-seekers” in competitive races—where the candidate needs support to achieve victory—and more like “access-seekers” in safer races, where the candidate needs less support, but interest groups are still interested in promoting their own issues and gaining favor with the candidate.

*Citizens United* affected the similarity between candidate and interest group advertising in a few ways. Namely, the decision saw a massive increase in both interest group advertising volume and in the number of outside groups active in federal campaigns. The amount of money spent on supporting or attacking these candidates also skyrocketed. In other words, interest groups involved in federal
elections suddenly had much larger coffers and were competing with a larger field of groups for access to legislators and their policy agendas. Because I expect that access to legislators will be higher for legislators with more competitive re-election races, this increase in competition would, in theory, lead to an increase in victory-seeking behavior amongst interest groups. Furthermore, the increase in the volume of money available to outside groups (due to unlimited corporate and union contributions) allows them a better chance at swinging the outcome of a competitive race. As such, I present a second hypothesis for this chapter:

**I expect to see an increase in similarity between interest group-sponsored and candidate-sponsored advertisements after *Citizens United*.**

This hypothesis assumes that similarity in topics is an indicator of victory-seeking behavior over access-seeking behavior. Thus, I predict that *Citizens United* caused the average interest group to be more strategic in their spending decisions, focusing their money more on winning elections and less on promoting their own issues.

**DATA & METHODS**

To examine advertising issue attention, election advertising datasets were obtained for election cycles from 2002 to 2012. These datasets are provided at the level of the individual airing of an advertisement. The datasets were subset to include only advertisements aired within 60 days of a general election, and to only include candidates for U.S. Congress (House and Senate). Issue mentions were coded for
each advertisement from a list of roughly 60 topics\(^5\) for which the coder indicated whether or not the topic was mentioned during the advertisement. Some advertisements focus on only one issue, while others mention a number of issues over the course of a 30-second spot. To account for this variation, issue mentions were weighted by dividing the coded 1 by the total number of issues mentioned. For example, if a single advertisement mentioned both two issues, each issue would receive a .5 in the weighted dataset.

While this chapter’s empirical method is based on the election topic analysis conducted by Franz, Fowler, and Ridout (2015), it differs significantly on two key points in an attempt to build upon those authors’ findings. First, while Franz, Fowler, and Ridout run their analysis primarily at the level of the interest group, I run mine at the level of the individual candidate. In this way, rather than using interest group characteristics as the main predictor variables of interest, I use characteristics of candidates themselves. This design not only provides a different perspective, but will also be more relevant in later chapters of this work as I conduct other analyses at the candidate level. The second difference is that I use a wider range of years for my analysis (election cycles 2002 to 2012, compared to 2008 to 2012) with the goal of exploring not just the cycles immediately surrounding the *Citizens United* decision, but also the time period between BCRA and *Citizens United*.

Some descriptive statistics will be helpful in understanding the general trends across different election cycles before examining multivariate models for hypothesis-testing. Figure 3.1 shows the increase in mean convergence of interest group

\(^5\) An example list of coded advertising topics is provided in appendix A.
advertising and candidate advertising, at the candidate level, across election cycles from 2002-2008. We see a sharp decline in convergence from 2002 to 2004, following BCRA’s crackdown on soft money advertising. The jump in 2008 is likely due to increased average competitiveness of the races along with additional ambiguity in the regulatory environment introduced by the Wisconsin Right to Life case, as previously mentioned. The extreme increase in 2010, of course, I hypothesize is due to the Citizens decision. However, because increased advertising levels are highly correlated with increased convergence, further analysis requires a multivariate model that allows me to control for advertising volume.

**Figure 3.1: Mean Convergence of Interest Group and Candidate-Sponsored Advertising Topics by Election Cycle** (House and Senate, within 8 weeks of general election)

Data source: Kantar/CMAG, Wesleyan Media Project & Wisconsin Advertising Project.
BIVARIATE ANALYSIS

The primary relationship of interest for assessing interest group advertising strategy here is the relationship between topic convergence of interest group and candidate/party advertising and the competitiveness of the electoral district in which the advertising takes place. Generally, I expect to see higher levels of convergence in more competitive races, where interest groups are primarily seeking to influence a victory. By contrast, I expect to see lower convergence in less competitive races, where interest groups are more focused on spreading their message and gaining access to a member in a relatively safe seat. Figure 3.2 displays the mean convergence score by district competitiveness rating and regulatory environment. This figure provides initial insight into the bivariate relationship. Pre-Citizens, there is a clear relationship between competitiveness and convergence, such that competitiveness is higher in more competitive races. Post-Citizens, this convergence increases significantly in favorable, leaning, and tossup races, and only slightly in safe races. Thus, it appears that the decision increased both the overall levels of convergence and the strength of the relationship between convergence and district competitiveness. However, it is important to remember from Figure 2.4 (page 31) that convergence is highly correlated with advertising volume, which also increased significantly in 2008 and 2010. As such, while this bivariate analysis is a useful introduction to the relationship, a robust exploration of this relationship requires the inclusion of multiple controls, including variables for advertising volume and other possible confounders.
GLS REGRESSION MODEL

Due to the right-skew distribution of the dependent convergence variable, determining the most appropriate model to test my hypotheses was not simple. However, the Generalized Least Squares (GLS) model provides a simple but robust option for estimation an acceptable model for estimation, despite the violation of the normality assumption in the dependent variable. Thus, a GLS regression model was fitted to the data, using candidate-interest group ad issue convergence as the dependent variable. The dataset includes candidates who ran candidate advertisements during their race but for whom no interest group-sponsored

![Figure 3.2: Mean Convergence by District Safety and Regulatory Environment (House and Senate, within 8 weeks of general election)](image-url)
advertisements were aired. Because there was no interest group activity at all, the convergence for these candidates is zero. I account for the correlation in error terms for the same legislator in different Congresses by using a panel data version of the GLS model. I estimate robust standard errors to account for heteroscedasticity in the residuals.

To test my hypothesis that *Citizens United* made interest groups more likely to become victory-seekers than access-seekers, I use race competitiveness (from Congressional Quarterly) as the main predictor of interest. This is a categorical variable; each race is rated as “safe”, “favors [a party]”, “leans [towards a party]”, or “tossup”. This variable allows me to test my hypothesis that interest groups after *Citizens United* increased victory-seeking activity in more competitive elections. My other main variable of interest is a binary indicator of whether the election took place prior or subsequent to the *Citizens* decision. As such, 2010 and 2012 elections are coded as 1 for this variable and all other elections are coded as 0.

Key controls were included in the model to isolate the effects of *Citizens United* and race competitiveness. These include dummy variables for incumbents running for re-election and for candidates running for an open seat. These variables are critical to understanding the strategic choices that interest groups make to support a candidate’s election. If an interest group is seeking a victory, it will strategically support candidates in close elections, where their support has the best chance of swinging an election. By contrast, interest groups simply seeking access will focus more on candidates who are more likely to win (the incumbents). Because high convergence indicates that an interest group is seeking to influence an election by
discussing the same issues as the candidate’s campaign—whose primary goal is re-election—I expect to see lower convergence for incumbents and open seats, and higher convergence in more competitive districts. When interest groups support challengers, they support quality challengers who they believe have a good chance of winning. By contrast, interest groups supporting incumbents are less likely to match their issues with the candidate campaigns because they are less worried about re-election and more interested in buying influence and shifting the focus of voters (and the candidate) to those issues that most benefit their interests.

I also control for volume of interest group advertisements supporting the candidate and, separately, the volume of candidate-sponsored advertisements supporting the candidate. I include dummy variables for chamber of Congress (House) and party (Democrat) because there may be differences in interest group strategy across these groups.

RESULTS

To understand the results of this model, it is crucial to consider the meaning of the dependent variable, which is the convergence score for the overlap in topics discussed by outside interest group-sponsored advertisements and those advertisements sponsored by candidates or party committees. Convergence is an aggregate measure of similarity across advertising topics and provides a means by which to compare similarity across multiple years with large and varying topic lists. It also allows for the analysis of aggregate effects rather than at the effects for individual topics.
In the theoretical framework I developed in chapter 2, I theorized that interest groups choose their advertising topics based on two factors. The first factor is the group’s own policy preferences, which it can advance with advertising. Group can achieve this by driving public recognition of the issue amongst the candidate’s constituents, thereby putting pressure on the candidate to address it. This mode of issue attention, I expect, happens more when groups are supporting a candidate to

<table>
<thead>
<tr>
<th>Table 3.1: GLS Model Predicting Convergence of Interest Group and Candidate/Party Advertising Topics</th>
</tr>
</thead>
<tbody>
<tr>
<td>( \text{Citizens United} ) &amp; \text{0.0389} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Midterm &amp; 0.0013 &amp; 0.808</td>
</tr>
<tr>
<td>Favorable Race &amp; 0.0090 &amp; 0.191</td>
</tr>
<tr>
<td>Favorable Race &amp; * Citizens United &amp; \text{0.0993} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Leaning Race &amp; \text{0.0579} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Leaning Race * Citizens United &amp; \text{0.0830} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Tossup Race &amp; \text{0.0670} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Tossup Race * Citizens United &amp; \text{0.0993} &amp; \text{0.000}</td>
</tr>
<tr>
<td>House &amp; 0.0104 &amp; 0.327</td>
</tr>
<tr>
<td>Democrat &amp; \text{-0.0259} &amp; \text{0.000}</td>
</tr>
<tr>
<td>IG Ad Count &amp; \text{0.0001} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Candidate/Party Ad Count &amp; \text{8.22E-6} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Group Count &amp; \text{-0.0003} &amp; \text{0.001}</td>
</tr>
<tr>
<td>Incumbent &amp; \text{-0.0296} &amp; \text{0.000}</td>
</tr>
<tr>
<td>Open Seat &amp; \text{-0.0278} &amp; \text{0.002}</td>
</tr>
</tbody>
</table>

\* denotes an interaction effect
gain access to them in office. The second factor that determines a group’s advertising topics is motivated by the issues that the candidate’s campaign experts believe will work most in the candidate’s favor for re-election. When interest groups advertise on these topics, I theorize that they are focusing more on victory than access, keeping in mind that contributing to a victory has strong potential to buy legislative access for the group. Access achieved by victory-seeking advertising may be more valuable than access achieved by access-seeking advertising.

In terms of the effects of *Citizens United*, the decision meant that the average interest group had much greater freedom to wage campaigns, and larger coffers with which to wage them. As a result, groups could focus more on hand-picking their candidates via victory-seeking behavior than on seeking access with incumbent or safer candidates. While the risk is higher—as supporting a candidate in a “tossup” race does not guarantee victory—the policy reward may also be higher. This theory is borne out in the model I present here.

One possibility is that a higher convergence score means that independent interests are attempting to coordinate their advertising campaigns with the candidate advertisements because they trust or believe that the candidate campaigns have the best handle on which issues and discussions will be the most electorally advantageous for the candidate. It is also possible that candidate ads follow outside interest ads because once an outside group raises a topic, the campaign feels obligated to continue the discussion in order to continue receiving support from that group.

I have posited that higher convergence is associated with interest groups that are engaging primarily in victory-seeking behavior rather than access-seeking
behavior. The theory behind this argument is simple. If a group’s primary motivation behind supporting a candidate is to win the election, the group’s advertising will be designed to augment the candidate’s own campaign, which includes supporting the issue agenda the campaign has devised. In doing so, the group is simply acting as an extension of the connected campaign, though the advertising must be technically uncoordinated with the candidate. By contrast, an access-seeking group will work to support candidates who are more likely to win, and even those who are almost guaranteed to win their race (Rozell, Wilcox, and Madland 2006, 27). Thus, while these interest group advertisements ostensibly support the election of the candidate, they will overlap less with the candidate’s issue agenda and will instead support the interest group’s own issue agenda. As a result, convergence scores will be lower.

The GLS model supports this hypothesis of convergence on a number of explanatory variables. The *Citizens United* variable is positively and significantly associated with convergence scores after controlling for advertising volume, district safety and a number of other factors discussed above and shown in the results table (Coef. 0.0389; p-value 0.000). This key finding suggests higher rates of victory-seeking behavior amongst interest groups after *Citizens United*, in support of my hypothesis. I also find a significant negative effect for the incumbency indicator, suggesting lower convergence for incumbent candidates. This makes sense with my hypothesis; incumbents are already in office, so they have a better chance at winning close elections and interest groups can exert their policy influence during the campaign rather than after the election.
Race competitiveness is another important indicator of an interest group’s motivations. If a group supports a candidate in a competitive electoral district, it is more likely to be focused on victory than access. After all, the investment in advertising is lost entirely if the candidate loses the election. As I have posited, groups seeking to influence a victory will stay closer to the candidate’s own messaging strategy. Therefore, following my hypothesis, outside group advertisements will more closely match candidate advertisements in topic choice, thus producing higher convergence, in more competitive races. The model supports this hypothesis with increasingly positive coefficients for convergence as district competitiveness increases, when compared to “safe” races (statistically significant and positive coefficients for “leans” and “tossup” races).

I also include interaction terms for the interactions between race competitiveness categories and the Citizens United indicator variable. These indicators test whether Citizens United impacted convergence differently based on the competitiveness of the race. Indeed, all three competitiveness interaction terms (with “safe” districts as the reference group) return positive and significant coefficients, suggesting that the decision increased convergence in races more competitive than the “safe” races. Figure 3.3 demonstrates this interactive relationship. While there is an increase in predicted convergence across all competitiveness ratings, Citizens United affected convergence in “favorable,” “leans,” and “tossup” races much more than in “safe” races.
DISCUSSION

This model supports both of my hypotheses for topic convergence between interest group-sponsored and candidate-sponsored advertisements. I find evidence of higher convergence in more competitive races, after controlling for advertising volume and regulatory environment. This finding reflects my framework of access-seeking and victory-seeking behavior by showing that interest groups advertising in competitive elections are more likely to adhere to the candidate message, while those advertising in safe races tend to diverge from the candidate committee’s topic choices. The other key finding is that convergence increased across the board after

*Citizens United*, after controlling for key factors. These findings have a few important implications. One is that *Citizens United* spurred interest groups to engage in more victory-seeking behavior than they had previously. The low levels of outside group advertising that were present prior to the decision indicate that pre-*Citizens* interest groups that supported candidates engaged primarily in access-seeking behavior. This makes sense; those campaigns were highly regulated and limited in scope, and so the chance of meaningfully impacting the outcome of an election was slim. Furthermore, pre-*Citizens* interest groups engaging in express advocacy could not be funded by corporations or unions, and would thus be more likely to focus on narrower sets of issues than a large entity with broad interests and deep pockets. When the Supreme Court lifted the ban and struck down limits on independent expenditures, outside groups suddenly had both the funding and the regulatory leeway to run massive campaigns designed to affect the outcome of congressional elections. This has the potential to put legislators into office who truly owe their seat to outside interests that are willing and able to continue to fund their re-election campaigns. This indebtedness creates strong theoretical potential for the outside groups to influence these legislators’ policy agendas.

An important note here in discussing the differences between high-convergence (victory-seeking) behavior and low-convergence (access-seeking) behavior is that victory-seeking behavior does not preclude an interest group’s ability or desire to influence a legislator after they are elected. In fact, legislators who needed the support the most in order to win their race may be the most “indebted” to the groups that supported them, and their behavior might thus be *more* influenced by
outside groups. This question will be addressed in chapter 4, where I examine the relationship between interest group advertising and cosponsorship decisions.
Chapter 3 presented evidence that interest groups became more strategic and focused more on influencing election outcomes after *Citizens United*. The crux of the *Citizens United* debate, however, lies in the potential for outside interests to influence members of Congress in return for their electoral support. This chapter seeks to uncover evidence of this *quid pro quo* relationship by exploiting similarity between interest group issue preferences and supported candidates’ legislative agendas.

An interest group’s issue preferences and partisan leaning are not always obvious from its name. Many groups have ambiguous names which—perhaps intentionally—obscure the group’s partisan leaning and issue focus, and spare their supported candidates from the backlash of negative campaigning (Franz, Fowler, and Ridout 2015). As such, another means for measuring a group’s issue preferences must be engaged. While general independent expenditures reported to the FEC are often vague as to the issues or candidate they are supporting, most advertisements have a clear supported or attacked candidate and are affiliated with a specific electoral race. In the context of elections, election advertising provides a well-documented means by which to assess this activity and measure a group’s attention to a particular issue. My working theory of interest group advertising is that the advertisements seek more than an election victory. I hypothesize that interest group advertising has two other primary goals: to influence public opinion on issues important to the group and to gain political influence with the supported candidate. These goals apply even for those groups I have labeled as “victory-seekers”; these groups seek a candidate...
victory with the ultimate goal of achieving high levels of access to the candidate’s policy agenda if elected. While this thesis is primarily interested in legislative access and not in media, I propose that the content of an interest group’s advertisements, particularly where it diverges from a candidate’s own messaging strategy, provides a powerful proxy for assessing which issues are important to that group.

This chapter will use a convergence calculation, as discussed in chapter 2, to assess the similarity between a legislator’s cosponsorship choices and the topics presented in interest group advertisements supporting that legislator. I make the assumption that interest groups advertise on the topics they care about more than candidates advertise on the topics the interest groups care about. While convergence between interest group and candidate advertising is higher in more competitive elections (as found in chapter 3), there is still significant divergence. By controlling for convergence between candidate advertising and cosponsorship, I use convergence between interest group advertising and cosponsorship to measure when and why a member of Congress might tend to cosponsor legislation on topics more similar to their supporting interest groups’ preferences. In other words, I use the convergence between interest group advertisement topics and cosponsorship topics for each legislator as a proxy for the legislative influence of an interest group.

My theory of legislative influence is based on the idea that members of Congress are primarily influenced by their next re-election (Mayhew 2005). Interest groups take advantage of this fact by offering legislators support in their campaigns, with the expectation that legislators will produce policy friendly to their interests. Because this influence is based on the re-election incentive, legislators whose
prospects for re-election are uncertain would be more likely to be influenced by interest group support than those who occupy safer seats. As such, I present the following hypothesis for this chapter’s model:

**I expect that in both pre- and post-Citizens regulatory environments, the similarity between interest group advertising topics and the topics of cosponsored legislation will be higher in more competitive races and lower in safer races.**

While I expect that other candidate and election factors will influence levels of similarity, this hypothesis presents my central expectation for interest group influence across both the pre- and post-Citizens regulatory environments.

As I have discussed, *Citizens United* had a dramatic effect on a number of factors that play in to campaign finance and the potential for legislative influence. One effect of the decision was that more outside groups entered the field of organizations providing support for federal campaigns, and this support was backed with much larger sums of money. As a result, the groups supporting candidates had the potential to be much more powerful in influencing the outcome of an election after *Citizens United*. Following this line of reasoning, I present a second hypothesis for this chapter:

**I expect that levels of topic similarity between interest group-sponsored advertisements and cosponsored legislation will be higher in elections after *Citizens United*.**

I expect that this increase in similarity will hold after controlling for similarity between candidate-sponsored advertisements and cosponsored legislation, as well as volume of advertising and cosponsorship at the candidate level.
DATA & METHODS

I utilize advertising datasets from the Wisconsin Advertising Project and Wesleyan Media Project, as described in chapter 2, to assess interest group topic attention for each candidate in a congressional election. Because some ads mention a large number of issues and others focus on a single issue, following the method used by Sides (2006) and replicated by Franz, Fowler, and Ridout (2015), I again divide issue mentions for a particular advertisement by the total number of issues mentioned in that advertisement. This method accounts for the fact that advertisements with a single issue devote more airtime to that issue than advertisements that mention that same issue along with three others.

Legislative data was obtained from GovTrack⁶, an online project that works to access and organize publicly available government data. GovTrack scrapes data on every bill introduced in Congress from the Library of Congress website and compiles it into a single file. Relevant data were extracted from this file for all bills (H.R. and S bills, which excludes resolutions and amendments) introduced in the House and Senate for the 108th through 112th Congresses. I constructed a new dataset by creating a unique row for each legislator-Congress permutation in the 108th to 113th Congresses. I generated a variable for the number of bills cosponsored on each of 22 topics assigned as “top topics” by the Library of Congress. While bills can be assigned to multiple topics, the Library of Congress assigns a single “top topic”. For the purpose of clarity and simplicity, I used only this “top topic” designation in my

⁶ www.GovTrack.com
analysis. For each legislator-Congress, I also created a variable with the count of the number of bills cosponsored on each topic by the candidate in that Congress.

For the purposes of this analysis, advertising data is matched to the legislative activity of the two-year session of Congress following the election, operating under the assumption that legislative influence occurs most strongly in the Congress directly following the campaign in which a group supported a legislator. While it is the promise of future support that incentivizes a legislator to be influenced by an interest group, it is demonstrated support in the previous campaign that begins the relationship. For example, the 2002 election is matched to the 108th Congress, which met from January 2003 to December 2004. Senator-Congress combinations for which the legislator was not elected in the most recent election (due to 6-year senate terms) were removed in the interest of consistency across chambers.

In order to calculate a convergence score for each member-Congress, the legislative and advertising topics lists must match. To achieve this, I created a hybrid topic list that closely reflects the “top topics” designated by the Library of Congress. Each issue topic that was coded for in all six years of media project data was matched to a category in this topic list and collapsed to match the list. For instance, the “Iraq War,” “Afghanistan War,” and “military” topics were collapsed into a “Military and National Defense” category. These categories were not always perfect matches. For instance, “abortion” in the advertising dataset was best matched to “Health” in the legislative list, but abortion might also be considered to be a women’s issue or a religious issue. In all cases, I picked the legislative topic that most closely matched. Because this subjective matching of topics was mostly consistent across years (with
slight variation due to a handful of topics joining or dropping from the advertising database list), the risk of introducing significant bias here into the main relationships of interest is low. The actual convergence scores for each member-year are calculated in exactly the same manner as described in chapter 2, in this case using the modified topic lists for cosponsorship and advertising.

CONVERGENCE COMPARISON

In chapter 3, I found that convergence between interest group- and candidate-sponsored advertisements was low prior to Citizens United and higher afterwards. As such, when I compare Bill-Candidate convergence to Bill-Interest Group convergence, I expect to see a difference in the relationship between these two regulatory environments. Figure 4.1 demonstrates that, prior to Citizens, convergence was approximately a zero-sum game. With the exception of safe races, where interest group advertising volume is very low, it is clear that as Bill-Interest Group convergence increases with race competitiveness, Bill-Candidate convergence decreases. After Citizens, this is not the case. While Bill-Candidate convergence does decrease slightly as competitiveness increases (again excluding safe races), Bill-Interest Group convergence actually decreases from “lean” races to tossups. This will require further examination in the regression model to determine whether this is a statistically significant difference and what factors might be driving this. Notably, bill-candidate ad convergence decreases significantly from pre-Citizens to post-Citizens election, even though candidate advertising volume increased. This suggests that, at the very least, legislators may be diverging from their campaign agendas more
than they had previously. This could be due to a change in advertising strategy or in legislative behavior, both of which are potentially (but not necessarily) linked to interest group activity. Thus, this chart raises a number of questions which will be addressed in the regression model in the following section.

**Figure 4.1: Comparison of Bill-Ad Convergence by Sponsor Type, Race Competitiveness, and Regulatory Environment** (House and Senate, within 8 weeks of general election)


**GLS REGRESSION MODEL**

As I have discussed at some length, the variables and relationships in this data are complex and potentially include interactive effects. Thus, while descriptive analyses are a useful introduction to the relationships of interest, they raise more questions than they are able to answer. As such, this data calls for a multivariate
model that allows for the inclusion of the numerous variables and interactive effects that predict the relationships of interest.

Like in chapter 3, a panel data version of the Generalized Least Squares (GLS) model was fitted to the dataset. Because the dataset includes repeated legislators in different Congresses, a panel data version of GLS was used to account for potential correlation in the error terms. As a multivariate regression model, GLS model also allows for the examination of multiple relationships of interest while controlling for other variables that have the potential to confound or moderate those relationships. Again, I estimate using robust standard errors.

In this model, the dependent variable is the convergence score between the topics of interest group advertisements that support a member of Congress and the topics of legislation that the member cosponsored in the two-year Congress directly following that election. I include a binary variable for whether the election was post-
Citizens United, and dummy variables for party, chamber of Congress, and whether the election took place in a presidential election year or a midterm year. I also include variables for the legislator’s years of experience in Congress, ideological extremity\(^7\), the convergence score between legislation and candidate-sponsored advertising topics, the total number of bills cosponsored by the candidate, the total number of interest group-sponsored advertisements aired supporting the candidate, and the total number of candidate- and party-sponsored ads aired supporting the candidate. The convergence between cosponsorship and candidate-sponsored advertising topics is an

\(^7\) Absolute value of Poole & Rosenthal’s DW-NOMINATE score (VoteView.com).
important control because it is correlated with the dependent variable; the control
allows the model to reveal the interest group-specific effects beyond this relationship.

| Model Predicting Convergence of Cosponsorship and Interest Group-Sponsored Ad Topics | (n=3,056) | Coefficient | P>|z| |
|---|---|---|---|
| Citizens United | 0.0150 | 0.000 |
| Bill-Candidate Ad Convergence | 0.0266 | 0.005 |
| Favorable Race | 0.0039 | 0.289 |
| Favorable Race * Citizens United | 0.0279 | 0.039 |
| Lean Race | 0.0253 | 0.000 |
| Lean Race * Citizens United | 0.0212 | 0.160 |
| Tossup Race | 0.0430 | 0.000 |
| Tossup Race * Citizens United | -0.0024 | 0.894 |
| Ideological Extremity | -0.0333 | 0.003 |
| Years in Congress | -0.0001 | 0.359 |
| Years in Congress * Citizens United | -0.0006 | 0.000 |
| Democrat | -0.0048 | 0.098 |
| Midterm | 0.0006 | 0.719 |
| House | 0.0094 | 0.053 |
| Bills Cosponsored | 0.0000 | 0.312 |
| Interest Group-Sponsored Ads | 0.0000 | 0.006 |
| Candidate/Party-Sponsored Ads | 1.05E-6 | 0.292 |
| Interest Group Count | -0.0000 | 0.312 |

* denotes an interaction effect
RESULTS

Output from the model is shown in Table 4.1. The Citizens United indicator variable is significantly and positively associated with convergence between interest group advertising topics and the topics of bills cosponsored by a member of Congress, even after controlling for advertising volume, cosponsorship volume, and convergence between the same cosponsored bills and candidate-sponsored advertising topics. The marginal effect of *Citizens United*, all independent variables held at their means, is 0.012. This translates to a 217% increase in predicted legislative convergence from the pre-*Citizens* to post-*Citizens* environment. This change is illustrated in Figure 4.2, which displays the predictions for both regulatory environments, with confidence intervals. Note that the confidence intervals do not overlap; thus, this predicted increase is statistically significant (margins p-value=0.002). While convergence is used here as a proxy for legislative influence, the actual degree of influence is difficult to measure from a convergence score. Convergence can be taken as a sign of influence, and I argue here that an increase in convergence indicates an increase in influence. However, I do not argue that convergence has a direct relationship with levels of influence. Furthermore, due to the heavy right-skew of the data (a result of many campaigns receiving no interest group support prior to 2010) the effect of *Citizens* on the convergence score may be exaggerated. This limitation of the model will be discussed in greater detail in chapter 5. Overall, though, the positive and significant relationship between legislative convergence and *Citizens United* is a central finding of this model that supports my
hypothesis and suggests that outside groups had greater access to legislators’ policy agendas after the decision.

**Figure 4.2: Predicted Legislative Convergence, by Regulatory Environment**

![Graph showing predicted legislative convergence](image)


The district competitiveness variables, included in this model as indicator variables for each competitiveness category, reveal that convergence is indeed higher in more competitive races, confirming my hypothesis. The reference group here is the “safe” district indicator; all other competitiveness indicator results are in comparison to this group. While races rated “favorable” do not predict significantly higher legislative convergence than safe districts, the top two competitiveness categories (“lean” and “tossup”) do. I also include interactions between each competitiveness indicator variable and the *Citizens United* indicator variable. The only significant
competitiveness interaction term is for “favorable” races. This suggests that the
decision increased convergence in these races more than in other races, although
predicted convergence remains positively correlated with the main effects of race
competitiveness.

I do find a significant and negative interaction, however, between legislator
experience (previous years in Congress) and the Citizens indicator, suggesting that
Citizens United had a stronger positive effect on convergence for less experienced
members of Congress, and that this effect diminishes with years of experience. This
may be due to more experienced members having existing relationships with
lobbyists and their interest groups, and so they are less responsive to new supporters.
Furthermore, as a result of these long-term relationships and repeated election
victories, experienced members may be less concerned about re-election than their
less experienced counterparts, and therefore less responsive to outside group pressure
as measured by advertising. This effect is present after controlling for race
competitiveness. This relationship is shown in Figure 4.3, which shows predicted
legislative convergence by years of experience. The figure shows that the significance
of the effect of Citizens United on predicted convergence drops below 95% at around
20 years of experience.
DISCUSSION

The results presented in this chapter reveal a number of potentially key findings for the study and regulation of interest groups in American politics. Most centrally, I find that the convergence between the topics of bills that members of Congress cosponsor and the topics of interest group advertisements that supported those candidates in the preceding election increased after the changes brought around by Citizens United and SpeechNow in 2010.

Following the theory and framework of interest group behavior I developed in chapter 2, it appears as though Citizens United did have a significant impact on the relationships between legislators and the groups that support them. Combined with a
significant increase in volume of interest group activity and political advertising, I find evidence that the decision has had important effects on the ability of interest groups to influence members of Congress. This model also reveals further evidence that interest groups do behave strategically and frequently engage in access-seeking behaviors that are somewhat successful. However, it is difficult to directly interpret the degree of influence from the convergence effect. This study is designed to measure the effects of Citizens United on legislative influence along with other predictors, and not to measure overall levels of influence. However, it is clear from these results that Citizens brought about significant changes in these legislator-lobbyist relationships and that those relationships deserve further examination by academics, the media, and—perhaps most importantly—the courts.

The implications for democracy that these findings raise deserve consideration. If interest groups are able to influence legislative outcomes in some or many cases, then legislators are less directly responsive to their constituents than they might otherwise be. Even if we consider only interest groups funded by private citizens and not corporations or unions, there is still high potential for legislators to be influenced by individuals who are not their constituents. Consider, for instance, an evangelical anti-abortion group that supports congressional candidates across the nation who want to ban abortions. While one could make the argument that the group is made up of individuals who are exercising their democratic right to free speech, it is problematic when non-constituents, be they individuals or corporations, have influence on election outcomes in a district or state. The legislative branch of the government was designed with the understanding that its members would represent
their own constituents and neither the American people as a whole. In theory, the bicameral structure ensures that all citizens are represented. While few would argue that individuals receive equal representation in the American democracy, my findings suggest that *Citizens United* and the resulting increase in interest group dragged the nation further from this ideal.
CHAPTER 5
CONCLUSION

In this thesis, I have conducted an in-depth examination of two key modes of influence by interest groups, with particular attention to how these modes may have changed after the widely debated and controversial decisions handed down by federal courts in *Citizens United* and *SpeechNow*. In light of these analyses, I now return to the question raised by the New York Times Editorial Board: did the Supreme Court really deliver, on that day, a “blow to Democracy” (New York Times Editorial Board 2010)? Or was the Editorial Board simply caught up in the political drama of the moment?

In chapter 3, I assess the extent to which *Citizens United* may have intensified the strategic behavior of outside groups in supporting congressional elections. I find support for the notion that interest groups engage more in victory-seeking behavior in more competitive races; when compared to race rated “safe,” advertising convergence was significantly higher in races rated “leans” or “tossup”. I also find evidence supporting my hypothesis that *Citizens United* exacerbated this influence and had a particularly strong effect in more competitive races. Furthermore, I find that interest groups advertising for incumbents are less likely to engage in victory-seeking, and instead advertise to promote their own issues. This finding supports the general theme of my interest group strategy framework. Because incumbents have a significant name recognition advantage over challengers in re-election campaigns, they are less likely to need candidate-centered advertising, even in more competitive races. My finding that interest groups focus on victory-seeking in competitive races
suggests that, if these groups are successful, they could potentially have a significant influence upon who is elected. If the election outcome effects of outside groups are significant and widespread, these groups could actually shape the makeup of Congress as a whole. The potentially disastrous normative implications of these findings are clear. However, a more specific analysis of outside group effects on election outcomes would be necessary to support this discussion.

In chapter 4, I assess the factors that affect the legislative influence of interest groups and whether *Citizens United* may have increased the degree of this influence. I find support for my hypothesis that interest groups have more influence on the policy agendas of legislators who were in competitive election or re-election races. Combined with my finding in chapter 3 that interest groups focus victory-seeking efforts on competitive races, I suggest that victory-seeking is a particularly effective tactic for groups seeking access to policy agendas. I also find evidence that *Citizens United* increased the degree of interest group influence over policy agendas. This finding is central to the goal of this thesis, and helps to answer the questions raised in the Supreme Court opinions. While I have by no means provided proof of *quid pro quo* corruption, my findings suggest that *Citizens United* increased the ability of outside interests to gain access to policy agendas by way of providing campaign support to legislators.

My finding that legislative influence is higher in more competitive races, after controlling for advertising volume and other key factors, is not surprising. It makes logical sense that legislators more concerned with their re-election races would be more prone to influence by groups that could support their re-election campaigns.
After all, re-election is the ultimate goal for most members of Congress (Mayhew 2005). However, this finding is key to validating my other central finding that *Citizens United* predicts higher legislative convergence and thus, I argue, higher levels of influence. By demonstrating the relationship between competitiveness and convergence, this part of the model helps to validate my assertion that legislative convergence is an indicator of influence.

It is no groundbreaking discovery that *Citizens United* had significant effects upon the volume and content of election advertising, as well as on the numbers of interest groups involved and dollars spent over the course of the average campaign. 2010 saw unprecedented increases in overall interest group involvement, dollars spent, and negativity in advertisements (Franz 2010; Fowler and Ridout 2013). But my findings indicating that *Citizens United* may have increased the ability of interest groups to influence legislation are critically important to evaluating the claim of the Supreme Court’s dissenting opinion in *Citizens United* that “selling access is not qualitatively different from giving special preference to those who spent money on one’s behalf” (*Citizens United v. FEC* 2010, 558:57). Indeed, I find that legislators may well be giving special preference to interest groups who spend money on their behalf, particularly when their prospects of re-election are uncertain.

In light of these findings, I reassess the assertion in the majority opinion that “independent expenditures do not lead to, or create the appearance of, *quid pro quo* corruption” (*Citizens United v. FEC* 2010, 558:45). While actual *quid pro quo*—the direct exchange of one benefit for another—is near-impossible to prove, the results of my models point towards an increase in interest group influence in legislative
decisions. At the very least, it appears as though members of Congress began to pay more attention to interest group advertising after *Citizens* than they had in years past.

**LIMITATIONS**

There are a number of limitations to the data and the models used in chapters 3 and 4. While they do not negate my findings, the results should be interpreted with these limitations in mind. First, the data management process required to create the final dataset upon which this analysis was conducted was neither simple nor lossless. There is no single standard identifier used for members of Congress. While many different organizations have created identifiers, none have been universally accepted to the degree that it was used in all the datasets sourced for this project. As such, datasets were, in some cases, merged using combinations of last name, state, district, party, electoral class (for senators), and a handful of other identifiers when they were available. During this process, some data were lost due either to messiness within the datasets—a lack of clear identifying variables—or, in some cases, the presence of inaccurate identifiers (including misspelled names and inaccurate district numbers). As a result, portions of the original datasets—which should contain every member of Congress in every year within the scope of this analysis—were lost. However, I have no reason to believe that there was bias in the loss of observations. In other words, these errors occurred randomly and should not significantly affect results. That said, there is potential for this type of error.

Using convergence as the dependent variable in the models in both chapters 3 and 4 is in many ways an oversimplification of the advertising datasets. In doing so, I
miss the possibility of discovering differences between different types of topics. For instance, convergence on highly partisan topics may behave differently than convergence on more bipartisan topics. However, separating the model by issue produces a much smaller \( n \) and thus washes out some results that are significant at the aggregate level. Creating separate observations for each topic within each legislator-year also introduces a complex dataset structure not readily addressed by available statistical models. As such, convergence analysis was chosen as a means of addressing these problems, while recognizing the potential for loss of detail and for overgeneralization in doing so. Analysis of individual issues falls outside the scope of this project.

Another simplification that occurred in this analysis is the binary coding of election years as pre- or post-\textit{Citizens}. While this provides a useful comparison, and makes for easy interpretation of the results, it also oversimplifies the differences between election years. While a binary control for midterms was included, there are countless other factors that change the landscape of an election. These include party control of the presidency and the two chambers of Congress, economic factors, and smaller regulatory and strategic changes that occur from cycle to cycle. While these are difficult factors to quantify and include in the type of model used here, they are important factors that may affect the relationships discovered herein.

Finally, perhaps the most serious limitation of these models is the distribution of the dependent convergence variables. These variables are heavily right-skewed due to the large numbers of legislators who received zero interest group advertising support in their most recent campaigns, even after \textit{Citizens United}. These legislators
are more prevalent in the House, because the majority of post-
_Citizens_ interest group advertising occurs in Senate races. As a result of this distribution problem, it is possible that the model overestimates the correlation between _Citizens United_ and convergence because legislators with zero interest group advertising receive a zero convergence score. As such, these results should be interpreted with caution. Further work could take on the more difficult task of examining the much finer effects that may be present by excluding legislators who do not receive advertising support from outside groups.

**NORMATIVE CONSIDERATIONS**

While this thesis has strived for objectivity, the normative implications of my findings are crucial to this discussion. First, I consider the implications of my finding that _Citizens United_ measurably increased interest groups’ level of influence on sitting members of Congress. Assuming that legislators have a finite amount of time and attention they can pay to an issue, the increase in outside group influence necessarily points to a decrease in the influence of other factors in the legislative decision-making process. One of these factors that may have decreased—although not measured here—is responsiveness to constituents. In light of my findings, assessing constituent responsiveness before and after _Citizens United_ is an important avenue for future work on the subject. In the case that constituent responsiveness decreased significantly after the decision as attention to interest group issues grew, one could certainly make strong statements about the negative effects of _Citizens_ on the American democracy. Until then, while my findings in this thesis suggest a rise in
interest group influence, they only provide a piece of the puzzle when it comes to fully understanding impact of *Citizens United* on the American democracy.

**AVENUES FOR FURTHER RESEARCH**

Where do these findings fit within the context of the literature? While convergence comparison of advertising topics from different sponsor types is not in itself a novel technique (Franz, Fowler, and Ridout 2015), my work examines the relationships across a larger chronological sample of election cycles to provide a better comparison of how interest group strategy changed over the course of a key decade of upheaval in the campaign finance regulatory environment. Furthermore, to my knowledge this thesis presents the first assessment of convergence between legislative activity and interest group advertising from the previous election. As such, I contribute to the existing body of literature yet another piece of the interest group influence puzzle. My hope is that this work can pave the way for more robust and complex future analyses along these same lines.

While the *Citizens United* and *SpeechNow* decisions were major news stories and had far-reaching effects, it appears that the hyperbole and drama with which the case was received in the media may have been premature in some ways. The theory suggests strong potential for *Citizens United* to have increased outside group influence. I find evidence of increased strategic behavior on the part of interest groups and of increased levels of legislative influence after the decision. However, these datasets require further analysis to make conclusive arguments, and a robust assessment of the *degree* of outside group influence is even farther away. Indeed, this
is a major problem with the Court’s assertions in *Citizens United v. FEC*, in both the majority and dissenting opinions. The lack of clear, convincing, and consistent evidence as to the ability of interest groups to influence legislative decisions is troubling. But the question then becomes, until such evidence is available, where does the burden of proof lie? Perhaps, then, this is the true tension between the majority opinion and the dissent. The majority rejects the notion that the potential for influence is justification to encroach upon what they see as political speech protected by the First Amendment. By contrast, the minority sees the potential for interest group influence, in the absence of clear evidence to the contrary, as reason enough to restrict electioneering activity. As more elections occur and novel techniques for measuring influence arise, there may be more opportunity for robust, consistent assessment of influence. If this is the case, such evidence could sway a court towards overturning the decision, or at least parts of it. In the meantime, though, *quid pro quo* remains largely in the shadows—and the *status quo* prevails.
APPENDICES

APPENDIX A

LIST OF ISSUES CODED IN THE WMP 2012 DATASET

Economic Policy
ISSUE22 Economy (generic reference)
ISSUE10 Taxes
ISSUE11 Deficit/Budget/Debt
ISSUE12 Government Spending
ISSUE13 Recession/Economic Stimulus
ISSUE14 Minimum Wage
ISSUE15 Farming
ISSUE16 Business
ISSUE17 Union
ISSUE18 Employment/Jobs
ISSUE19 Poverty
ISSUE20 Trade/Globalization
ISSUE21 Housing/Sub-prime Mortgages
ISSUE23 Economic disparity/income inequality

Social Issues
ISSUE30 Abortion
ISSUE31 Homosexuality/Gay & Lesbian Rights
ISSUE32 Moral/Family/Religious Values
ISSUE33 Tobacco
ISSUE34 Affirmative Action
ISSUE35 Gambling
ISSUE36 Assisted Suicide/Euthanasia
ISSUE37 Gun Control
ISSUE38 Civil Liberties/Privacy
ISSUE39 Race Relations/Civil Rights

Law and Order
ISSUE40 Crime
ISSUE41 Narcotics/Illegal Drugs
ISSUE42 Capital Punishment
ISSUE43 Supreme Court/Judiciary

Social Welfare Issues
ISSUE50 Education/Schools
ISSUE51 Lottery for Education
ISSUE52 Child Care
ISSUE53 Health Care (not prescription drugs)

ISSUE54 Prescription Drugs
ISSUE55 Medicare
ISSUE56 Social Security
ISSUE57 Welfare
ISSUE58 Women’s Health

Foreign/Defense Policy
ISSUE60 Military (generic reference)
ISSUE61 Foreign Policy (generic reference)
ISSUE62 Veterans
ISSUE63 Foreign Aid
ISSUE64 Nuclear Proliferation
ISSUE65 China
ISSUE66 Middle East
ISSUE67 Afghanistan/War in Afghanistan
ISSUE68 September 11
ISSUE69 Terror/Terrorism/Terrorist
ISSUE70 Iraq/War in Iraq
ISSUE71 Israel
ISSUE72 Iran

Environment/Energy
ISSUE80 Environment (generic reference)
ISSUE82 Global Warming
ISSUE83 Energy Policy
ISSUE84 BP Oil Spill

Other
ISSUE90 Immigration
ISSUE91 Campaign Finance Reform
ISSUE98 Government Regulations
ISSUE92 Corporate Fraud
ISSUE93 Term Limits
ISSUE94 Pledge of Allegiance (restrictions on)
ISSUE96 Local Issues
APPENDIX B
EXPLANATION OF VARIABLES

Midterm: A binary variable 1, for midterm election years and 0 for presidential election years.

Democrat: A binary variable, 0 for Republicans and 1 for Democrats

House: A binary variable, 0 for Senators and 1 for the House of Representatives.

Race Competitiveness: Categorical; provided by Congressional Quarterly. 1 is Safe, 2 is Favors, 3 is Leans, and 4 is Tossup.\(^8\)

Experience: Number of years in Congress prior to current election. 0 in a member’s first term.\(^9\)

Ideology: Continuous numeric; Absolute value of Poole & Rosenthal’s DW-NOMINATE calculation of ideology, based on roll call voting. Runs from 0 (most moderate), to 1 (most extreme).\(^10\)

Bills Cosponsored: Total count of bills cosponsored by a legislator in a Congress.\(^11\)

Interest Group-Sponsored Ads: Total count of interest group-sponsored election advertisements, aired within the FEC general election period, that supported the candidate.\(^12\)

Candidate/Party-Sponsored Ads: Total count of candidate- and party-sponsored election advertisements, aired within the FEC general election period, that supported the candidate.\(^13\)

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\(^8\) Congressional Quarterly (cq.com).
\(^9\) Library of Congress, collected by GovTrack (GovTrack.com).
\(^10\) Poole and Rosenthal (VoteView.com).
\(^11\) Library of Congress, collected by GovTrack (GovTrack.com).
\(^12\) Kantar/CMAG, analyzed by the Wisconsin Advertising Project (wiscads.wisc.edu) and the Wesleyan Media Project (mediaproject.wesleyan.edu).
\(^13\) Ibid.
APPENDIX C
DATA SOURCES


Ideological Extremity: DW-NOMINATE score from Poole and Rosenthal’s VoteView website (voteview.com)

Race Competitiveness Ratings: Congressional Quarterly (cq.com)

Campaign Financials & Candidate Variables (Total Disbursements, Incumbency Indicators): Federal Election Committee (fec.gov)

Cosponsorship Data & Years of Experience: U.S. Library of Congress, collected by GovTrack (govtrack.com)
REFERENCES


Grimmer, Justin, and Eleanor Neff Powell. Forthcoming. “Money in Exile: Campaign Contributions and Committee Access.” *Journal of Politics*


