

“527s” Emerge to New Prominence

By David B. Magleby, Kristina Gale,
Betsey Gimbel Hawkins, and Richard Hawkins

The 2004 federal elections were the first waged under the Bipartisan Campaign Reform Act of 2002 (BCRA), better known as the McCain-Feingold legislation. Until the implementation of BCRA, “soft money” could be raised in unlimited amounts and from sources otherwise prohibited from funding elections, like corporate and union general treasuries. Soft money was originally intended for “party building” purposes, but by 1996 had become another means by which party committees could run mostly negative ads against particular candidates. By enacting BCRA, legislators banned soft money and hoped to eliminate many of its associated political ills.

Opponents of BCRA claimed that the legislation would weaken political parties and lessen the ability of candidates to compete. Party committees, presidential candidates and senatorial

candidates in competitive races, however, succeeded in their fundraising efforts, setting new records in the amount of “hard,” or restricted, money contributed to campaigns by individuals. As a result, competitive federal elections had ample funds in 2004 despite the ban on soft money fundraising and spending.

The surge in political contributions by individuals in 2004 is remarkable and healthy for our political system. In 2004, this upswing was clearly driven by passion on both sides. Supporters of President Bush felt strongly about the importance of his reelection. On the other hand, he also fostered intense opposition, and candidates harnessed much of that passion through their fundraising efforts. The surge in individual giving was partly explained by the willingness of people to donate via the Internet and the Howard Dean-inspired efforts of candidates to reach out to small donors.

Despite the marked increase in hard money contributions and the BCRA ban on party soft money, soft money still found its way back into the political system mainly through “527” organizations, political committees organized under Section 527 of the Internal Revenue Code but not always regulated under federal election rules to limit the source and size of campaign contributions.

The 2004 election saw tremendous growth in “527” groups. Section 527 organizations have long existed under federal law, but recently became a popular place for individuals, corporations, unions and other groups to donate large sums for a wide range of electioneering activity. Estimates vary, but well in excess of \$500 million was raised in unlimited amounts



and spent by these noncandidate and nonparty groups on the election.

In the 2004 cycle, a wide range of “527s” threw their hats into the electoral ring. These groups ranged from the seemingly innocuous (“Coalition to Defend the American Dream and Let Freedom Ring”) to the seemingly bizarre (“Rednecks for a Better America” and “Billionaires for Bush”). All raised significant sums and attempted to influence the outcome of the election through a variety of means.

Much of the “527” activity was funded by donors making large contributions, with an estimated 80 percent of donations to “527” groups made by individuals who contributed \$250,000 or more (*The Washington Post*, Oct. 17, 2004). The critical role of large donors in funding “527s” is illustrated by “Americans Coming Together” (ACT), a post-BCRA Democratic-leaning organization whose creation was funded by a small group of individuals who invested early, thereby creating an infrastructure for further fundraising by the group. ACT donors were noteworthy not only for the amounts they gave but for the visibility some sought while doing so. Reflecting on the persistent media interest in his donations to Democratic organizations like ACT, and the resultant Republican ire he generated, George Soros quipped, “I think I may have ended up raising more money for the Republicans” (*The Christian Science Monitor*, Aug. 25, 2004). Overall ACT spent \$78 million in 2003–04 through its “527” organization. Major donors to “527s” were George Soros, \$23,450,000; Peter Lewis, \$22,997,220; Steven Bing, \$13,852,031; and Herb and Marion Sandler, \$13,008,459.

Republican-leaning “527s” also relied on major donations. Large individual contributions to Republican-leaning “527s” came from Bob J. Perry, \$8,095,000; Alex Spanos, \$5,000,000;

and Dawn Arnall, \$5,000,000. Though the Democratic-leaning “527s” organized sooner and were more visible, the groups supporting Bush and other Republicans entered the fray with force.

“527s” and the 2004 Air War

Broadcast advertising in the presidential campaign began in early March, shortly after John Kerry emerged victorious from Super Tuesday. The Bush campaign, counting on a Democratic nominee weakened by expensive primaries, launched an \$80 million advertising salvo during March and April designed to define Kerry negatively. Democratic-leaning “527s,” including “The Media Fund” and “MoveOn.org,” sought to keep Kerry viable and stepped in to run ads during that time, thereby compensating for Kerry’s depleted post-primary funds. In combination, spending by these “527s,” the Kerry campaign, and the Democratic National Committee (DNC) exceeded combined spending by the Republican National Committee (RNC) and the Bush campaign during April, May and June. ACT’s Andy Grossman assessed the Media Funds efforts: “It covered the month of April when Bush went on the air and the Kerry camp was broke.” (See figure 1.)

The Kerry campaign was able to build up its war chest during these summer months, but it was the late surge in individual contributions that allowed the DNC and the Kerry campaign to spend an unprecedented amount during the final weeks of the campaign. During this period of successful Democratic fundraising, Republican-leaning “527s” stepped in to help the Republican ticket. Two examples are the “Swift Boat Veterans for Truth” and “Progress for America” which emerged shortly after the Democratic convention.

The first Swift Boat ad buy cost less than \$500,000, but delivered most of its impact in earned media. Countless newspaper articles, talk radio programs, and TV news spots were devoted to discussing the merits of this ad, which attacked John Kerry’s record in Vietnam. The first Swift Boat ad allowed the group to eventually raise and spend more than \$14 million on the air. The Swift Boat Veterans message was one that could not be delivered by the Bush campaign because of its negative nature. Likewise, “Progress for America” spent \$21 million on media.

“527s” and the 2004 Ground War

Because BCRA increased fundraising restrictions for broadcast, cable and ra-

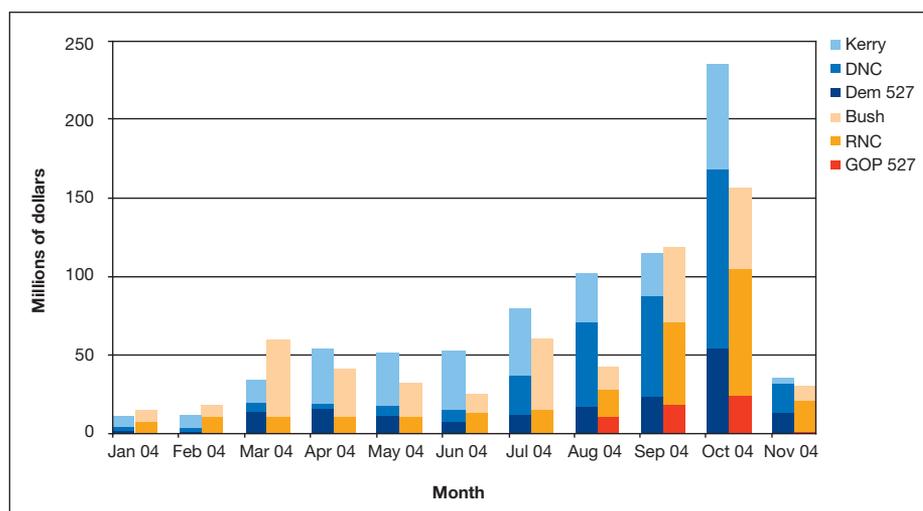


Figure 1: Month-by-Month Spending of Campaigns, Parties, and “527s”

dio advertising in the weeks immediately preceding the primary and general elections, candidates, parties and interest groups in 2004 placed even greater emphasis on unrestricted “ground-war” efforts. The ground war included such traditional campaign activities as door-to-door canvasses, phone banks and direct-mail contacts. Less conventional campaign activities included billboards, newspaper bags and rock concerts. Democratic groups, in particular, made these grassroots tactics a high priority and devoted a higher percentage of resources to reaching voters by these means than did the Republicans (*The Washington Post*, Dec. 30, 2004).

In the five presidential battleground states that the Center for the Study of Elections and Democracy (CSED) monitored with the help of League volunteers, at least 206 groups distributed one ground communication (112 Democratic, 46 non-affiliated and 48 Republican). Democratic groups, for example, sent four times as many direct mailers as Republican groups during the general election, with ACT leading the way on the left and the National Right to Life Committee on the right. In terms of air and ground campaign allocation, the Democrats distributed approximately 1.9 times as many unique mailers as unique television spots. In contrast, the Republicans distributed only about 1.3 times as many unique mailers as unique television spots.

Though Democratic-oriented groups allocated a greater proportion of resources toward ground efforts, their grassroots efforts were not necessarily more effective than those of the Republicans. Perhaps nowhere was this more apparent than in the mobilization efforts of the “America Votes” coalition and the RNC’s “72 Hour Task Force.” These competing campaigns employed vast sums of money, considerable expertise, advanced technology

and extensive personal contact to mobilize millions of voters on Election Day. America Votes, a coalition of over 30 organizations including ACT, the Media Fund and MoveOn.org, conducted a much-publicized campaign that resulted in tremendous registration and mobilization success. Yet the 72 Hour Task Force’s unpublicized efforts resulted in a much higher turnout at the polls than expected, eventually winning Bush the election.

According to interviews with political elites involved in the ground efforts, most agree that the RNC had better voter lists and sharper messages with which to target voters. In a CSED interview, ACT CEO Steve Rosenthal noted that the RNC started earlier and credited the Republicans for developing “a four-year plan, not just a twelve-month plan.”

“527s” in Future Elections

Shortly after the 2004 election, legislation was proposed by a bipartisan coalition in the U.S. House and Senate to bring “527” organizations within campaign finance laws. “The 527 Reform Act of 2005” seeks to clarify which organizations are federal political committees and therefore required to file with the Federal Election Commission (FEC) and adhere to its contribution limits and disclosure requirements.

After BCRA was enacted, the FEC failed to establish meaningful guidelines over “527s.” The proposed legislation seeks to make any “527” group spending on federal elections observe the same restrictions on political fundraising that apply to all other political committees. Currently, many “527s” claim they devote only a portion of their resources to federal elections and, therefore, should be required to file only with the IRS and not with the FEC. However, in some instances in 2003–04, 98 percent of the

“527” groups’ resources were devoted to federal elections.

“527” spending was not limited to the presidential election. After a series of well-publicized failures early in the 2004 election cycle, organizers of congressional “527s” were able to smooth out wrinkles and conduct effective campaigns in the Colorado, Oklahoma, North Carolina and South Dakota Senate races. In 2006, we expect to see a proliferation of similar contest-specific “527” activity. Also, message-specific “527s,” such as the Swift Boat Veterans for Truth, will likely play a more prominent role in future elections.

Without doubt, benchmarks in fundraising will continue to rise in future elections. Assuming continuing engagement and passion on the part of the electorate and potential donors, further innovations in Internet technology, advances in microtargeting of voter-specific messages and ever expanding voter lists and databases, the potential for increased funding of candidate, party and “527” campaigns will keep growing. If “527s” remain outside of effective regulation, we can expect even more fundraising activity unrestricted by the size and source limitations that apply to the political parties and candidate campaigns.

David B. Magleby is Senior Research Fellow at the Center for the Study of Elections and Democracy (CSED) and Distinguished Professor of Political Science, Brigham Young University; Kristina Gale, Betsey Gimbel Harokins and Richard Harokins are CSED research associates.

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