

What Part of “No Law” Doesn’t Congress Get?

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Suppose representatives of an industry pushed for a law giving them a monopoly on disseminating information about political campaigns and candidates. We would be outraged, right? Our outrage would be based on our belief in two important principles: first, that government should not grant monopolies, and second, that Congress should not violate freedom of speech and of the press.

It's time for outrage. Because the industry representatives have been pushing for such a law for years. And Congress is about to pass such a law. The industry: newspapers and broadcasters. The law: federal campaign finance "reform."

The new law would make it a crime for various groups to spend money advocating the defeat or election of a given candidate or ballot proposition. The restrictions apply to the thirty days immediately preceding a primary election and the sixty days preceding a general election. In other words, competing voices are silenced when it matters most for them to be heard.

So, for example, if a candidate had voted for restricting abortion or for restricting guns, neither a pro-choice group nor a pro-Second Amendment group would legally be able to spend money pointing these things out. During those thirty-day or sixty-day periods, by contrast, newspapers and broadcasters would still be free to report, fairly or unfairly, on the various candidates. Thus, the new law would give newspapers and broadcasters a monopoly on information. More accurately, it reduces competition—one of our saviors from the worst effects of this law will be the Worldwide Web.

You might say, "So what?" If you, like most of us, get tired of all the attack ads around election time, won't this law give a welcome relief? It might, although never underestimate the ability of smart people to get around restrictive laws. But even if it does give you relief, notice the cost of this relief. The cost is our freedom of speech. When the folks at the constitutional convention passed the

First Amendment, they weren't trying to give free speech and freedom of the press only to people who were rich enough to own newspapers. They wanted everyone to have those freedoms so that people could speak out against whatever upset them. That's why they said, "Congress shall make no law . . . abridging freedom of speech." What part of "no law" does Congress not understand?

Ironically, the advocates claim that their goal is to keep money out of politics. It takes a lot of money to buy a newspaper or TV station. Peter Jennings, his producers, and his writers will have their say on TV every night. The rest of us, though, who are already legally prevented from giving more than \$1,000 to a candidate's campaign (\$2,000 under the new law), will be further limited. We might want to give to groups that support our views, but those groups will be prevented from voicing those views when it most matters. What the law really does is keep competing voices out of politics.