



# Disclosed Corporate Contributions to U.S. Chamber of Commerce

## **Acknowledgments**

This report was written by Congress Watch, a division of Public Citizen.

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The U.S. Chamber of Commerce is a goliath that uses its massive political footprint to influence elections and legislation without disclosing the sources of its money.

The U.S. Chamber's reported overall expenditures were \$187 million in 2010 and \$145 million in 2011.<sup>1</sup> In 2012, experts suggest the group's expenses will exceed \$200 million, though the actual sum will not be revealed until its IRS Form 990 for 2012 is released.<sup>2</sup> The group's lobbying disclosures recently surpassed \$1 billion since 1998 (the earliest year for which federal lobbying disclosure data is available online). This is by far the most of any entity during that time period.<sup>3</sup> The Chamber also is an active spender on elections. It reported spending more than \$35 million to influence the 2012 elections.<sup>4</sup> In 2010, the group poured more than \$33 million into elections.<sup>5</sup>

The U.S. Chamber is registered as a nonprofit organization under section 501(c)(6) of the tax code, which is reserved for chambers of commerce, business leagues, and similar entities.<sup>6</sup> These groups must reveal certain details about their lobbying and electioneering expenditures but are not required to disclose their donors. U.S. Chamber President and CEO Thomas J. Donohue has stressed a goal of maintaining the anonymity of contributors to his group to insulate donors from criticism over controversial U.S. Chamber activities. "I want to give them all the deniability they need," Donohue once said.<sup>7</sup>

Despite the U.S. Chamber's desire to keep details about its funders murky, some data has trickled out, due to work by the Center for Political Accountability (CPA), a Washington, D.C. group that has persuaded many corporations to voluntarily disclose expenditures they make for political purposes, such as electioneering and lobbying.

In September 2013, CPA released its annual "CPA-Zicklin Index" (herein the Index), a report that summarizes political spending disclosure by many of the world's largest

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<sup>1</sup> U.S. CHAMBER OF COMMERCE, IRS FORM 990 (November 2012), <http://bit.ly/He4BsD>.

<sup>2</sup> Peter Stone, *Big-Money Chamber of Commerce to Impact Elections, Mostly for GOP*, CENTER FOR PUBLIC INTEGRITY (March 9, 2012), <http://bit.ly/ArnBhF>.

<sup>3</sup> *Top Lobbying Spenders*, THE CENTER FOR RESPONSIVE POLITICS (viewed October 18, 2013), <http://bit.ly/1cRbZlg>. See also Kent Hoover, *What Does \$1 Billion Buy in Washington? For U.S. Chamber, Not as Much as They'd Like*, THE BUSINESS JOURNALS (July 23, 2013), <http://bit.ly/1d1P4aW>.

<sup>4</sup> *Outside Spending: The U.S. Chamber of Commerce*, THE CENTER FOR RESPONSIVE POLITICS (viewed October 21, 2013), <http://bit.ly/1a8zYzZ>.

<sup>5</sup> *Id.*

<sup>6</sup> *IRC 501(c)(6) Organizations*, INTERNAL REVENUE SERVICE (viewed October 25, 2013), <http://1.usa.gov/d1SmRK>.

<sup>7</sup> James Verini, *Show Him the Money*, WASHINGTON MONTHLY (July/August 2010), <http://bit.ly/9xLMlp>.

corporations.<sup>8</sup> Not all companies that have agreed to disclose politically oriented expenditures reveal their contributions to trade associations, such as the Chamber. But many have. The 2012 Index categorizes 44 companies as those that have agreed to fully disclose their contributions to trade associations in 2012.<sup>9</sup>

Of the 44 companies that reportedly fully disclose their contributions to trade associations, 24 reported making contributions to the U.S. Chamber. These contributions totaled \$8,750,000. Of this, \$6,516,500 was reported in the category of non-deductible expenditures that the Chamber could use for lobbying and political spending.<sup>10</sup> A full list of these companies and their contributions can be found in the Appendix.

Companies reporting contributions to the U.S. Chamber represent many industries, including chemicals (Dow Chemical Co.), insurance (Prudential Financial Corp.), railroads (CSX Corp.), electric utilities (Exelon Corp.), retail sales (CVS Caremark Corp.), and food and beverages (Pepsico Inc.). Of the 24 companies that disclosed their contributions, 23 are in the Fortune 500. Full disclosure of corporate contributions to organizations that spend on elections is a necessary step towards understanding the forces that influence the U.S. Chamber in its choices of issues to lobby for and candidates to support.

Disclosure of political spending by corporations has ostensibly improved somewhat in the past year. The 2012 iteration of the CPA report (which analyzed disclosures primarily from 2011) indicated that 38 corporations fully disclosed their contributions to trade associations. The 44 corporations that disclosed their contributions to trade associations for the 2013 report represent a 16 percent increase from 2012.

Although voluntary disclosure by this relatively small group represents progress, it is not nearly comprehensive enough. Shareholders of publicly funded companies deserve to know if the resources of the companies they own are being used to influence elections. In fact, a key assumption underlying the U.S. Supreme Court's 2010 ruling in *Citizens United v. Federal Election Commission*—which permitted unlimited corporate spending to influence elections—was that rules mandating disclosure of corporate electioneering activities were in place.

“With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions,” Justice Anthony Kennedy wrote in the majority

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<sup>8</sup> CENTER FOR POLITICAL ACCOUNTABILITY, THE 2013 CPA-ZICKLIN INDEX OF CORPORATE POLITICAL ACCOUNTABILITY AND DISCLOSURE (2013), <http://bit.ly/16lorTl>.

<sup>9</sup> *Id.*

<sup>10</sup> These figures were generated from corporate disclosure forms made available on each corporation's website.

opinion of the *Citizens United* decision.<sup>11</sup> “Shareholders can determine whether their corporation’s political speech advances the corporation’s interest in making profits, and citizens can see whether elected officials are in the pocket of so-called moneyed interests.”<sup>12</sup>

Although Justice Kennedy’s language suggests he believed that rules requiring disclosure were in place, the law only required disclosure of actual electioneering expenditures. It did not require disclosure of contributions from corporations to third-party groups, such as the U.S. Chamber, that subsequently use such money to influence elections.

### Solutions

Solutions to close the disclosure gap would be easy to implement. Specifically, the Securities and Exchange Commission, which is responsible for protecting investors in publicly traded companies, is considering a rule that would require these companies to disclose political spending. Such a rule, if smartly crafted, would require disclosure of contributions to those 501(c) organizations, such as U.S. Chamber, that spend money to influence elections. The SEC has announced that it will consider issuing such a rule.<sup>13</sup>

The DISCLOSE Act, which would require certain types of organizations that spend on elections to reveal the identities of donors giving \$10,000 or more, has been pending in Congress for the past several years<sup>14</sup> In both the DISCLOSE Act and the proposed SEC regulation, Public Citizen’s view is that 501(c) groups, such as the U.S. Chamber, should be permitted to establish separate, segregated accounts used for political spending. Contributions to such accounts would be disclosed.<sup>15</sup> In cases in which a 501(c) group established a special political account, contributions to the group that are not directed to the special account (and thus could not be used for political purpose) would not need to be disclosed.

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<sup>11</sup> *Citizens United v. Federal Election Commission*, 558 U.S. (2010).

<sup>12</sup> *Id.*

<sup>13</sup> Aimee McQuilkin and Freddy Castiblanco, *SEC Disclosure Rule on Political Spending Needed*, THE HILL (August 20, 2013), <http://bit.ly/18HKUSS>.

<sup>14</sup> The DISCLOSE Act, S. 3369, 112th Congress, Sec 2 (2012), <http://1.usa.gov/W7wnh1>.

<sup>15</sup> Here, political spending excludes money spent on lobbying. It only refers to money spent on independent expenditures, communication costs, and electioneering communications, as defined by the FEC. For a full explanation of these types of spending, see FEDERAL ELECTION COMMISSION, *CITIZENS GUIDE 7* (2013), <http://1.usa.gov/1gISGUd> and *Communication Costs*, FEDERAL ELECTION COMMISSION (viewed October 24, 2013), <http://1.usa.gov/1cfPrBK> and *Electioneering Communications*, FEDERAL ELECTION COMMISSION (viewed October 24, 2013), <http://1.usa.gov/6n6yd7>.

### Appendix: Disclosed Contributions to the U.S. Chamber of Commerce by Corporations, 2012<sup>16</sup>

Company	Year of Most Recently Available Disclosure	Link to Disclosure Policy	Total Amount	Non-Deductible Amount
3M Company	2012	<a href="http://bit.ly/19ELO2w">http://bit.ly/19ELO2w</a>	\$515,000	\$515,000
Aetna, Inc	2012	<a href="http://bit.ly/1gHKhOw">http://bit.ly/1gHKhOw</a>	\$100,000	\$55,000
AFLAC Inc.	2012	<a href="http://bit.ly/17GxXWP">http://bit.ly/17GxXWP</a>	\$60,500	\$60,500
American Electric Power Company, Inc.	2012	<a href="http://bit.ly/1fA1qL0">http://bit.ly/1fA1qL0</a>	\$525,000	\$525,000
Capital One Financial Corporation	2012	<a href="http://capt1.co/1ghPChO">http://capt1.co/1ghPChO</a>	\$50,000	\$50,000
Cummins, Inc.	2011	<a href="http://bit.ly/T56xHr">http://bit.ly/T56xHr</a>	\$12,500	\$12,500
CVS Caremark Corporation	2012	<a href="http://bit.ly/1ghPIWG">http://bit.ly/1ghPIWG</a>	\$75,000	\$75,000
Deere & Company	2012	<a href="http://bit.ly/GWMhF9">http://bit.ly/GWMhF9</a>	\$55,000	\$55,000
Dominion Resources	2012	<a href="http://bit.ly/H1Q0Ax">http://bit.ly/H1Q0Ax</a>	\$137,500	\$137,500
Ebay Inc.	2012	<a href="http://bit.ly/16KGWuh">http://bit.ly/16KGWuh</a>	\$100,000	\$50,000
Exelon Corporation <sup>17</sup>	2012	<a href="http://bit.ly/1bUv0u0">http://bit.ly/1bUv0u0</a>	\$250,000	\$137,500
Intel Corporation	2012	<a href="http://intel.ly/MCzEOv">http://intel.ly/MCzEOv</a>	\$250,000	Not disclosed
Merck & Co., Inc.	2012	<a href="http://bit.ly/cxlaVS">http://bit.ly/cxlaVS</a>	\$907,500	Not disclosed
Metlife, Inc.	2012	<a href="http://bit.ly/19Fhitk">http://bit.ly/19Fhitk</a>	\$525,000	\$525,000
Microsoft Corporation	2012	<a href="http://bit.ly/GWYUjl">http://bit.ly/GWYUjl</a> ; <a href="http://bit.ly/1c3GU0C">http://bit.ly/1c3GU0C</a>	\$442,500	\$216,250
Noble Energy, Inc.	2012	<a href="http://bit.ly/1aJLv6T">http://bit.ly/1aJLv6T</a>	\$82,500	\$82,500
Pepsico, Inc.	2012	<a href="http://bit.ly/17rVQSN">http://bit.ly/17rVQSN</a>	\$250,000 - \$500,000	Not Disclosed
Prudential Financial, Inc.	2012	<a href="http://bit.ly/18iJaRM">http://bit.ly/18iJaRM</a>	\$925,000	\$668,750
Qualcomm Inc.	2012	<a href="http://bit.ly/1cSkROO">http://bit.ly/1cSkROO</a>	\$385,000	\$206,000
Reynolds American, Inc.	2012	<a href="http://bit.ly/171DKN8">http://bit.ly/171DKN8</a>	\$45,000	Not disclosed
The Dow Chemical Company	2012	<a href="http://bit.ly/1cSkT8J">http://bit.ly/1cSkT8J</a>	\$2,925,000	\$2,925,000
Union Pacific Corporation	2012	<a href="http://bit.ly/H1RPOO">http://bit.ly/H1RPOO</a>	\$55,000	\$55,000
Wellpoint, Inc.	2012	<a href="http://bit.ly/19LhLEc">http://bit.ly/19LhLEc</a>	\$250,000	\$137,500
Yum! Brands Inc.	2012	<a href="http://bit.ly/19FiZTV">http://bit.ly/19FiZTV</a>	\$27,500	\$27,500

Sources: Center for Political Accountability, The 2013 CPA-Zicklin Index of Corporate Political Accountability and Disclosure (2013), <http://bit.ly/16lorTI>, and Public Citizen analysis of corporate political activity disclosure reports.

<sup>16</sup> Two corporations, Cummins, Inc., and CSX Corp. only provided disclosure documents from 2011 and 2013, respectively. These numbers were used in lieu of 2012 figures.

<sup>17</sup> Exelon Corp. has two reports from 2012: one from January to June and one from July to December. The link provided is the January to June report, which includes Exelon's contribution to the Chamber.