

Navigating the Current Anti-PAC Sentiment

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Since the Jan. 6 insurgency at the U.S. Capitol, several corporations and law firms announced they would suspend donations from their political action committees. Wiley election law partner Caleb P. Burns and Sagac Public Affairs' Trey Richardson offer advice for law firms and the business community on how to navigate this anti-PAC sentiment.

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Numerous groups have seized on the Jan. 6 riot at the U.S. Capitol to shame the business community for making political contributions from their employee-funded political action committees (PACs). The disapprobation ranges from criticism for contributing to certain politicians—that is, those who disputed the results of the Electoral College—to calls for the complete abolition of business PACs.

Following Jan. 6, some Big Law firms and several corporations indicated they would either stop contributions from their PACs or review their process.

Critics of PACs are not the first to co-opt the political stage with designs on reordering our system of campaign finance. And there is no denying the high-volume of anti-PAC rhetoric we are hearing today.

So, the question on the minds of us in the business community—from manufacturers of goods to service providers like law firms—is how to address it. Before answering that, let's first see what history can tell us.

PAC Reforms

Since business PACs first entered the scene in the mid-20th century, numerous laws and reforms set the standards for PACs as we know them today. However, there have been no meaningful campaign finance reform efforts directed at business PACs for almost 50 years.

The reason for this was explained on the floor of the U.S. Senate by one of history's most ardent campaign finance reformers, the late Sen. John McCain (R-Ariz.), who said: "[W]e try to help political action committees because they provide us, generally speaking, with small donations that are an expression of small individuals' involvement."

McCain provided this historical look back in 2002 while debating what became known as the McCain-Feingold campaign finance reform bill. That bill also marked the beginning of a 20-year journey by Congress and the courts to address all manner of participants in our campaign finance system other than business PACs, which remain free to operate as they have for the past 50 years.

The current anti-PAC sentiment is clearly an anomaly in the larger campaign finance reform context. Cynically, it appears to be an attempt by those opposed to the business community's political involvement—which we see manifested in many different ways—to seize an opportunity from the chaos at the Capitol. Though there may not be a basis in history for this moment, it should not be ignored, either.

Where Do We Go From Here?

First, don't apologize. Don't express regret for having a PAC and the important work it does to encourage small contributors to participate in our representative democracy and to advance the political goals of the business community and its many constituents. Although the impact of Jan. 6 weighs heavily on our thoughts and actions, it's important to not lose sight of the value of a PAC, which has been borne out for decades. Rise above the noise of anti-PAC chatter, both internal and external, and be proud of your PAC.

Craft a long-term strategy. Use this as an opportunity to revitalize interest in your PAC by planning for future success. Build a value proposition, focusing on long-term objectives, rather than short-term goals. Have the conversation about the type of political engagement that is in the best interest of the organization, rather than reacting to a set of events that may soon be in the rear-view mirror.

Educate, educate, educate. Promote your PAC's long-term strategy to stakeholders. The need for PACs has not diminished, but the anti-PAC rhetoric leads people to the opposite conclusion. Educating stakeholders about the value of the PAC will be critical to overcoming today's criticism and help insulate against the next wave.

But don't stop there. Transparency is key to maintaining momentum for your PAC. Share information through annual reports, weekly or monthly political and legislative updates, and testimonials from your employees,

members, and officeholders. Be aggressive in distributing information to your constituents so your story—the real story—is louder than the misinformation.

Solicit small. Emphasize small-dollar participation in this environment and broaden your donor base. Giving a political voice to small donors is one of the many virtues of a PAC. And over time, broader participation will drive future growth and ensure success for the long term. The intent is to create a vast, educated constituency that will rally behind your organization’s political efforts.

Like We Said, History Is on Our Side

Jan. 6 was a historical moment, but the current anti-PAC sentiment should have no place in it. For decades, business PACs have been accepted as fully transparent participants in federal political campaigns. They are subject to strict limits and encourage political participation and awareness by even the most modest of contributors. These are virtues to promote and celebrate.

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