Editorial: SEC could lead on disclosure of campaign funds

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By the Editorial Board
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The howls are loud, understandably so, if you represent an oil company or the U.S. Chamber of Commerce and its many members.

Oil companies, the chamber and other corporate interests have come out against an informed public. Specifically, they're opposing a petition urging the Securities and Exchange Commission to develop a rule requiring that publicly traded corporations disclose their political donations.

A decision on that petition will test Mary Jo White, the former federal prosecutor from Manhattan who is President Barack Obama's new SEC chairwoman. White should heed the pleas from a record 500,000 people who have asked the commission to adopt such a rule.

Petitioners include deep thinkers such as law professors Lucian A. Bebchuk of Harvard and Robert Jackson of Columbia, who have led the effort, and advocates such as Public Citizen, which helped organize the petition drive. There also are thousands of investors who are trying to follow their conscience.

"Shareholders cannot opt to invest in what they consider an ethical manner if they don't know the policies of the companies they own," Gaunt Murdock of Crockett wrote.

"Allowing corporations to spend their shareholders' funds on political spending distorts both our political and our economic systems. To allow them to do it in secret is even worse," Nina Bellak of Bolinas said in her email.

Details of any SEC rule are yet to be worked out. But there is no doubt that the SEC would be performing a public service by requiring disclosure, especially in the aftermath of the 2010 U.S. Supreme Court Citizens United decision opening the way for unlimited corporate donations to independent political campaigns.

Backers suggest corporations should make the disclosure in much the same way as they issue quarterly reports. Our preference is that corporations disclose immediately on their websites and on the SEC site whenever they make a donation of, say, $25,000 or more, and provide more complete disclosure in quarterly reports.

The requirement should extend to contributions to independent campaigns, state campaigns, groups such as the Chamber of Commerce that engage in political activity, and, importantly, to nonprofit social welfare organizations.

Seventy congressional Democrats signed a letter urging the SEC to adopt the rule. Six Republicans signed on to a bill that would bar the SEC from adopting such a rule.
Opponents claim that reporting would be a burden and costly, and that the definition of political spending is not clear. All that is cover for the reason corporations oppose it: They don't want people to know where they send their political money, and how much they spend.

Opponents claim the SEC is ill-equipped to deal with political matters and ought to focus on its core mission, which is to regulate corporations.

That argument might carry weight if the Federal Election Commission were not bogged down in partisan fights, and if the Internal Revenue Service had not failed to police nonprofit social welfare organizations, which are little more than tax-exempt extensions of politicians, consultants and donors.

The National Education Association, which represents teachers, pointed out in a letter of support that organized labor has been required to make such disclosures in publicly available reports since the Eisenhower administration. The requirements "promote transparency and accountability to union members and the public at large without undue burden to the reporting entities," the NEA said.

The SEC must police publicly traded corporations. But Chairwoman White has a chance to leave a mark that will last far beyond any lawsuit over insider trading. She should take the side of transparency and disclosure, and not that of corporations she is supposed to regulate.