

Examining the Effect of Disclaimer Options on the Effectiveness of Group Advertising in Elections¹

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Abstract: Recent elections have seen a flood of spending by outside groups as courts have opened the door to more electioneering activity by non-candidate and political party entities (e.g., *Citizens United*, *SpeechNow*). Although the courts have helped foster this spending, they have also consistently touted the merits of the disclosure of the interests responsible for election spending because disclosure requirements help inform voters and, importantly, do not constitute a limitation on speech. What effective disclosure looks like, however, remains a topic of debate. In this study, we test several different options for ad disclaimers that are either in use or have been proposed by policymakers or scholars and compare their effect to each other and to an ad without a disclaimer on candidate favorability and vote choice.

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Recent elections have seen a flood of spending by outside groups (Fowler and Ridout 2014; Fowler, Franz and Ridout 2016), as courts have opened the door to more electioneering activity by non-candidate and political party entities. Although the courts have helped foster this spending, they have also consistently touted the merits of donor disclosure under the argument that such requirements help inform voters while not limiting speech. The parameters of effective disclosure are of considerable interest to policymakers, particularly given the ability of many outside groups to avoid disclosing the identities of some or all of their donors. As Heather Gerken notes, “*Citizens United* is premised on the idea that we’ll be able to trace the money. And it turns out we aren’t tracing the money” (cited in Froomkin 2012).

Indeed, even as the Supreme Court continues to reaffirm a governmental interest in full disclosure of political donations, outside groups have found several ways to keep the identities of donors hidden. Tax-exempt organizations—specifically most of those organized under section 501(c) of the IRS tax code—are particularly important conduits for anonymous spending since federal law does not require them to disclose their donors. Anecdotally, there appears to be an advantage to this dark money. In 2014, for example, 501(c)(4) groups that did not disclose their donors saw better returns on their investments, either attacking the losing candidate or supporting the winner in 63 percent of the state races they spent on. By comparison, it was a coin flip for all independent groups, including those that disclosed their donors: their spending benefited the eventual winner in just under half of the races (O’Brien 2014).

It is perhaps no surprise then that policymakers and scholars alike are interested in the question of whether the benefits of anonymity afforded to donors of some groups can be countered with enhanced disclosure laws. In this research, we test the impact of campaign finance disclosure in the form of ad disclaimers in state elections with an experiment in which people are randomly assigned to receive additional information in the ad about the donors to an outside group. We test several different types of ad disclaimers, which are but one method of disclosing information about ad sponsors, building upon prior work on the advantages of anonymity and unknown group advertising (Johnson, Dunaway and Weber 2011; Brooks and Murov 2012; Weber, Dunaway, and Johnson 2012; Dowling and Wichowsky 2013; 2015; Ridout, Franz, and Fowler 2015).

Previous research suggests that alerting voters to the fact that a group does not disclose the identities of its donors can also undermine the credibility of the outside group (Dowling and Wichowsky 2013). Consistent with this logic, Yale law professor, Heather Gerken, has advocated for a “non-disclosure disclosure” requirement, which would require a dark money group to acknowledge that it does not disclose its financial sources in a simple disclaimer affixed to its advertising: “This ad was paid for by ‘X,’ which does not disclose the identity of its donors” (Gerken, Gibson, and Lyons 2014). To our knowledge, no study has empirically tested whether this form of disclosure—as a disclaimer in the ad itself—can reduce the advantage that dark money groups have over candidates and political parties when it comes to sponsoring attack ads.

Two studies (Dowling and Wichowsky 2013; Ridout, Franz and Fowler 2015) have found that providing “top donor” information about groups similar to the requirements in Massachusetts can blunt the effectiveness of group advertising, but neither of these studies

examine the influence of the disclaimer itself, which may be important to understanding the effects of disclosure and disclaimer requirements beyond television advertising (e.g., online; see Wood 2016). In short, although several studies find that disclosure can reduce the advantages of anonymity, additional work is needed to assess what forms of disclosure—particularly with respect to disclaimers in the ads themselves—are more or less effective, and what effect the disclaimer in and of itself has.

Data and Methods

To assess the influence of different disclaimers, we fielded a survey experiment using Amazon.com's Mechanical Turk (MTurk) online platform. MTurk is a convenience sample, but is more representative than student samples (Berinsky, Huber, and Lenz 2012) and has been used for several prior studies on the subject (Dowling and Wichowsky 2013; Dowling and Wichowsky 2015; Ridout, Franz, and Fowler 2015).¹ We recruited 2,020 MTurk participants on March 1 and 2, 2016, by offering \$0.40 for successfully completing the survey.²

All respondents were asked to read a short write-up about a hypothetical state senate race between incumbent Mike Erickson and challenger James Cook, and to give baseline favorability ratings of the two candidates on a five-point scale from very unfavorable to very favorable. Then each respondent was randomized to one of seven ad treatment conditions (we'll focus here on five here) in which they saw an ad attacking Mike Erickson, which was produced by a professional video production company and modeled after an actual state legislative ad (see

¹ For a more detailed discussion of using this subject pool for research purposes, see, among others: Berinsky, Huber, and Lenz (2012); Buhrmester, Kwang, and Gosling (2011); Huff and Tingley (2015); Krupnikov and Levine (2014); Mullinix et al. (2015); Weinberg, Freese, and McElhattan (2014).

² Replication of these findings on a nationally representative sample with a few additional modifications to the ad script itself and the disclaimer conditions are underway, and may be completed in time to be included in the presentation on June 17.

Appendix A for ad storyboard). The disclaimer attached to the end of the ad differed across treatment groups as outlined in Table 1.

Table 1. Treatment Groups and Their Disclaimer Language

Treatment Group	Disclaimer
1. “Unknown group” (traditional disclaimer)	“USA Forward is responsible for the content of this advertising. Paid for by USA Forward. Not authorized by any candidate or any candidate’s committee.”
2. “Group does not disclose” (anonymity)	“USA Forward is responsible for the content of this advertising. Paid for by USA Forward, which does not disclose the identity of its donors. Not authorized by any candidate or any candidate’s committee.”
3. “Candidate ad”	“Paid for and approved by James Cook for State Senate.”
4. “Top donor” disclosure	“USA Forward is responsible for the content of this advertising. Paid for by USA Forward, whose top donors include Ted Clayton (\$3 million), the MFG Corporation (\$2.7 million), Miriam Burns (\$1.8 million), and Telanova Technologies (\$1.1 million).”
5. “No disclosure” (control)	No disclaimer statement on ad

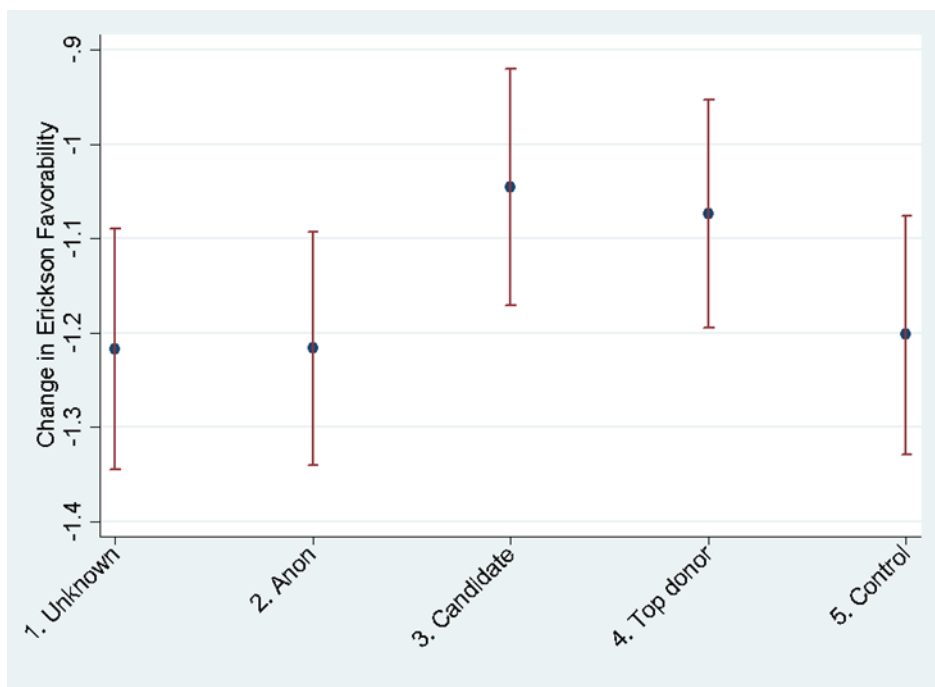
After watching the attack ad, respondents were asked to reassess their favorability of the two candidates as well as for the group USA Forward and were asked for whom they would vote. In addition, they were asked to assess the trustworthiness and credibility of the sponsor (results omitted for space here) along with standard demographic and political knowledge questions.

Results

How successful was the ad in shaping opinions of the attacked candidate, Mike Erickson, and how did that vary by type of disclaimer? Figure 1 shows the change in respondents’ evaluations of Erickson between their initial evaluations of him and after they had seen the ad attacking him. One thing is clear: the ad was successful in lowering evaluations of Erickson regardless of the disclosure condition. In all conditions, the decline in his favorability was greater than 1 on the 5-point favorability scale. The ad reduced evaluations of Erickson the least (which is another way of saying the ad was least effective) in the candidate-sponsored ad condition. This

effect was significantly different from the effect in the control (no disclosure) condition (condition 7 in Figure 1) using a t-test ($p < .05$). Erickson sustained less damage to his favorability in the “top donors” condition as well, though this effect was not significantly different from the control condition. It is also interesting to note that the control condition is not significantly different from the traditional disclaimer condition, meaning that although a candidate disclaimer on an attack ad may make an ad less effective, the addition of the standard federal disclaimer on outside group ads does not reduce the effectiveness over an ad without a disclaimer at all.

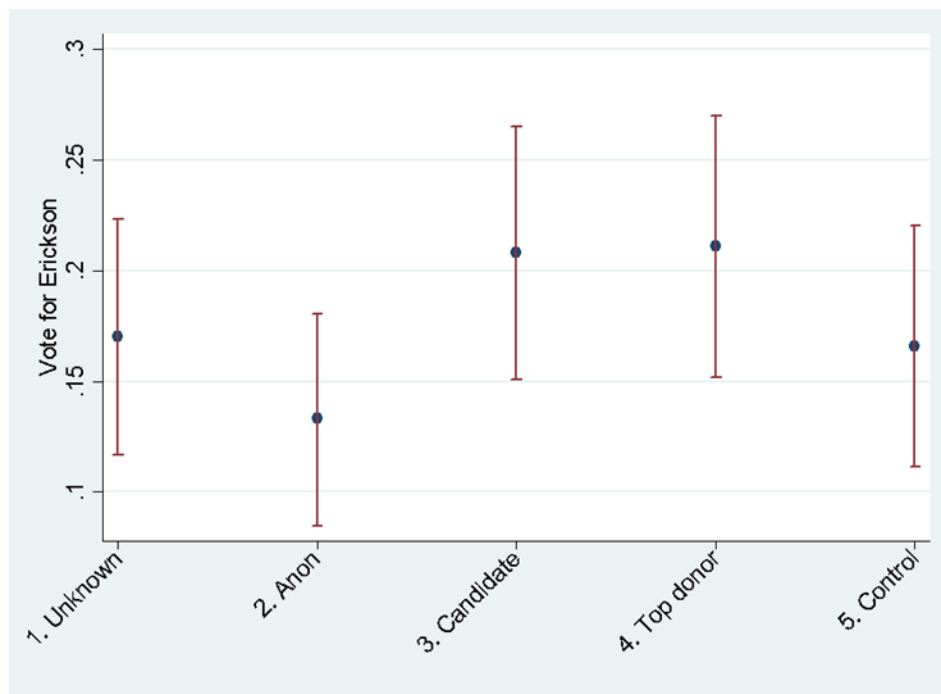
Figure 1: Change in Mike Erickson Favorability (Pre to Post-Treatment)



Given how successful the ad was in reducing people’s evaluations of Mike Erickson, it is not surprising that the percentage of people willing to vote for him was quite low—just 16 percent of respondents expressing a preference for him. But Erickson’s level of support did vary somewhat across treatments. The percentage of respondents supporting Erickson was highest in the candidate sponsor and “top donor” conditions (Figure 3). More specifically, when the

opposing candidate (Cook) sponsored the ad (condition 3), voters were more likely to vote for the attacked candidate (Erickson) than when the group sponsored the ad, in part, because of the backlash against the opponent for airing the negative ad. However, support for Erickson was among those who saw the “top donor” condition was roughly the same as the candidate ad, suggesting that disclosure of millionaire donors also makes the ad less effective. The effect of the candidate and top donor conditions were significantly different from the effect of the “group does not disclose” (anonymous) condition, but not statistically different from each other or the traditional or control conditions. Similar to the results for candidate favorability, the control condition effect does not differ from the traditional group disclaimer.

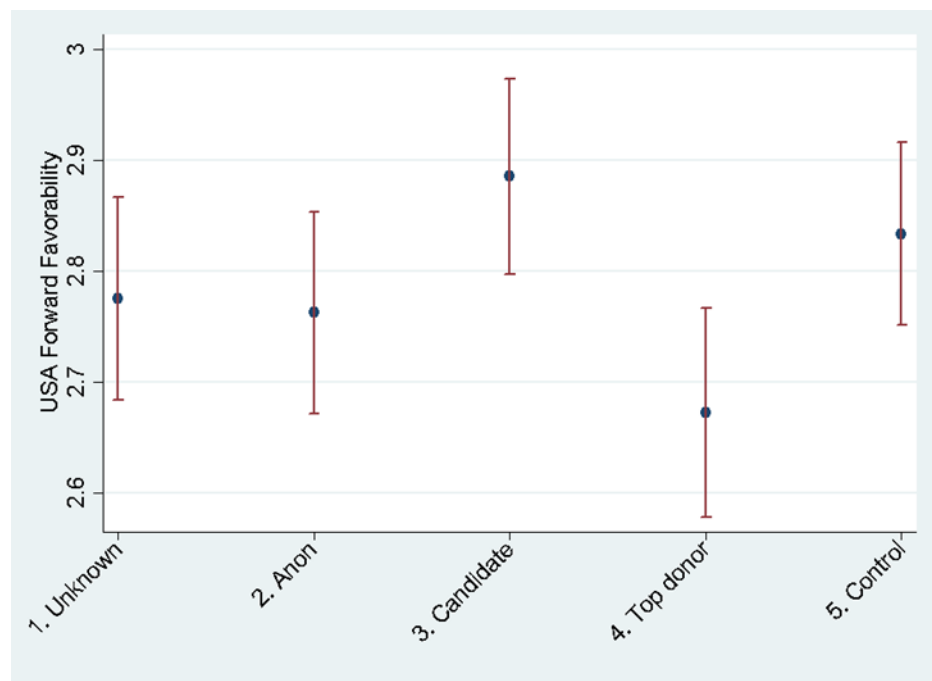
Figure 2: Voting for Mike Erickson



After seeing the ad, we asked respondents to evaluate USA Forward (on a 5-point favorability scale), which was identified as the group sponsoring the attack ad in all but the candidate condition and the control condition. Figure 4 shows average evaluations of the group by experimental condition. The group was evaluated least favorably in the “top donor” condition

in which several of its multi-million dollar donors were identified. Using t-tests, this difference was significant at the $p < .10$ level against all but the “unknown group” (condition 1) and the “group does not disclose” (condition 2).

Figure 3: Evaluations of USA Forward (Post-Treatment)



Discussion and Conclusion

We asked whether different types of ad disclaimers might be more or less effective in mitigating the impact of attack ads sponsored by an unknown interest group, in our case, the hypothetical USA Forward—a group with a name typical of the many super PACs and non-profits that are increasingly participating in electoral politics over the past few election cycles. As might be expected given previous research on the impact of advertising by groups previously unknown to participants, the attack was quite effective regardless of the type of disclaimer used. Still, there were some differences across disclaimer type.

When viewers were given information about the group’s top donors, the attack was least effective. If reformers are looking for a way to reduce the impact of group-sponsored ads, then

requiring the group to disclose its top donors seems to be a viable strategy. The “top five” donor disclaimer was similar in impact to revealing that the ad was sponsored by an opposing candidate. Thus, this type of disclaimer helps to level the playing field between candidate- and group-sponsored ads, but its impact is not so large that candidate-sponsored ads become more effective. Still, the requirement of a “top five” donor disclaimer might somewhat reduce the incentive for donors to give their money to groups as opposed to candidates. By contrast, Gerken’s proposed “non-disclosure disclosure” was generally ineffective in reducing the impact of the attack ad. One possibility for why this is the case is that it is simply too subtle of a cue for the average voter. Future work should test different versions of this proposal – perhaps the use of different language would strengthen the effect.

Our study has some limitations. The advertisement references “special interests,” which may have primed outside money in politics considerations, reducing the influence of the differing group disclaimers. Further, it would be useful to replicate the effects on a national rather than an MTurk sample. Both of these are currently being tested. However, our research so far suggests that if one wants to reduce the influence of group-sponsored advertising in contemporary election campaigns, a “top five” donor ad disclaimer requirement, such as now exists in Massachusetts, may be an effective reform. Further, to those concerned about online advertising regulations and the effect of requiring disclaimers, we find no evidence that adding a disclaimer to a group advertisement reduces its effectiveness.

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Appendix A. Ad Storyboard



NARRATOR: "Mike Erickson is out of touch."



While our economy suffered,



Mike Erickson voted for a \$100 million tax credit



for companies that shipped jobs overseas.



Mike Erickson voted to allow



illegal immigrants to get welfare benefits.



Under Erickson, spending has gone up 75%



while Mike Erickson voted to raise his own pay...twice!



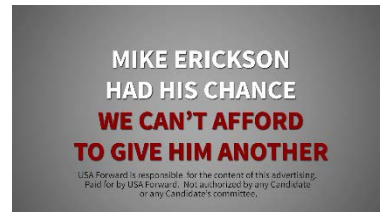
Mike Erickson's special interests are not our interests



Mike Erickson had his chance.



We can't afford to give him another.



[Voiceover of different disclaimer conditions if applicable]