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2004 MAR 30 A 10: 08

January 27, 2004

Federal Elections Committee
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

AOR 2004-10

Dear Commissioners,

On behalf of Metro Networks Communications Inc., this letter seeks an Advisory Opinion on the application of Regulation 110.11 C3 regarding disclaimer specifications. The specific regulations states:

“A communication transmitted through radio must include an audio statement by the candidate that identifies the candidate and states that he or she has approved the communication.”

Metro Networks is a national company with more than 75 offices throughout the United States. Metro Networks provides more than 2000 radio stations throughout the United States with live traffic, news, sports and weather reports. Each of our reports includes a ten-second live read sponsorship message. Our business model depends on the sale of our sponsorship messages for revenue generation. It is impossible for us to include a candidates voice message within our sponsorship message. It would violate our contract with our affiliates (the radio stations) and is physically impossible.

I understand that there are exemptions for print media where a disclaimer is not practicable. Can you help us with this problem? Candidates have expressed interest in buying our sponsorships to reach out to the American public, but feel that this regulation prevents them from purchasing our sponsorships.

We appreciate the Commission’s review of this pressing issue and would ask the Commission to expedite the Advisory Opinion due to the fact that the primaries have already commenced.

Thank you,

Tom Fanning
National Director of Marketing
Metro Networks Communications Inc.
8403 Colesville Road, 15th Floor
Silver Spring, MD 20910

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

February 9, 2004

Tom Fanning
National Director of Marketing
Metro Networks Communications, Inc.
8403 Colesville Road, 15th Floor
Silver Spring, MD 20910

Dear Mr. Fanning;

This refers to your letter dated January 27, 2004, on behalf of Metro Networks Communications Inc. ("Metro Networks") concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to "ten-second live read" sponsorship messages provided on the radio in conjunction with each of Metro Network's live traffic, news, sports and weather reports.

You ask whether the "stand-by-your-ad" notice requirements at 11 CFR 110.11(c)(3)(i) are required for what you describe as "ten-second live read sponsorship messages." You indicate that it would be "impossible" to include the required disclaimer statement for several reasons, citing your business model, contract obligations with your affiliate radio stations, and physical impossibility. You state that candidates have expressed interest in buying these ten-second sponsorship messages, but the Commission's regulation "prevents them from purchasing" the sponsorship.

The Act authorizes the Commission to issue an advisory opinion request in response to a "complete written request" from any person about a specific transaction or activity by the requesting person. 2 U.S.C. 437f(a). The request must concern a specific transaction or activity that "the requesting person plans to undertake or is presently undertaking and intends to undertake in the future." 11 CFR 112.1(b). Such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c). Inquiries presenting only a hypothetical situation, a general question of interpretation, or the activities of third parties do not qualify as advisory opinion requests. 11 CFR 112.1(b). The Office of General Counsel shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. See 11 CFR 112.1(d).

Metro Networks' precise involvement in the creation and production of the communication is not clear from your request. In view of the above requirements, this Office will need further detail regarding the intended activity described above. Specifically:

1. Please explain what "live read sponsorship message" means. Have any portions of the previous sponsorship messages been pre-recorded? If not, would it be possible for candidates to pre-record a portion of a sponsorship message?
2. Please provide an example of the full text of the script for the sponsorship message(s) for which you request an advisory opinion.
3. Please specify whether Metro Networks is responsible for the creation or production of the sponsorship message. If not, please identify the creator and producer of the specific sponsorship message about which you seek advice, and please state whether or not this person has authorized Metro Networks to request an Advisory Opinion on his or her behalf.
4. Please provide further explanation regarding how the stand-by-your-ad requirements would
 - a) interfere with your business model;
 - b) violate the relevant portions of your contracts with affiliates;
 - c) be "physically impossible;"
 - d) and would otherwise be impracticable.

If you have any questions about the advisory opinion process or this letter, please contact Richard Ewell, an attorney in this Office, at 202-694-1650.

Sincerely,



Rosemary C. Smith
Acting Associate General Counsel



March 15, 2004

Federal Elections Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

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2004 MAR 22 A 11:47

Dear Commissioners,

This letter answers specific questions sent by the FEC to me regarding my original request for an AOR regarding the “stand by your ad” notice requirement at 11 CFR 110.11(c)(3)(i).

1. Please explain what “live read sponsorship message” means. Have any portions of the previous sponsorship messages been pre-recorded? If not, would it be possible for candidates to pre-record a portion of a sponsorship message.
 - Metro Networks provides radio stations (approximately 2,000 nationwide) with live reports. These reports are mostly traffic reports, but also include news, weather and sports reports. Our reports are produced live in our studios and from mobile units and aircraft with our reporters interacting on the radio “live” in real time with radio stations on-air talent. In exchange for our providing live information reports, the radio stations allow us by contract to sell a live ten-second sponsorship message embedded within the actual report. Our sponsorship messages are read live by our reporters immediately at the end of each report.
 - “Would it be possible for candidates to pre-record a portion of a sponsorship message?” Our reporters are set up to do live reports fed “real time” into a microphone and airing live on the station they are doing the report for. Our reporters could read the “stand-by-your-ad” verbiage, but not play a recorded voice of a candidate saying the same thing.
2. Please provide an example of the full text of the script for the sponsorship message for which you request an advisory opinion.
 - Our live read sponsorship messages “usually” include an opening mention. This opening mention tells the radio listener what organization is paying for the ad. A typical sponsorship message for a candidate follows:

OPENING MENTION

“This traffic report is brought to you by the committee to elect Candidate ABC.”



TRAFFIC REPORT NEXT

Traffic is jammed on I-95 heading to the Wilson Bridge...(rest of traffic report)

LIVE READ 10-SECOND SPONSORSHIP MESSAGE

“Candidate ABC has waged war on the terrorists who want to take away America’s liberties. But the job is not done. Support Candidate ABC for re-election. Paid for by the committee to re-elect candidate ABC.”

Our corporate guidelines require the purchaser of political ads to be included not only in the opening mention, but also in the sponsorship message itself.

3. Please specify whether Metro Networks is responsible for the creation or production of the sponsorship message. If not, please identify the creator and producer of the specific sponsorship message about which you seek advice, and please state whether or not this person has authorized Metro Networks to request an Advisory Opinion on his or her behalf.
 - Clients supply us with a script they have created. In other cases the script may come from an advertising agency or public relations firm hired by a client. In all cases, we take the client supplied script, make sure it is no longer than ten-seconds, make sure that it contains verbiage describing the organization paying for the ad and then supply the script to our reporters for them to read at the appropriate time. This process applies for all scripts read by our reporters.
4. Please provide further explanation regarding how the “stand-by-your-ad” requirements would interfere with your business model;
 - Our business model depends on producing revenue by supplying radio stations with live, accurate real time reports with live read sponsorship messages imbedded in the report. Metro Networks sells the live read sponsorship messages to our clients. The very fact that they are “live” is one of our most compelling selling points to our clients. We do not sell recorded ads grouped with other recorded ads. Our differentiator is that we sell live reports imbedded within our “sought after” traffic reports.

Please provide further explanation regarding how the stand -by-your-ad requirements would violate the relevant portions of your contracts with affiliates;

- Our contract templates are regularly altered during negotiations with each radio station affiliate. But one thing is standard. We are in the business of providing live traffic and information reports of the highest quality. Our information, by its very nature is reported live because the information is ever changing. It has no value to the station or the listener after a few minutes. That is why we do live traffic updates every ten minutes for many of our affiliated radio stations.

Please provide further explanation regarding how the “stand –by-your-ad” requirements would be “physically impossible”.

- Due to the limitations of our equipment.

Please provide further explanation regarding how the stand –by-your-ad requirements would be impracticable.

- Due to the limitations of our equipment.

Metro Networks can comply with the “stand-by-your-ad” requirement if the Commission allows our reporters to read it live within our opening mention or in the sponsorship message. The “stand-by-your-ad” requirement, as it stands now, effectively prevents candidates from accessing this method of reaching voters with important information.

Respectfully yours,



Tom Fanning
National Director of Marketing
Metro Networks Communications Inc.
8403 Colesville Road, 15th Floor
Silver Spring, MD 20910