

## ADVISORY OPINION 1975-107

### Expenses for a Television Show

This advisory opinion is issued pursuant to 2 U.S.C. §437f in response to a request submitted by Representative Edward P. Beard as to whether his costs for a television show are expenditures within the meaning of the Federal Election Campaign Act of 1971, as amended (FECA). The request was published as AOR 1975-107 in the December 1, 1975 Federal Register (40 FR           ). Interested parties were given an opportunity to submit written comments pertaining to the request. No comments were received.

The request states that the television show is a "newsletter of the air." Supplemental communications with the Congressman make it clear that the TV show will consist of a review of the Congressman's past year, problems that face the Congressman's district, major areas of national concern, and a personal holiday greeting. The show will be aired on December 23, 1975, over two television stations which cover the Congressman's district. All production and air time costs are proposed to be paid out of the Congressman's personal account.

Representative Beard indicates that he has not yet decided whether to run for re-election. Reports filed by his authorized political committee which was created for his 1974 campaign and has continued in existence do not make clear whether he has received contributions or made expenditures with a view toward "influencing [his] nomination for election, or . . . election . . . to Federal office." [See 2 U.S.C. §431(e), (f) and 18 U.S.C. §591(e) and (f).]

Based on the particular facts alleged by Congressman Beard, the Commission is of the view and the costs<sup>\*</sup> of the show need not be counted as expenditures within the meaning of the FECA and may be paid from the Congressman's personal funds so long as the show relates to legislative business and not to an upcoming campaign. Payment from campaign funds would, however, raise a presumption that the program is political in nature and an expenditure within the meaning of 18 U.S.C. §591(f). This conclusion is premised on an assumption that the Congressman is not a candidate within the meaning of 2 U.S.C. §431(b) and 18 U.S.C. §591(b).

An expenditure is defined under the FECA as "a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value . . . made for the purpose of influencing the nomination for election, or election of any person to Federal office." [See 2 U.S.C. §431(f); 18 U.S.C. §591(f).] In the view of the Commission, a brief television

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\* Since, regardless of whether or not he is a candidate, Congressman Beard would not have to report in 1975 "the value of . . . recording services furnished to him by the . . . House Recording Studio," [2 U.S.C. §434(d)] this opinion does not deal with costs so incurred. However, it should be noted that the §434(d) exemption does not apply for "recording services furnished during the calendar year before the year in which the Member's term expires." In other words, the value of recording services provided in calendar year 1976 would be reportable.

show summarizing a Congressman's activities and shown on a single occasion to his constituents does not, at least in a non-election year, fall within the scope of this definition.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules and regulations or policy statements of general applicability.

Date December 18, 1975

(signed) \_\_\_\_\_  
Thomas B. Curtis  
Chairman for the  
Federal Election Commission