

Advisory Opinion 1975-47

This advisory opinion is rendered under 2 U.S.C. 437f, in response to a request for an advisory opinion submitted by the Democratic National Committee which was published as AOR 1975-47 in the September 3, 1975 Federal Register (40 FR 40671). Interested parties were given an opportunity to submit written comments relating to the request.

The request asks the Commission to render a supplement to Advisory Opinion 1975-1, published in the Federal Register on July 15, 1975 (40 FR 29791). Specifically, the supplemental advisory opinion request asks for what purpose and under what conditions a "Host Committee" could expend funds, including funds received by it from local retail corporations as described in Advisory Opinion 1975-1, without violating the prohibitions of 18 U.S.C. §610. The request also asks whether such transactions constitute "expenditures" under 26 U.S.C. §9008(d).

The Commission stated, in Advisory Opinion 1975-1, that, in general, "private corporations are precluded by 18 U.S.C. §610 from donating or providing at less than fair market value any of the services, benefits or uses of property described in paragraphs (1) through (7)," as set out in said advisory opinion. The Commission described, however, two situations which in the Commission's opinion did not involve violations of §610. One of these related to "local corporations which are engaged at the retail level in business of supplying consumer goods or services to the public." It was the Commission's opinion that such local retail corporations might contribute funds to a local civil association, business league, Chamber of Commerce, real estate board, or board of trade which was (1) not organized for profit and no part of the earnings of which would inure to the credit of any shareholder or individual, and (2) the principal objective of which organization must be the encouragement of that commerce which is necessarily entailed in the arrival of any major convention in the city where such local corporations are located." The Commission's view was that such contributions were sufficiently akin to purchase transactions that they would not violate the prohibitions of 18 U.S.C. §610.

For purposes of this opinion the Commission assumes that a "Host Committee" is within the ambit of the non-profit organizations described above. Based on that assumption the Commission remains of the view that so long as the amount of the contribution by each local retail corporation to the Host Committee is not disproportionate to an expectation of a reasonable return by such retailer during the life of the convention no violation of 18 U.S.C. §610 will occur. Because the Commission's concern lies with the source and amount of the contribution rather than with the nature of the expenditure by the Host Committee, the Commission has no objection to disbursements by such committee to defray the costs of the types of activities listed as items (1) through (7) in AO 1975-1 so long as the money is expended for convention-related (as opposed to candidate-related) activities. Moreover, consonant with part B of AO 1975-1, such disbursements will not be attributable to the two million dollar limitation under which the national party committees operate. The above opinion is, of

course, conditioned by the requirement that the Host Committee register with and report to the Commission, pursuant to the provisions of Title 2, United States Code, as if it were a political committee.

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