



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 8, 1976

Re: AOR 1976-99

Mr. Robert March, Comptroller  
Committee for Birch Bayh in '76  
1835 K Street, NW  
Washington, DC 20006

Dear Mr. March:

This responds to your letter of October 28, 1976, requesting an opinion on behalf of the Committee for Birch Bayh in '76. The letter describes a fundraising concert which the Bayh Committee plans and asks relief from certain provisions of the Commission's proposed regulations on Presidential primary matching funds (Parts 130 through 134).

You state in your letter that the Bayh Committee owes more than \$200,000 in debts incurred in connection with Senator Bayh's candidacy for the Presidential nomination. In order to raise funds to retire this debt, the Committee has arranged a musical concert to be held in Indianapolis on December 5. The December 5 concert will be publicized as a political event to retire the campaign debt, and every effort will be made to assure that all persons purchasing tickets do so with the knowledge that they are making a contribution to retire the debt. You further note that the concert is being held solely for this purpose, and would not otherwise be held.

You state that the ticket price will be approximately seven dollars, and the Committee expects to sell tickets by means of both personal checks and cash. You further State: "All checks will be to the order of the Bayh Committee and will include the name and mailing address of the contributor, and the date and the amount of the contribution. All cash payments will be accompanied by a contribution card which will include the same information concerning the contributor."

Your first question relates to how much of the purchase price of the ticket is matchable. Under §130.9(i) of the Commission's proposed regulations, transmitted to the Congress on August 3, 1976, certain contributions are not matchable including:

(i) Contributions in the form of the purchase price paid for the admission to any activity that primarily confers private benefits in the form of entertainment to the contributor, such as a concert . . . in which case the amount of the matchable contribution shall include only the excess of the amount paid for admission over the fair market value of all the benefits available to the purchaser of the ticket, using a good faith reasonable estimate.

As you point out in your letter, this provision would preclude the Commission from matching the full purchase price of the ticket. You further state your understanding that this provision has not been applied by the Commission with respect to other concerts during the 1976 election; you particularly note your understanding that Governor Jerry Brown and former Governor Jimmy Carter arranged concerts similar to the concert you propose to hold, and that the funds collected were matchable to the full amount from the Presidential Primary Matching Fund.

It is the opinion of the Commission that in the limited circumstances of this concert, in which funds are being raised to retire debts incurred during the 1976 Presidential primaries, the full amount of the purchase price of the ticket may be matched, as long as complete documentation for each ticket is secured and presented in the normal course of this submission. See Part 132. In the Commission's view, fairness requires that all Presidential candidates eligible for matching funds be treated equally with respect to concert fundraising in the 1976 Presidential campaigns. However, the Commission emphasizes that records for these ticket purchases will be carefully scrutinized, and any ticket which is not supported by a photocopy of a check or other written instrument, or by a photocopy of a contributor card or a cash contribution signed by the contributor at the time of the ticket purchase will not be matched.

The second issue which your letter raises is whether cash contributions for the purchase of tickets for this concert will be matchable. Under §130.9(k) of the proposed regulations, cash contributions, even though supported with sufficient back-up material, are deemed to be nonmatchable. This provision was first included in the proposed regulations transmitted to the Congress on August 3, 1976. In this connection, you point out in your letter that concerts held earlier in the year for which cash contributions were made were matchable to the extent that the records submitted supported the contribution.

As with your first question, the Commission concludes that in the interest of fairness all Presidential candidates eligible for matching funds will be treated equally with respect to concert fundraising in the 1976 Presidential campaign. Therefore, cash contributions for the purchase of tickets to this concert would be matchable to the extent that each contribution is supported with a contributor card signed by the contributor at the time of purchase. The Commission reminds the Bayh Committee that cash (currency) contributions in excess of \$100 in a calendar year from the same individual are not permissible under 2 U.S.C. §441g and §110.4(c) of the proposed regulations.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion.

Sincerely yours,

(signed)  
Vernon W. Thomas  
Chairman for the  
Federal Election Commission

Enclosure