



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 30, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-29

Janet M. Lashendock
Treasurer, United Telecom Political Action Committee
P.O. Box 11315
Kansas City, Missouri 64112

Dear Ms. Lashendock:

This responds to your letter of March 26, 1982, requesting an advisory opinion on behalf of United Telecom Political Action Committee ("UniPAC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the use of payroll deduction as a means of facilitating contributions to UniPAC.

In your request, you state that UniPAC is the separate segregated fund of United Telecommunications, Inc., a corporation with offices in Westwood, Kansas and subsidiary operations in at least 21 states. You state that UniPAC contributes only to candidates for the United States Senate and House of Representatives, not to State or local candidates. UniPAC would like to offer payroll deduction as an option to as many of the subsidiaries of United Telecommunications, Inc. as choose to use it. The specific questions presented in your request are (1) whether UniPAC may offer this option, and (2) whether the Act supersedes any State law concerning payroll deduction to UniPAC.

The Commission answers both questions in the affirmative. In response to your first question, the Act allows a corporation to use a payroll deduction program to facilitate the making of voluntary contributions to a separate segregated fund from the executive or administrative personnel of the corporation. See 2 U.S.C. 441b(b)(5); 11 CFR 114.1(f), 114.5(k)(1); H.R. Conf. Rep. No. 1057, 95th Cong., 2d Sess. 62 (1976); Re: Advisory Opinion Request 1976-23, copy enclosed. The Act further permits a corporation to solicit the stockholders and executive or administrative personnel of its subsidiaries. See 2 U.S.C. 441b(b)(4)(A)(i); 11 CFR 114.5(g)(1); Advisory Opinions 1980-98, 1979-77, 1979-44, 1978-75, 1978-27, copies enclosed. UniPAC may, therefore, offer a

payroll deduction plan to all of those subsidiaries of United Telecommunications, Inc. that wish to participate in such a plan.

In response to your second question, the Act's preemption provision is set forth at 2 U.S.C. 453:

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal office.

It is clear that Congress intended "to make certain that the Federal law is construed to occupy the field with respect to elections to Federal office and that Federal law will be the sole authority under which such elections will be regulated." H.R. Conf. Rep. No. 1438, 93d Cong., 2d Sess. 10 (1974). The Conference Committee Report goes on to state that, "[t]he provisions of the conference substitute make it clear that the Federal law occupies the field with respect to criminal sanctions relating to limitations on campaign expenditures, the sources of campaign funds used in Federal races, the conduct of Federal campaigns, and similar offenses...." *Id.* at 69 (emphasis added). See also 11 CFR 108.7(b) and Advisory Opinions 1980-47, 1978-66, 1978-54 and 1978-24, copies enclosed.

Moreover, in amending the Act in 1976, Congress expressly intended to supersede and preempt any provision of State or Federal law that would prohibit the use of payroll deduction as a means of facilitating the making of voluntary contributions to separate segregated funds. As the Conference Committee Report explained:

The House amendment was intended to acknowledge the use by corporations of various methods, such as check-off systems, to solicit voluntary contributions to separate segregated political funds.... The House amendment also intended to authorize such methods notwithstanding any other provision of law.*

H.R. Conf. Rep. No. 1057, *supra* at 62 (emphasis added); see also Re: Advisory Opinion Request 1976-23. Because UniPAC contributes only to Federal candidates, the Commission concludes that the Act would supersede or preempt any State law prohibiting the proposed use of payroll deduction as a means of facilitating voluntary contributions to UniPAC. The Commission notes, however, that you have not presented for the Commission's consideration any specific State law and asked whether the Act preempts that law. Accordingly, the Commission expresses no opinion concerning whether the Act supersedes or preempts any State laws other than those which would prohibit the proposed use of payroll deduction to UniPAC.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosures (AOs 1980-98, 1980-47, 1979-77, 1979-44, 1978-75, 1978-66, 1978-54, 1978-27, 1978-24; Re: AOR 1976-23)

* The House amendment was adopted in the final version of the Act.