



FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-66

Stephen G. Silverman, President
Response Marketing, Inc.
218 West Marion Street
P.O. Box 750
Lancaster, Pennsylvania 17603

Dear Mr. Silverman:

This responds to your letters of December 15 and 21, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to a proposed merchandising program featuring a fictitious presidential candidate, George Orwell, for 1984.

Your letter states that Response Marketing, Inc., plans to undertake a sales promotion for a variety of products "relating to themes suggested in Mr. Orwell's book", 1984. These products would be distributed to and sold nationally through book and general merchandise stores. All products would carry the words "Elect George Orwell in 1984; George Orwell for President Committee, or something similar." In addition, you anticipate that a committee of writers and "publicity people" would be established with a Washington, D.C. address but that no contributions will be sought; any contributions received will be returned. You ask whether the described activity is subject to the Act.

The Commission concludes that the proposed merchandising campaign that you describe is not subject to the Act so long as the merchandising campaign does not undertake to influence the election or defeat of an actual person. The Act has no application to purely commercial activity that does not involve the receipt or payment of money or anything of value for the purpose of influencing the election of any person to Federal office. See Advisory Opinion 1978-72; also see Advisory Opinion 1982-30, copies enclosed. However, you should be aware that, depending on the facts, references in your promotional materials to an actual candidate may result in treating those costs as expenditures for the purpose of influencing, or in connection with, a Federal election. See 2 U.S.C. 431 and 441b.

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 yours,

(signed)

Danny L. McDonald
Chairman for the Federal Election Commission

Enclosures (AOs 1978-72 and 1982-30)