

March 4, 2004

**NOTICE AO DRAFT COMMENT PROCEDURES**

The Commission has approved a revision in its advisory opinion procedures that permits the submission of written public comments on draft advisory opinions when proposed by the Office of General Counsel and scheduled for a future Commission agenda.

Today, DRAFT ADVISORY OPINION 2004-4 is available for public comments under this procedure. It was requested by John C. Kenney, Jr. on behalf of Air Transport Association of America Political Action Committee. The draft may be obtained from the Public Disclosure Division of the Commission.

Proposed Advisory Opinion 2004-4 will be on the Commission's agenda for its public meeting of Thursday March 11, 2004.

Please note the following requirements for submitting comments:

1) Comments must be submitted in writing to the Commission Secretary with a duplicate copy to the Office of General Counsel. Comments in legible and complete form may be submitted by fax machine to the Secretary at (202) 208-3333 and to OGC at (202) 219-3923.

2) The deadline for the submission of comments is 12:00 noon (EDT) on March 10, 2004.

3) No comments will be accepted or considered if received after the deadline. Late comments will be rejected and returned to the commenter. Requests to extend the comment period are discouraged and unwelcome. An extension request will be considered only if received before the comment deadline and then only on a case by case basis in special circumstances.

4) All comments timely received will be distributed to the Commission and the Office of General Counsel. They will also be made available to the public at the Commission's Public Disclosure Division.

**CONTACTS**

Press inquiries: Robert Biersack (202) 694-1220

Commission Secretary: Mary Dove (202) 694-1040

Other inquiries:

To obtain copy of draft AO 2004-04 contact Public Records Office-  
Public Disclosure Division (202) 694-1120, or 800-424-9530.

For questions about comment submission procedure contact  
Rosemary C. Smith, Associate General Counsel, (202) 694-1650.

**ADDRESSES**

Submit single copy of written comments to:

Commission Secretary  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
WASHINGTON, D.C.

2004 MAR -4 P 2: 28

March 4, 2004

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Lawrence H. Norton  
General Counsel

James A. Kahl  
Deputy General Counsel

Rosemary C. Smith  
Associate General Counsel

John C. Vergelli  
Acting Assistant General Counsel

Steve N. Hajjar  
Staff Attorney

**AGENDA ITEM**  
For Meeting of: 03-11-04

SUBJECT: Draft AO 2004-04 – Alternative Drafts

Attached are two proposed drafts of Advisory Opinion 2004-04, which respond to a request from the Air Transport Association of America, Inc., a non-profit trade association that represents the principal U.S. airlines, with respect to the use of a common name by its separate segregated fund, the Air Transport Association of America Political Action Committee ("the Committee"), under 11 CFR 102.14(c).

The drafts come to different conclusions regarding the Committee's proposed use of the name "AirPAC." Draft A concludes that the Committee may not use the name "AirPAC" for common usages based upon 102.14(c)'s requirement that a separate segregated fund may only use a clearly recognized abbreviation or acronym by which its connected organization is commonly known. Draft B concludes that the Committee may use the name "AirPAC" because it gives the public adequate notice as to the Committee's identity and sponsorship.

We request that these drafts be placed on the agenda for March 11, 2004.

Attachments  
Drafts A and B

1 ADVISORY OPINION 2004-4

DRAFT A

2  
3 John C. Keeney, Jr.  
4 Hogan & Hartson L.L.P.  
5 Columbia Square  
6 555 Thirteenth Street, NW  
7 Washington, DC 20004-1109  
8  
9

10 Dear Mr. Keeney:

11  
12 This responds to your letter dated January 23, 2004, on behalf of the Air Transport  
13 Association of America Political Action Committee (“the Committee”), requesting an advisory  
14 opinion concerning the application of the Federal Election Campaign Act of 1971, as amended  
15 (“the Act”), and Commission regulations to the Committee’s selection of a shortened name for  
16 common usages such as on checks and stationery.  
17

18 ***Background***

19 You state that The Air Transport Association of America, Inc. (“ATA”) is a District of  
20 Columbia non-profit corporation that is the trade association representing the principal U.S.  
21 airlines. The successor organization to an unincorporated association formed by a group of  
22 fourteen airlines in 1936, ATA’s current membership includes, for example, American,  
23 Continental, Northwest, and United Airlines, as well as UPS Airlines and the FedEx  
24 Corporation. ATA maintains the Committee as a separate segregated fund (“SSF”), which  
25 registered with the Commission as such on October 19, 1979.  
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1 ***Question Presented***

2           May the Committee use the abbreviation “AirPAC” on stationery, checks, and similar  
3 common usages?  
4

5 ***Legal Analysis and Conclusion***

6           Under the Act and Commission regulations, the name of any separate segregated fund  
7 must include the full name of its connected organization. 2 U.S.C. 432(e)(5); 11 CFR 102.14(c);  
8 see also Advisory Opinions 1993-7, 1989-8, and 1988-42. The regulations also permit the use of  
9 a “clearly recognized abbreviation or acronym by which the connected organization is  
10 commonly known,” provided that the SSF uses both the abbreviation (or acronym) and the full  
11 name in the Committee’s Statement of Organization, in all reports filed with the Commission,  
12 and in all disclaimer notices required by 11 CFR 109.11 and 110.11. 11 CFR 102.14(c). If the  
13 connected organization is newly formed, its SSF may use an acronym or abbreviation by which  
14 the organization intends to be known. Explanation and Justification at 45 Fed. Reg. 15,080,  
15 15,085 (Mar. 7, 1980); see also Advisory Opinion 1982-8. The SSF may make contributions  
16 using the abbreviation or acronym. 11 CFR 102.14(c); see also Advisory Opinions 2000-34,  
17 1999-20, and 1987-26.

18           You explain that the Committee proposes to use the name “AirPAC” for common usages  
19 such as on checks and stationery. As indicated above, the use of “AirPAC” is permissible if it is  
20 a clearly recognized abbreviation or acronym by which the connected organization is commonly  
21 known. 11 CFR 102.14(c). In determining whether specific terms or names meet this  
22 requirement, the Commission has examined whether they give adequate notice to the public as to  
23 the identity and sponsorship of the SSF. See Advisory Opinions 2000-34 n.4, 1987-26, and

1 1980-23. To afford adequate notice to the public, an abbreviation must contain enough  
2 qualifying words to assure identification of the connected organization. Advisory Opinion 1987-  
3 26.

4 The Commission has determined that the abbreviation “AirPAC” does not convey  
5 adequate identification of the Air Transport Association of America. “Air” is not how the  
6 connected organization is known or represented to the public. On its website and on press  
7 releases contained therein, the connected organization refers to itself only as “The Air Transport  
8 Association” or more commonly as “ATA.”<sup>1</sup> Consequently, the Commission concludes that that  
9 the Air Transport Association of America, Inc., may not use the abbreviation “AirPAC” to  
10 identify its separate segregated fund.<sup>2</sup> The Commission reached a similar conclusion in  
11 Advisory Opinion 1987-26 where it determined that the abbreviation “Principal FEDPAC” did  
12 not sufficiently identify the SSF’s connected organization, the Principal Mutual Life Insurance  
13 Company, now the Principal Group.

14 The Commission concludes that the Committee may, however, use the abbreviation “Air  
15 Transport PAC” to identify itself on checks, stationery, and other common usages. The  
16 Committee must use its full name, “The Air Transport Association of America Political Action  
17 Committee,” in its Statement of Organization, in all of the Committee’s reports filed with the  
18 Commission, and on all disclaimer notices required by 11 CFR 109.11 and 110.11.

19 This response constitutes an advisory opinion concerning the application of the Act, or  
20 regulations prescribed by the Commission, to the specific transaction or activity set forth in your

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<sup>1</sup> www.airlines.org

<sup>2</sup> The Commission notes the existence of two entities whose names are similar to the Committee’s proposed abbreviated name: Airpac Airlines, a Seattle, Washington based cargo airline that operates in the Pacific Northwest, and Air Pacific, a foreign carrier based in Fiji that operates throughout the South Pacific. Therefore, unlike Advisory Opinion 1982-8, where the Commission approved for common use the name “BARTERPAC” by the International Association of Trade Exchanges Political Action Committee, this advisory opinion request involves a proposed name that may confuse the public as to the identity and sponsorship of this particular SSF.

1 request. See 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the  
2 facts or assumptions presented, and such facts or assumptions are material to a conclusion  
3 presented in this advisory opinion, then the requestor may not rely on that conclusion as support  
4 for its proposed activity.

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Sincerely,

Bradley Smith  
Chairman

Enclosures (AOs 2000-34, 1999-20, 1993-7, 1989-8, 1988-42, 1987-26, 1980-23)

1 ADVISORY OPINION 2004-4

DRAFT B

2  
3 John C. Keeney, Jr.  
4 Hogan & Hartson L.L.P.  
5 Columbia Square  
6 555 Thirteenth Street, NW  
7 Washington, DC 20004-1109  
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9

10 Dear Mr. Keeney:

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12 This responds to your letter dated January 23, 2004, on behalf of the Air Transport  
13 Association of America Political Action Committee (“the Committee”), requesting an advisory  
14 opinion concerning the application of the Federal Election Campaign Act of 1971, as amended  
15 (“the Act”), and Commission regulations to the Committee’s selection of a shortened name for  
16 common uses such as on checks and stationery.  
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18 ***Background***

19 You state that The Air Transport Association of America, Inc. (“ATA”) is a District of  
20 Columbia non-profit corporation that is the only trade association representing the principal U.S.  
21 airlines. The successor organization to an unincorporated association formed by a group of  
22 fourteen airlines in 1936, ATA’s current membership includes, for example, American,  
23 Continental, Northwest, and United Airlines, as well as UPS Airlines and the FedEx  
24 Corporation. ATA maintains the Committee as a separate segregated fund (“SSF”), which  
25 registered with the Commission as such on October 19, 1979.  
26

27 ***Question Presented***

28 May the Committee use the abbreviation “AirPAC” on stationery, checks, and similar  
29 common usages?

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***Legal Analysis and Conclusion***

Under the Act and Commission regulations, the name of any separate segregated fund must include the full name of its connected organization. 2 U.S.C. 432(e)(5); 11 CFR 102.14(c); see also Advisory Opinions 1993-7, 1989-8, and 1988-42. The regulations also permit the use of a “clearly recognized abbreviation or acronym by which the connected organization is commonly known,” provided that the SSF uses both the abbreviation (or acronym) and the full name in the Committee’s Statement of Organization, in all reports filed with the Commission, and in all disclaimer notices required by 11 CFR 109.11 and 110.11. 11 CFR 102.14(c). The SSF may make contributions using the abbreviation or acronym. Id.; Explanation and Justification at 45 Fed. Reg. 15080, 15085 (Mar. 7, 1980); see also Advisory Opinions 2000-34, 1999-20, and 1987-26.

You explain that the Committee proposes to use the name “AirPAC” for common uses such as on checks and stationery. As indicated above, the use of “AirPAC” is permissible if it is a clearly recognized abbreviation or acronym by which the connected organization is commonly known. 11 CFR 102.14(c). In determining whether specific terms or names meet this requirement, the Commission has examined whether they give adequate notice to the public as to the identity and sponsorship of the SSF. See Advisory Opinions 2000-34 n.4, 1987-26, and 1980-23.

The Commission concludes that, as used by the separate segregated fund of the only trade association representing the American airline industry, the name “AirPAC” would give adequate notice to the public as to the identity and sponsorship of this particular committee. “AirPAC” not only incorporates the first and most important word in the connected organization’s full

1 name, but in doing so provides the public sufficient information as to the identity of the industry  
2 trade association that sponsors the Committee.<sup>1</sup>

3 Based on the foregoing, the SSF of the Air Transport Association of America, Inc. may  
4 be identified in common uses such as on checks and stationery as “AirPAC.” The Committee  
5 must, however, use its full name, “The Air Transport Association of America Political Action  
6 Committee,” in its Statement of Organization, in all of the Committee’s reports filed with the  
7 Commission, and on all disclaimer notices required by 11 CFR 109.11 and 110.11.

8 This response constitutes an advisory opinion concerning the application of the Act, or  
9 regulations prescribed by the Commission, to the specific transaction or activity set forth in your  
10 request. See 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the  
11 facts or assumptions presented, and such facts or assumptions are material to a conclusion  
12 presented in this advisory opinion, then the requestor may not rely on that conclusion as support  
13 for its proposed activity.

14  
15 Sincerely,

16  
17  
18 Bradley Smith  
19 Chairman  
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21 Enclosures (AOs 2000-34, 1999-20, 1993-7, 1989-8, 1988-42, 1987-26, 1980-23)  
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<sup>1</sup> The Commission notes the existence of two entities whose names are similar to the Committee’s proposed abbreviated name: Airpac Airlines, a Seattle, Washington based cargo airline that operates twelve planes in Washington, Oregon, and Idaho, and Air Pacific, a foreign carrier partly owned by the government of Fiji and based there. The former is a small, regional carrier that does not have an SSF and the latter a foreign carrier that cannot operate a federal political committee. The existence of these two carriers does not alter the Commission’s conclusion as to the Committee’s use of “AirPAC.”