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2010 MAR -8 PM 12:32

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March 2, 2010

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General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

AOR 2010-5

RE: Advisory Opinion Request-Starchannel Communications, Inc.

We are writing on behalf of Starchannel Communications, Inc. a Delaware corporation ("Starchannel") to request an advisory opinion from the Federal Election Commission. We ask that the Commission find that a United States advertising contractor may accept political advertising from candidates for United States political office for airing on Mexican television stations broadcasting to the United States.

FACTUAL BACKGROUND

Starchannel is under contract with Televisa, an owner of television stations located in Mexico, to sell advertising on Televisa television stations located in Mexico. Starchannel markets to companies in the United States desiring to advertise in the United States market through Televisa. The United States advertisers never receive any communication or paperwork directly from Televisa. Starchannel sells the advertising, verifies the advertising aired, sends invoices for the advertising aired and collects for the advertising from the United States advertisers.

Televisa's Nielsen Household ratings in Prime Time for November 2009 for the Texas Rio Grande Valley was twenty three percent; for the Texas Laredo market was forty two percent and for the Texas El Paso market was thirteen percent. Therefore, Televisa broadcast stations are reaching a significant percentage of the Texas border market television viewers.

ISSUES PRESENTED

Under the Federal Election Campaign Act ("FECA") of 1971, as amended, and the Federal Elections Commission ("FEC") regulations implementing these laws may a candidate for political office in the United States place United States political campaign advertising on a television station located in Mexico that broadcasts to the United States.

LEGAL DISCUSSION

Section 441e of FECA prohibits a foreign national, directly or indirectly to make a contribution or donation of money or other thing of value in connection with a Federal, State, or local election. Starchannel is a Delaware corporation who contracts with Televisa, a Mexican entity who owns television broadcast stations situated in Mexico which broadcast into the United States as shown by Nielsen ratings in the United States. Starchannel solicits advertising from United States advertisers for broadcast on Televisa broadcast stations for broadcast into the United States.

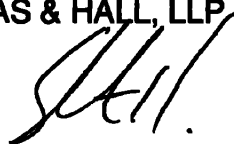
There is no rational basis for a United States political candidate to not be able to purchase political advertising on a foreign based television broadcasting station which targets a United States viewing market.

For these reasons, Starchannel Communications, Inc. respectfully requests issuance of an advisory opinion. Should you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

ATLAS & HALL, LLP

By:



Stephen L. Crain

Website: www.atlashall.com

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March 18, 2010

General Counsel
Federal Elections Commission
Attn: Amy Rothstein
999 E. St. NW
Washington, DC 20463

Via email arothstein@fec.gov

General Counsel
Federal Election Commission
Attn: Nevin Steipanovic
999 E. St. NW
Washington, DC 20463

Via email nsteipanovic@fec.gov

RECEIVED
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COMMISSION
2010 MAR 18 PM 3:25
OFFICE OF GENERAL
COUNSEL

RE: Request for Advising Opinion, Starchannel Communications, Inc.

Dear Ms. Rothstein and Mr. Steipanovic:

Pursuant to your request, we have discussed with personnel of Starchannel Communications, Inc. ("Starchannel") the issue of the "arms length" relationship between Starchannel and Televisa. Starchannel Communications, Inc. is a Delaware corporation which sells media spots for broadcast over certain Televisa stations under a contract with Televisa. Starchannel personnel confirm that Televisa has no ownership or control over Starchannel.

With respect to the operation of Starchannel, there is a minimum price Televisa requires for the sale of a media spot by Starchannel for broadcast by Televisa.

As an explanation, the process Starchannel and television broadcast stations utilize to sell advertising begins with a potential buyer of a media spot requesting an "avail" from each station in the market. An avail states what each station has available as to programs aired by the broadcast station and the prices of the spots for those programs. The advertising agency sends an order with a specific buy. The name of Starchannel normally does not appear on the order. The order is station specific. Usually, the order is signed by the buyer. Starchannel converts the advertising agency order to an order that is compatible with Starchannel's system. A copy of the form of converted order is attached (the "Contract").

According to Starchannel, most of the paperwork is done after the fact. Usually,

an order is received from the advertising agency one or two days before the scheduled air time. Although Starchannel processes the orders from the advertising agency and sends the advertising agency a copy of the Contract, Starchannel rarely receives a signed copy of the Contract from the advertising agency. According to Starchannel, this is an industry wide standard method of operation.

Should you require additional information, please contact the undersigned.

Very truly yours,

ATLAS & HALL, LLP

By:


Stephen L. Crain

SLC/mt

Enclosure

cc: Emmett Wells
General Manager
Starchannel Communications, Inc.

Via email emmett.wells@starchannel.com



XHAB-7
4809 N. McCOLL RD.
McALLEN, TX 78504

Contract # 3384
Schedule Dates 03/24/10-03/31/10
Advertiser [REDACTED]
Agency [REDACTED]
Product SHOE STORE (1075)
Brand Various (1)
Salesperson GENNIS (1003)
Sales Office STARCHANNEL-McALLEN
Buyer Name Accounts Payable,
Phone/Fax /
CPE 1125/1075/
Account Types Regional/Spot Agency
Billing Type Standard
Comments SHOE STORE
1X INC ADDED VALUE SPOT INCLUDED...
EST 100N EASTER/SPRING

02/11/10 02/11/10
02/11/10
No 844EB45B24A5401E
Normal 15.00
CO-OP
Headline #
Demo
Order Type
Package Deal
Commission %
Commission
Net Total
Sales Tax

Date Entered
Last Modified
Entered By
CO-OP
Headline #
Demo
Order Type
Package Deal
Commission %
Commission
Net Total
Sales Tax

McAllen (XHAB-7)
By Broadcast Month
Mar. 2010
Apr. 2010
Grand Total:

Spots
Rate

Line	Line Type / Break Type (Ref #)	Dates	Sec	Length	Run Times	SPW	Mo	Tu	We	Th	Fr	Sa	Su	Spots	Rate	Total	Station	Comments	Entered
1.0	Normal Line / SPOT	03/24/10-03/25/10	5	:30	6:30A- 8A (CST)	1			1	1				2			McAllen (XHAB-7)		2/11/10
2.0	Normal Line / SPOT	03/26/10-03/26/10	5	:30	5P- 5:30P (CST)	1					1			1			McAllen (XHAB-7)		2/11/10
3.0	Normal Line / SPOT	03/29/10-03/31/10	5	:30	6:30A- 8A (CST)	1	1	1	1					2			McAllen (XHAB-7)		2/11/10

CONFIRMATION CONTRACT

Accepted-Agency/Advertiser:	Date:	Accepted-Station:	Date:	Comments:
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"Stephen L. Crain"
<scrain@atlashall.com>
04/01/2010 01:02 PM

RECEIVED
FEDERAL ELECTION
COMMISSION

To <JBlume@fec.gov>

cc

2010 APR -1 PM 1: 17

bcc

Subject Supplement Starchannel Communications, Inc. Advisory
Opinion

OFFICE OF GENERAL
COUNSEL

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April 1, 2010

Joshua Blume
Attorney, Policy Division
Federal Elections Commission
999 E. Street, N.W., Room 642
Washington, DC. 20463

Via email: JBlume@fec.gov

RE: Supplement to Starchannel Communications, Inc. Advisory Opinion Request

Dear Mr. Blume:

We are submitting this information contained herein as a supplement to the Advisory Opinion Request of Starchannel Communications, Inc. ("Starchannel").

Starchannel is the exclusive representative of Televisa (an owner of television broadcast stations located in Mexico) in selling advertising time in the U.S. border markets to U. S. advertisers. Starchannel does not sell advertising time on behalf of any other entities.

Pursuant to a contract between Televisa and Starchannel, Televisa establishes a minimum price for all its advertising spots. The minimum price varies based on the anticipated number of viewers of the spot in the time of day in which the spot airs, according to the following formula:

Time of Airing	Relative Minimum Price
6:00 a.m. - 4:00 p.m.	lowest minimum
4:00 p.m. - 7:00 p.m. (early fringe)	higher minimum
7:00 p.m. - 10:00 p.m. (prime time)	highest minimum
10:00 p.m. - Midnight (late fringe)	slightly lower minimum than prime time

The minimum price does not vary based on the identity of the buyer. Under its contract with Televisa, Starchannel may not negotiate a price for a slot that is lower than the minimum price established by Televisa. Starchannel may, however, negotiate a price higher than the minimum price. A higher price will be based on such factors as: (a) competition among multiple buyers for individual slots, which will tend to raise the price, (b) number of viewers during a time slot and (c) volume of ads in a time slot. Information about the number of viewers is based on demographic information as established by Nielsen ratings for different markets. Ads will appear during different programs, which

April 1, 2010

Page 2

attract different numbers of viewers, and, in particular, different numbers of audience subgroups that a prospective ad buyer wishes to reach with the ad. The Nielsen ratings used for these assessments are based on viewership in the U. S. markets only, and all prices are based on the U.S. side of the border. Any difference between the minimum price set by Televisa and the price ultimately negotiated by Starchannel with the ad buyer accrues to Starchannel.

A typical transaction begins when an advertising agency representing a buyer contacts each broadcast station in the market where it wishes to place an ad, and asks for an "avail" a quote of the going rate. The ad agency (buyer) chooses the stations and programs on and during which the ads will run and designs its own placement strategy to reach consumers. The ad is typically created by the buyer and given complete to Starchannel for running on the U. S. stations. Starchannel does have production facilities and sometimes will produce an ad, but it does not contemplate being involved in producing ads for candidates.

Although Televisa is not required to offer the "lowest unit charge (LUC)" to candidates, Starchannel plans to offer candidates the LUC anyway, as though Televisa were a U. S. company subject to this requirement. Starchannel does not believe that it could compete with other companies selling advertising slots to candidates unless it offers them the LUC. Starchannel plans to determine the applicable LUC and to require candidates to comply with FCC paperwork and disclaimer requirements as set forth in U. S. law, the same as if the ads were run by a U. S. company subject to the law.

Starchannel's practices of selling advertising time on behalf of Televisa are consistent with the usual and normal business practices for this industry.

Should you have any questions, or require additional information, please contact the undersigned.

Very truly yours,

ATLAS & HALL, LLP

By: 

Stephen L. Crain

SLC/mt